

AN EXAMINATION OF THE INDIANA SUPREME COURT DOCKET, DISPOSITIONS, AND VOTING IN 1997*

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In 1997, the fully modern Indiana Supreme Court emerged to show that it could handle the crush of mandatory criminal cases. The court not only disposed of its increased criminal docket, but it also resumed its docket of discretionary cases after a drop in 1996.¹ A major reason for the court's ability to handle the increased influx of criminal cases was the newest member of the court, Justice Boehm, who served his first full calender year. He emerged as the most productive member of the court in 1997, which is noteworthy in and of itself, but it was especially significant because he replaced Justice DeBruler, who was the least productive² member of the court during his more than three decades as a member of the court. In short, the court was at its most productive since the beginning of this study in 1991. The court is also showing no signs of letting up;

* The Tables presented in this Article are patterned after the annual statistics of the U.S. Supreme Court published in the *Harvard Law Review*. An explanation of the origin of these Tables can be found at Louis Henkin, *The Supreme Court, 1967 Term*, 82 HARV. L. REV. 63, 301 (1968). The *Harvard Law Review* granted permission for the use of these Tables by the *Indiana Law Review* this year; however, permission for any further reproduction of these Tables must be obtained from the *Harvard Law Review*.

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1.

	MANDATORY	DISCRETIONARY	TOTAL
1991	109 (53%)	98 (47%)	207
1992	64 (41%)	93 (59%)	157
1993	60 (44%)	77 (56%)	137
1994	60 (45%)	73 (55%)	133
1995	46 (38%)	76 (62%)	122
1996	68 (59%)	48 (41%)	116
1997	100 (58%)	71(42%)	171

2. This comment only applies to numbers of opinions and certainly in no way implies anything about the quality of those opinions.

it has increased its discretionary docket, even though the court's mandatory criminal caseload shows no signs of lessening.

The court's mandatory criminal caseload has gone from 46 to 68 to 100 opinions in the last three years. The court's discretionary caseload has gone from 76 to 48 to 71 opinions in the last three years. The court seems to be fighting back to maintain its position as a court of last resort until another constitutional amendment is passed.³

As to specific types of cases, the most significant highlight is that the court's disposition of death-penalty opinions doubled from any previous year to 18 opinions. This is a potential indication that prosecutors in this State have been increasingly seeking the death penalty. Nine of the 18 were reviewed on petitions for post-conviction relief, and the other half were direct appeals from the trial court. In three of the death penalty cases, the court rendered decisions that in some way fell short of full affirmance of the lower court.⁴ The other 15 were fully affirmed. The court also doubled its number of opinions involving a substantive discussion of Indiana constitutional issues. It issued 24 such opinions.

The following is a description of the highlights from each table.

Table A. In 1997, the supreme court issued 171 opinions that were authored by an individual justice. Over each of the past five years, beginning in 1992, the court issued 157, 137, 133, 122, and 116 opinions. Thus, the court has reversed its trend of decreasing its number of annual opinions. Of the 171 opinions issued by individual justices in 1997, 125 opinions analyzed criminal issues and 46 analyzed civil matters.

As stated above, Justice Boehm who just joined the court last year was the most productive member with 43 opinions, 32 criminal and 11 civil. Chief Justice Shepard and Justice Dickson were next with 36 total opinions each. Justice Sullivan produced 31, and Justice Selby authored 24 opinions.

Justices Dickson and Sullivan wrote the most dissents with 12 each. Justice Sullivan had the most concurrences with 11.

Table B-1. For civil cases, Justices Boehm and Selby were the most aligned at 95.1%. Chief Justice Shepard and Justice Selby were next at 93.5%. Justices Boehm and Sullivan were the least aligned at 71.1%. Overall, Chief Justice Shepard was the most aligned with Justice Boehm close behind. Justice Sullivan

3. The court fought this battle against an overwhelming number of mandatory criminal cases in 1988. The court is fighting the battle again. See Kevin W. Betz & Andrew T. Deibert, *An Examination of the Indiana Supreme Court Docket, Dispositions, and Voting in 1996*, 30 IND. L. REV. 933 (1997); see also Randall T. Shepard, *Changing the Constitutional Jurisdiction of the Indiana Supreme Court: Letting a Court of Last Resort Act Like One*, 63 IND. L.J. 669 (1988); Randall T. Shepard, *Foreword: Indiana Law, the Supreme Court, and a New Decade*, 24 IND. L. REV. 499 (1991).

4. *State v. Van Cleave*, 681 N.E.2d 181 (Ind. 1997); *Games v. State*, 684 N.E.2d 466 (Ind. 1997); *Thompson v. State*, 690 N.E.2d 224 (Ind. 1997).

was the least aligned with all of his fellow justices.

Table B-2. For criminal cases, Justice Boehm and Chief Justice Shepard were the most aligned at 96.8%. Justices Dickson and Sullivan were the least aligned at 85.6%.

Table B-3. For all cases, Chief Justice Shepard and Justice Boehm, along with Justices Selby and Boehm, were the most aligned, each pair at 95.8%. Justices Dickson and Sullivan were the least aligned at 82.1%.

Table C. With the continuing increase of less-divisive mandatory cases, the court again reached an even higher level of unanimity. The court was either unanimous or unanimous with a concurrence in 87.8% of its opinions. This is the highest level of unanimity in the seven years of this study.

Table D. The court had six 3-2 decisions, the lowest number since the annual survey began. Of those, no block of three justices is apparent. In fact, none of the six split opinions included the same three justices. In addition, Chief Justice Shepard, Justices Dickson and Selby, who had in previous years collaborated more than any other three-justice majority, did not form any three-justice majority in 1997.

Table E-1. Interestingly, the court reversed 10% more direct criminal appeals, even though the number of such appeals jumped 47% from 68 to 100 on the court's docket.

Table E-2. As discussed earlier, the court increased its number of civil petitions accepted for transfer from 32 to 45, even though its docket of mandatory criminal cases has increased from 68 to 100. There were 368 civil petitions to transfer and 379 criminal petitions to transfer, equaling a total of 747. This is an overall drop of 60 petitions to transfer from last year.

Table F. As also discussed earlier, the most interesting highlight from this specific subject area Table is that the court disposed of 18 death-penalty opinions. Of those 18, nine were direct appeals and nine were petitions for post-conviction relief. This number of death-penalty opinions is twice as many as any previous number and triple the usual number. It is likely that this is the most death-penalty opinions produced in the history of the court. This could indicate that prosecutors in this State are exercising this prerogative with greater frequency. The court also had a two-fold jump in opinions that substantively discussed an Indiana constitutional law issue. This is a continuation of this court's commitment to developing this State's organic law. In addition, the court wrote four opinions on issues involving railroad rights of way and two significant opinions regarding high school athletics.

TABLE A
OPINIONS^a

	OPINIONS OF COURT ^b			CONCURRENCES ^c			DISSENTS ^d		
	Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total
Shepard, C.J.	29	7	36	2	3	5	0	4	4
Dickson, J.	25	11	36	1	1	2	4	8	12
Sullivan, J.	20	11	31	7	4	11	6	6	12
Selby, J. ^e	19	5	24	2	0	2	1	1	2
Boehm, J. ^e	32	11	43	3	0	3	1	2	3
Per Curiam		37	37						
Total	125	82	207	15	8	23	12	21	33

^a These are opinions and votes on opinions by each justice and in per curiam in the 1997 term. The Indiana Supreme Court is unique because it is the only supreme court to assign each case to a justice by a consensus method. Cases are distributed by a consensus of the justices in the majority on each case either by volunteering or nominating writers. The chief justice does not have any power to control the assignments other than as a member of the majority. See Melinda Gann Hall, *Opinion Assignment Procedures and Conference Practices in State Supreme Courts*, 73 JUDICATURE 209 (1990). The order of discussion and voting is started by the most junior member of the court and follows reverse seniority. See *id.* at 210.

^b This is only a counting of full opinions written by each justice. Plurality opinions that announce the judgment of the court are counted as opinions of the court. It includes opinions on civil, criminal, and original actions. Also, the following eight miscellaneous cases are not included in the table: *Burris v. State*, 684 N.E.2d 193 (Ind. 1997) (order setting execution date); *Burris v. State*, 687 N.E.2d 190 (Ind. 1997) (denial of successive petition for post conviction relief); *Taylor v. State*, 677 N.E.2d 38 (Ind. 1997) (order directing clerk to certify appeal as final and remanding case to trial court); *In re Ellis*, 685 N.E.2d 476 (Ind. 1997) (dissent from denial of transfer); *Indiana Dep't of State Revenue v. Associated Ins. Cos.*, 685 N.E.2d 51 (Ind. 1998) (dissent from denial of transfer); *United Farm Bureau Mut. Ins. Co. v. Blossom Chevrolet, Inc.*, 679 N.E.2d 1327 (Ind. 1997) (dissent from denial of transfer); *Mortell v. Mutual Sec. Life Ins. Co.*, 678 N.E.2d 797 (Ind. 1997) (order dismissing appeal); *Harden v. Whipker*, 676 N.E.2d 19 (Ind. 1997) (order dismissing appeal as moot).

^c This category includes both written concurrences and votes to concur in result only.

^d This category includes both written dissents and votes to dissent without opinion. Opinions concurring in part and dissenting in part or opinions concurring in part only and differing on another issue are counted as dissents.

^e Justices declined to participate in the following non-disciplinary cases: Justice Sullivan (*State v. Hoovler*, 673 N.E.2d 767 (Ind. 1997); *Sullivan v. Day*, 681 N.E.2d 713 (Ind. 1997); *J.A.W. v. State*, 687 N.E.2d 1202 (Ind. 1997); *Family & Social Servs. Admin. v. Community Care Ctrs., Inc.*, 688 N.E.2d 1250 (Ind. 1997)); Justice Selby (*Stavropoulos v. State*, 678 N.E.2d 397 (Ind. 1997); *Como, Inc. v. Carson Square, Inc.*, 689 N.E.2d 725 (Ind. 1997)); Justice Boehm (*Calumet Nat. Bank v. American Tel. & Tel. Co.*, 682 N.E.2d 785 (Ind. 1997); *Consolidated Rail Corp., Inc. v. Lewellen*, 682 N.E.2d 779 (Ind. 1997); *Malachowski v. Bank One, Indianapolis*, 682 N.E.2d 530 (Ind. 1997); *Tazian v. Cline*, 686 N.E.2d 95 (Ind. 1997); *Bloemker v. Detroit Diesel Corp.*, 687 N.E.2d 358 (Ind. 1997)).

TABLE B-1
VOTING ALIGNMENTS FOR CIVIL CASES^f
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES

		Shepard	Dickson	Sullivan	Selby	Boehm
Shepard, C.J.	O		38	32	43	38
	S		0	1	0	1
	D	---	38	33	43	39
	N		47	43	46	42
	P		80.9%	76.7%	93.5%	92.9%
Dickson, J.	O	38		30	40	34
	S	0		1	0	0
	D	38	---	31	40	34
	N	47		43	46	42
	P	80.9%		72.1%	87.0%	81.0%
Sullivan, J.	O	32	30		33	27
	S	1	1		0	0
	D	33	31	---	33	27
	N	43	43		42	38
	P	76.7%	72.1%		78.6%	71.1%
Selby, J.	O	43	40	33		39
	S	0	0	0		0
	D	43	40	33	---	39
	N	46	46	42		41
	P	93.5%	87.0%	78.6%		95.1%
Boehm, J.	O	38	34	27	39	
	S	1	0	0	0	
	D	39	34	27	39	----
	N	42	42	38	41	
	P	92.9%	81.0%	71.1%	95.1%	

^f This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only civil cases. For example, in the top set of numbers for Chief Justice Shepard, 38 is the number of times Chief Justice Shepard and Justice Dickson agreed in a full majority opinion in a civil case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

TABLE B-2
VOTING ALIGNMENTS FOR CRIMINAL CASES
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES⁸

		Shepard	Dickson	Sullivan	Selby	Boehm
Shepard, C.J.	O		118	110	119	121
	S		0	0	0	0
	D	---	118	110	119	121
	N		125	125	124	125
	P		94.4%	88.0%	96.0%	96.8%
Dickson, J.	O	118		107	116	118
	S	0		0	0	2
	D	118	---	107	116	120
	N	125		125	124	125
	P	94.4%		85.6%	93.5%	96.0%
Sullivan, J.	O	110	107		110	110
	S	0	0		1	0
	D	110	107	---	111	110
	N	125	125		124	125
	P	88.0%	85.6%		89.5%	88.0%
Selby, J.	O	119	116	110		119
	S	0	0	1		0
	D	119	116	111	---	119
	N	124	124	124		124
	P	96.0%	93.5%	89.5%		96.0%
Boehm, J.	O	121	118	110	119	
	S	0	2	0	0	
	D	121	120	110	119	---
	N	125	125	125	124	
	P	96.8%	96.0%	88.0%	96.0%	

⁸ This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for only criminal cases. For example, in the top set of numbers for Chief Justice Shepard, 118 is the number of times Chief Justice Shepard and Justice Dickson agreed in a full majority opinion in a criminal case. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

TABLE B-3
VOTING ALIGNMENTS FOR ALL CASES
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASES^h

		Shepard	Dickson	Sullivan	Selby	Boehm
Shepard, C.J.	O		156	142	162	159
	S		0	1	0	1
	D	---	156	143	162	160
	N		172	168	170	167
	P		90.7%	85.1%	95.3%	95.8%
Dickson, J.	O	156		137	156	152
	S	0		1	0	2
	D	156	---	138	156	154
	N	172		168	170	167
	P	90.7%		82.1%	91.8%	92.2%
Sullivan, J.	O	142	137		143	137
	S	1	1		1	0
	D	143	138	---	144	137
	N	168	168		166	163
	P	85.1%	82.1%		86.7%	84.0%
Selby, J.	O	162	156	143		158
	S	0	0	1		0
	D	162	156	144	---	158
	N	170	170	166		165
	P	95.3%	91.8%	86.7%		95.8%
Boehm, J.	O	159	152	137	158	
	S	1	2	0	0	
	D	160	154	137	158	---
	N	167	167	163	165	
	P	95.8%	92.2%	84.0%	95.8%	

^h This Table records the number of times that one justice voted with another in full-opinion decisions, including per curiam, for all cases. For example, in the top set of numbers for Chief Justice Shepard, 156 is the total number of times Chief Justice Shepard and Justice Dickson agreed in all full majority opinions written by the court in 1997. Two justices are considered to have agreed whenever they joined the same opinion, as indicated by either the reporter or the explicit statement of a justice in the body of his or her own opinion. The Table does not treat two justices as having agreed if they did not join the same opinion, even if they agreed only in the result of the case or wrote separate opinions revealing little philosophical disagreement.

“O” represents the number of decisions in which the two justices agreed in opinions of the court or opinions announcing the judgment of the court.

“S” represents the number of decisions in which the two justices agreed in separate opinions, including agreements in both concurrences and dissents.

“D” represents the number of decisions in which the two justices agreed in either a majority, dissenting, or concurring opinion.

“N” represents the number of decisions in which both justices participated and thus the number of opportunities for agreement.

“P” represents the percentage of decisions in which one justice agreed with another justice, calculated by dividing “D” by “N.”

TABLE C

**UNANIMITY
NOT INCLUDING JUDICIAL OR ATTORNEY DISCIPLINE CASESⁱ**

Unanimous ^j			Unanimous With Concurrence ^k			Opinions With Dissent			Total
Criminal	Civil	Total	Criminal	Civil	Total	Criminal	Civil	Total	
102	32	134(77.9%)	13	4	17(9.9%)	10	11	21(12.2%)	172

ⁱ This Table tracks the number and percent of unanimous opinions among all opinions written. If, for example, only four justices participate and all concur, it is still considered unanimous. It also tracks the percent of overall opinions with concurrence and overall opinions with dissent.

^j A decision is considered unanimous only when all justices participating in the case voted to concur in the court's opinion as well as its judgment. When one or more justices concurred in the result but not in the opinion, the case is not considered unanimous.

^k A decision is listed in this column if one or more justices concurred in the result but not in the opinion of the court or wrote a concurrence, and there were no dissents.

TABLE D**3-2 DECISIONS¹**

Justices Constituting the Majority	Number of Opinions^m
1. Shepard, C.J., Dickson, J., Boehm, J.	1
2. Dickson, J., Selby, J., Boehm, J.	1
3. Shepard, C.J., Sullivan, J., Selby, J.	1
4. Dickson, J., Sullivan, J., Selby, J.	1
5. Shepard, C.J., Dickson, J., Boehm, J.	1
6. Shepard, C.J., Selby, J., Boehm, J.	1
Total ⁿ	6

¹ This Table concerns only decisions rendered by full opinion. An opinion is counted as a 3-2 decision if two justices voted to decide the case in a manner different from that of the majority of the court.

^m This column lists the number of times each three-justice group constituted the majority in a 3-2 decision.

ⁿ The 1997 term's 3-2 decisions were:

1. Shepard, C. J., Sullivan, J., Boehm, J.: *In re Kehoe*, 678 N.E.2d 394 (Ind. 1997) (per curiam).
2. Dickson, J., Selby, J., Boehm, J.: *McGraw-Edison Co. v. North-Eastern Rural Elec. Membership Corp.*, 678 N.E.2d 1120 (Ind. 1997) (Boehm, J.).
3. Shepard, C. J., Sullivan, J., Selby, J.: *Bacher v. State*, 687 N.E.2d 791 (Ind. 1997) (Sullivan, J.).
4. Dickson, J., Sullivan, J., Selby, J.: *West Clark Community Sch. v. H.L.K.*, 690 N.E.2d 238 (Ind. 1997) (Sullivan, J.).
5. Shepard, C.J., Dickson, J., Boehm, J.: *Berry v. State*, 689 N.E.2d 444 (Ind. 1997) (Dickson, J.).
6. Shepard, C.J., Selby, J., Boehm, J.: *National City Bank v. Shortridge*, 689 N.E.2d 1248 (Ind. 1997) (Shepard, C.J.).

TABLE E-1**DISPOSITION OF CASES REVIEWED BY TRANSFER
AND DIRECT APPEALS^o**

	Reversed or Vacated ^p	Affirmed	Total
Civil Appeals Accepted for Transfer	37(78.7%)	10 (21.3%)	47
Direct Civil Appeals	0	0	0
Criminal Appeals Accepted for Transfer	21 (87.5%)	3 (12.5%)	24
Direct Criminal Appeals	29 (29.0%)	71 (71.0%)	100
Total	87 (50.9%)	84 (49.1%)	171 ^a

^o Direct criminal appeals are cases in which the trial court imposed a sentence of greater than 50 years. *See* IND. CONST. art. VII, § 4. Thus, direct criminal appeals are those directly from the trial court. A civil appeal may also be direct from the trial court. *See* IND. APP. R. 4(A) and also pursuant to Rules of Procedure for Original Actions. All other Indiana Supreme Court opinions are accepted for transfer from the Indiana Court of Appeals. *See* IND. APP. R. 11(B). The court's transfer docket, especially civil cases, has substantially increased in the past five years, but declined significantly last year. *See* Chief Justice Randall T. Shepard, *Indiana Law, the Supreme Court, and a New Decade*, 24 IND. L. REV. 499 (1991).

^p Generally, the term "vacate" is used by the Indiana Supreme Court when it is reviewing a court of appeals opinion, and the term "reverse" is used when the court overrules a trial court decision. A point to consider in reviewing this Table is that the court technically "vacates" every court of appeals opinion that is accepted for transfer, but may only disagree with a small portion of the reasoning and still agree with the result. *See* IND. APP. R. 11(B)(3). As a practical matter, "reverse" or "vacate" simply represents any action by the court that does not affirm the trial court or court of appeals opinion.

^a This does not include 60 attorney and judicial discipline opinions; one writ of mandamus or prohibition; four opinions related to certified questions; nor six miscellaneous cases. These opinions did not reverse, vacate, or affirm any other court's decision.

TABLE E-2**DISPOSITION OF PETITIONS TO TRANSFER
TO SUPREME COURT IN 1996^r**

	Denied or Dismissed	Granted	Total
Petitions to Transfer			
Civil ^s	323(87.8%)	45 (12.2%)	368
Criminal ^t	352 (92.9%)	27 (7.1%)	379
Juvenile	0	0	0
Total	675 (90.4%)	72 (9.6%)	747

^r This Table analyzes the disposition of petitions to transfer by the court. *See* IND. APP. R. 11(B). This Table is compiled from information provided by the Indiana Supreme Court in a report entitled, "Grant and Denial of Cases in Which Transfer to the Indiana Supreme Court Has Been Sought."

^s This also includes petitions to transfer in tax cases and worker's compensation cases.

^t This also includes petitions to transfer in post-conviction relief cases.

TABLE F
SUBJECT AREAS OF SELECTED DISPOSITIONS
WITH FULL OPINIONS^u

Original Actions	Number
• Certified Questions	0
• Writs of Mandamus or Prohibition	1 ^v
• Attorney and Judicial Discipline	59 ^w
• Judicial Discipline	2 ^x
Criminal	
• Death Penalty	18 ^y
• Fourth Amendment or Search and Seizure	10 ^z
• Writ of Habeas Corpus	0
Emergency Appeals to the Supreme Court	0
Trusts, Estates, or Probate	4 ^{aa}
Real Estate or Real Property	6 ^{bb}
Personal Property	1 ^{cc}
Landlord-Tenant	0
Divorce or Child Support	1 ^{dd}
Children in Need of Services (CHINS)	1 ^{ee}
Paternity	2 ^{ff}
Product Liability or Strict Liability	3 ^{gg}
Negligence or Personal Injury	8 ^{hh}
Invasion of Privacy	1 ⁱⁱ
Medical Malpractice	3 ^{jj}
Indiana Tort Claims Act	0
Statute of Limitations or Statute of Repose	2 ^{kk}
Tax, Department of State Revenue, or State Board of Tax Commissioners	1 ^{ll}
Contracts	8 ^{mm}
Corporate Law or the Indiana Business Corporation Law	1 ⁿⁿ
Uniform Commercial Code	0
Banking Law	0
Employment Law	1 ^{oo}
Insurance Law	6 ^{pp}
Environmental Law	1 ^{qq}
Consumer Law	1 ^{rr}
Workers Compensation	1 ^{ss}
Arbitration	1 ^{tt}
Administrative Law	6 ^{uu}
First Amendment, Open Door Law, or Public Records Law	0
Full Faith and Credit	1 ^{vv}
Eleventh Amendment	1 ^{ww}
Civil Rights	1 ^{xx}
Indiana Constitution	24 ^{yy}

^u This Table is designed to provide a general idea of the specific subject areas upon which the court ruled or discussed and how many times it did so in 1997. It is also a quick-reference guide to court rulings

for practitioners in specific areas of the law. The numbers corresponding to the areas of law reflect the number of cases in which the court substantively discussed legal issues about these subject areas. A citation list is provided in a footnote for each area.

^v *In re Madison County Probation Officers' Salaries*, 682 N.E.2d 498 (Ind. 1997).

^w *In re Anonymous*, 689 N.E.2d 442 (Ind. 1997); *In re Comstock*, 675 N.E.2d 341 (Ind. 1997); *In re Clifford*, 674 N.E.2d 972 (Ind. 1997); *In re Putsey*, 675 N.E.2d 703 (Ind. 1997); *In re Manson*, 676 N.E.2d 347 (Ind. 1997); *In re Reynolds*, 676 N.E.2d 20 (Ind. 1997); *In re Cartmel*, 676 N.E.2d 1047 (Ind. 1997); *In re Newell*, 677 N.E.2d 38 (Ind. 1997); *In re Tracy*, 676 N.E.2d 738 (Ind. 1997); *In re Miller*, 677 N.E.2d 505 (Ind. 1997); *In re Smith*, 678 N.E.2d 104 (Ind. 1997); *In re Raikos*, 678 N.E.2d 381 (Ind. 1997); *In re Kehoe*, 678 N.E.2d 394 (Ind. 1997); *In re Lanskay*, 678 N.E.2d 1114 (Ind. 1997); *In re Miller*, 678 N.E.2d 1117 (Ind. 1997); *In re Cawley*, 678 N.E.2d 1112 (Ind. 1997); *In re Roche*, 678 N.E.2d 797 (Ind. 1997); *In re Schreiber*, 681 N.E.2d 687 (Ind. 1997); *In re Gemmer*, 679 N.E.2d 1313 (Ind. 1997); *In re Felling*, 679 N.E.2d 498 (Ind. 1997); *In re Levy*, 682 N.E.2d 490 (Ind. 1997); *In re Marshall*, 680 N.E.2d 1098 (Ind. 1997); *In re Caputi*, 676 N.E.2d 1058 (Ind. 1997); *In re Miller*, 681 N.E.2d 710 (Ind. 1997); *In re Fleener*, 682 N.E.2d 521 (Ind. 1997); *In re Shaeffer*, 681 N.E.2d 1113 (Ind. 1997); *In re Mittower*, 681 N.E.2d 1113 (Ind. 1997); *In re Jackson*, 682 N.E.2d 526 (Ind. 1997); *In re Thonert*, 682 N.E.2d 522 (Ind. 1997); *In re Baars* 683 N.E.2d 555 (Ind. 1997); *In re Lustina*, 683 N.E.2d 236 (Ind. 1997); *In re Callahan*, 684 N.E.2d 191 (Ind. 1997); *In re Stivers*, 683 N.E.2d 1312 (Ind. 1997); *In re Toth*, 684 N.E.2d 493 (Ind. 1997); *In re Kight*, 685 N.E.2d 472 (Ind. 1997); *In re Fihe*, 685 N.E.2d 469 (Ind. 1997); *In re K nobel* 685 N.E.2d 696 (Ind. 1997); *In re Fisher* 684 N.E.2d 197 (Ind. 1997); *In re O'Brien* 685 N.E.2d 54 (Ind. 1997); *In re Redding*, 685 N.E.2d 56 (Ind. 1997); *In re Thonert*, 685 N.E.2d 1066 (Ind. 1997); *In re Headlee* 685 N.E.2d 1075 (Ind. 1997); *In re Conn*, 686 N.E.2d 109 (Ind. 1997); *In re Higginson*, 685 N.E.2d 1074 (Ind. 1997); *In re Razo*, 686 N.E.2d 108 (Ind. 1997); *In re Manns*, 685 N.E.2d 1071 (Ind. 1997); *In re Baldwin*, 685 N.E.2d 1069 (Ind. 1997); *In re Darling*, 685 N.E.2d 1066 (Ind. 1997); *In re*

Lamb, 686 N.E.2d 113 (Ind. 1997); In re Miller, 687 N.E.2d 186 (Ind. 1997); In re Miller, 687 N.E.2d 191 (Ind. 1997); In re O'Connell 687 N.E.2d 573 (Ind. 1997); In re Deloney, 689 N.E.2d 481 (Ind. 1997); In re Anonymous, 689 N.E.2d 434 (Ind. 1997); In re Lewis 680 N.E.2d 858 (Ind. 1997); In re Christoff, 690 N.E.2d 1135 (Ind. 1997); In re Lehman, 690 N.E.2d 696 (Ind. 1997); In re Peteet, 679 N.E.2d 137 (Ind. 1997); In re Tew, 681 N.E.2d 689 (Ind. 1997).

^x In re Haan, 676 N.E.2d 740 (Ind. 1997); In re Cox, 680 N.E.2d 528 (Ind. 1997).

^y State v. Moore, 678 N.E.2d 1258 (Ind. 1997); State v. Van Cleave, 681 N.E.2d 181 (Ind. 1997); Games v. State, 684 N.E.2d 466 (Ind. 1997); Burris v. State, 684 N.E.2d 193 (Ind. 1997); Saylor v. State, 686 N.E.2d 80 (Ind. 1997); Allen v. State, 686 N.E.2d 760 (Ind. 1997); Smith v. State, 686 N.E.2d 1264 (Ind. 1997); Prowell v. State, 687 N.E.2d 563 (Ind. 1997); Matheney v. State, 688 N.E.2d 883 (Ind. 1997); Bieghler v. State, 690 N.E.2d 188 (Ind. 1997); Thompson v. State, 690 N.E.2d 224 (Ind. 1997); Hough v. State, 690 N.E.2d 267 (Ind. 1997); Timberlake v. State, 690 N.E.2d 243 (Ind. 1997); Stevens v. State, 691 N.E.2d 412 (Ind. 1997); Ben-Yisrayl v. State, 690 N.E.2d 1141 (Ind. 1997); Roche v. State, 690 N.E.2d 1115 (Ind. 1997); Burris v. State, 687 N.E.2d 190 (Ind. 1997); Wrinkles v. State, 690 N.E.2d 1156 (Ind. 1997).

^z Houser v. State 678 N.E.2d 95 (Ind. 1997); Palmer v. State 679 N.E.2d 887 (Ind. 1997); Canaan v. State 683 N.E.2d 227 (Ind. 1997); Lampkins v. State, 682 N.E.2d 1268 (Ind. 1997); Daniels v. State, 683 N.E.2d 557 (Ind. 1997); Whipps v. State, 685 N.E.2d 697 (Ind. 1997); Figert v. State, 686 N.E.2d 827 (Ind. 1997); Jagers v. State 687 N.E.2d 180 (Ind. 1997); Stewart v. State, 688 N.E.2d 1254 (Ind. 1997); Ben-Yisrayl v. State, 690 N.E.2d 1141 (Ind. 1997).

^{aa} Malachowski v. Bank One, Indianapolis, 682 N.E.2d 530 (Ind. 1997); Estate of Decker v. Farm Credit Servs. of Mid-Am. 684 N.E.2d 1137 (Ind. 1997); Nill v. Martin, 686 N.E.2d 116 (Ind. 1997); Nelson v. Parker, 687 N.E.2d 187 (Ind. 1997).

^{bb} Consolidated Rail Corp., Inc. v. Lewellen, 682 N.E.2d 779 (Ind. 1997); Hefty v. Certified Settlement Class, 680 N.E.2d 843 (Ind. 1997); Calumet Nat. Bank v. American Tel. & Tel. Co., 682 N.E.2d 785 (Ind. 1997); Tazian v. Cline, 686 N.E.2d 95 (Ind. 1997); Nelson v. Parker, 687 N.E.2d 187 (Ind. 1997); Yanoff v. Muncy, 688 N.E.2d 1295 (Ind. 1997).

^{cc} Gray v. National City Bank 687 N.E.2d 356 (Ind. 1997).

^{dd} Nill v. Martin, 686 N.E.2d 116 (Ind. 1997).

^{ee} West Clark Community Sch. v. H. L. K., 690 N.E.2d 238 (Ind. 1997).

^{ff} Russell v. Russell, 682 N.E.2d 513 (Ind. 1997); J. W. L. v. A. J. P., 682 N.E.2d 519 (Ind. 1997).

^{gg} McGraw-Edison Co. v. Northeastern Rural Elec. Membership Corp., 678 N.E.2d 1120 (Ind. 1997); Haseman v. Orman, 680 N.E.2d 531 (Ind. 1997); Perdue Farms Inc. v. Pryor, 683 N.E.2d 239 (Ind. 1997).

^{hh} Wiersma Trucking Co. v. Pfaff, 678 N.E.2d 110 (Ind. 1997); Smith v. Pancner, 679 N.E.2d 893 (Ind. 1997); Miller v. Memorial Hosp. of South Bend, Inc., 679 N.E.2d 1329 (Ind. 1997); Haseman v. Orman, 680 N.E.2d 531 (Ind. 1997); Perdue Farms Inc., v. Pryor, 683 N.E.2d 239 (Ind. 1997); Warner Trucking, Inc., v. Carolina Cas. Ins. Co., 686 N.E.2d 102 (Ind. 1997); McGlothlin v. M & U Trucking, Inc., 688 N.E.2d 1243 (Ind. 1997); Bloemker v. Detroit Deisel Corp., 687 N.E.2d 358 (Ind. 1997).

ⁱⁱ Doe v. Methodist Hosp., 690 N.E.2d 681 (Ind. 1997).

^{jj} Smith v. Pancner, 679 N.E.2d 893 (Ind. 1997); Miller v. Memorial Hosp. of South Bend, Inc., 679 N.E.2d 1329 (Ind. 1997); Cram v. Howell, 680 N.E.2d 1096 (Ind. 1997).

^{kk} Cox v. American Aggregates Corp., 684 N.E.2d 193 (Ind. 1997); Estate of Decker v. Farm Credit Servs. of Mid-Am., 684 N.E.2d 1137 (Ind. 1997).

^{ll} Board of Tax Comm'rs v. Two Market Square Assocs., 679 N.E.2d 882 (Ind. 1997).

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ⁿⁿ Fleming v. International Pizza Supply Corp., 676 N.E.2d 1051 (Ind. 1997).

^{oo} Orr v. Westminster Village North, Inc. 689 N.E.2d 712 (Ind. 1997).

^{pp} Colonial Penn Ins. Co. v. Guzorek, 690 N.E.2d 664 (Ind. 1997); Smith v. Pancner, 679 N.E.2d 893 (Ind. 1997); USA Life One Ins. Co. v. Nuckolls, 682 N.E.2d 534 (Ind. 1997); Warner Trucking, Inc. v. Carolina Cas. Ins. Co., 686 N.E.2d 102 (Ind. 1997); Conrad v. Universal Fire & Cas. Ins. Co., 686 N.E.2d 840 (Ind. 1997); Erie Ins. Co. v. George, 681 N.E.2d 189 (Ind. 1997); Frankenmuth Mut. Ins. Co. v. Williams, 690 N.E.2d 675 (Ind. 1997); In re Lehman, 690 N.E.2d 296 (Ind. 1997).

^{qq} Haseman v. Orman, 680 N.E.2d 531 (Ind. 1997).

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^{ss} Cox v. American Aggregates Corp., 684 N.E.2d 193 (Ind. 1997).

^{tt} Northern Ind. Commuter Transp. Dist. v. Chicago Southshore & South Bend R.R., 685 N.E.2d 680 (Ind. 1997).

^{uu} Board of Tax Comm'rs v. Two Market Square Assocs., 679 N.E.2d 882 (Ind. 1997); Sullivan v. Day, 681 N.E.2d 713 (Ind. 1997); In re Madison County Probation Officers' Salaries, 682 N.E.2d 498 (Ind. 1997); Indiana High Sch. Athletic Ass'n v. Reyes, No. 79S02-9605-CV-361, 1998 WL 7094 (Ind. Dec. 19, 1997); Indiana High Sch. Athletic Ass'n v. Carlberg, No. 29S02-9610-CV-681, 1997 WL 781628 (Ind. Dec. 19, 1997); West Clark Community Sch. v. H.L.K., 690 N.E.2d 238 (Ind. 1997).

^{vv} Northern Ind. Commuter Transp. Dist. v. Chicago Southshore & South Bend R.R., 685 N.E.2d 680 (Ind. 1997).

^{ww} J.A.W. v. State, 687 N.E.2d 1202 (Ind. 1997).

^{xx} J.A.W. v. State, 687 N.E.2d 1202 (Ind. 1997).

^{yy} Pierce v. State, 677 N.E.2d 39 (Ind. 1997); Joyner v. State, 678 N.E.2d 386 (Ind. 1997); Palmer v. State, 679 N.E.2d 887 (Ind. 1997); Jervis v. State, 679 N.E.2d 875 (Ind. 1997); In re Madison County Probation Officers' Salaries, 682 N.E.2d 498 (Ind. 1997); Lee v. State, 684 N.E.2d 1143 (Ind. 1997); Saylor v. State, 686 N.E.2d 80 (Ind. 1997). Alvarado v. State, 686 N.E.2d 819 (Ind. 1997); State v. Moss-Dwyer, 686 N.E.2d 109 (Ind. 1997); Smith v. State, 686 N.E.2d 1264 (Ind. 1997); State v. Hurst, 688 N.E.2d 402 (Ind. 1997); Carter v. State, 686 N.E.2d 834 (Ind. 1997); Matheney v. State, 688 N.E.2d 883 (Ind. 1997); Baird v. State, 688 N.E.2d 911 (Ind. 1997); Valentin v. State, 688 N.E.2d 412 (Ind. 1997); Taylor v. State, 689 N.E.2d 699 (Ind. 1997); Williams v. State, 690 N.E.2d 102 (Ind. 1997); Ridley v. State, 690 N.E.2d 177 (Ind. 1997); Indiana High Sch. Athletic Ass'n v. Carlberg, No. 29S02-9610-CV-681, 1997 WL 781628 (Ind. Dec. 19, 1997); Stevens v. State, 691 N.E.2d 412 (Ind. 1997); Ben-Yisrayl v. State, 690 N.E.2d 1141 (Ind. 1997); Roche v. State, 690 N.E.2d 1115 (Ind. 1997); Doe v. Methodist Hosp., 690 N.E.2d 681 (Ind. 1997); Wrinkles v. State, 690 N.E.2d 1156 (Ind. 1997).