

State Board of Accounts Conference for the Clerks of Circuit Courts of Indiana

June 9, 2010

Administrative Manual
and
Trial Rule 77 Issues

How to access on line
publications

Go to the Indiana Judiciary's
Website and . . .

What will a topic tell you?

- Brief explanation of topic that hopefully includes answers to most common questions,
- Links to statutes, Trial Rules, administrative Rules and other sources of information,
- Contact information for someone from STAD or another agency who can answer other questions.

CHAPTER 3
FILING WITH THE COURT:
WHAT IS FILED AND WHEN IS IT OFFICIALLY
A PART OF THE COURT FILE
(INCLUDING PUBLIC ACCESS)
 Trial Rule 5(E), (F) and (G)

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Cases are initiated in the trial court clerk's office under [Trial Rule 3](#) and are assigned case numbers consistent with [Administrative Rule 8](#). [Trial Rule 5](#) governs all subsequent documents "filed" with the court. Because the trial court clerk and their staff are custodians of the court files, the trial court clerk needs to know when a document is "filed" under Trial Rule 5.

What Documents Shall Be Filed?

Trial Rule 5(E) requires that all pleadings and other papers subsequent to the complaint or other initiating document, which are required to be served upon a party, shall be filed with the court. The only exceptions include discovery documents covered by [Trial Rules 27](#) (deposition before action is commenced), [30](#) (regular depositions), [31](#) (depositions on written questions), [33](#) (interrogatories), [34](#) (requests for production and entry upon land for inspection), and [35](#) (requests for admissions). The excepted documents may need to be filed subsequently, under [Trial Rule 37](#) or other rules, but they do not need to be filed with the court upon service on the relevant parties.

We Need Your Help

- Let me know of other topics to include in the next revision of the Administrative Manual
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Trial Rule 77 Required Court Records

Trial Rule 77(A) Court Records

- Requires four sets of judicial records to be maintained by the clerk:
 - > CCS
 - > RJO
 - > Indexes of all court actions and proceedings
 - > The case file

Trial Rule 77(A) Required Court Records

- The clerk must keep other records (in addition to the four required by T.R. 77) such as the Judgment Docket however these other records are not judicial records and therefore are not governed by T.R. 77.

Trial Rule 77(B) Chronological Case Summary

Trial Rule 77(B) The C.C.S.

- A sequential record of all "judicial events" in a proceeding.

Trial Rule 77(B) The C.C.S.

- What is a "judicial event"?

Trial Rule 77(B) The C.C.S.

- A judicial event is an action on the part of a litigant, his/her attorney, or the court.

Trial Rule 77(B) The C.C.S.

- The clerk must accurately record each judicial event as it occurs and enter it on the CCS as of the date of the action.

Trial Rule 77(B) The C.C.S.

- What do I do if the court issues an order on Friday June 4th but the order doesn't arrive in the clerk's office until the following Tuesday June 8th. Can I backdate the entry?

Trial Rule 77(B) The C.C.S.

- Entries must never be backdated on the CCS.
- Instead, the entry should read: Order signed by judge on June 4 and received in this office on June 8.
- The date of a CCS entry should always be the date the entry is made regardless of the date on the document or date the activity occurred. The text of the entry should indicate the effective date of the document or activity.

Trial Rule 77(B) The C.C.S.

- The CCS is also a record of:
 - › All entries of orders, rulings and judgments in the record of judgments and orders,
 - › All entries of judgments in the judgment docket, and
 - › The file status under T.R. 77(G).

Trial Rule 77(B) The C.C.S.

- Entries on the CCS should be brief but contain enough detail to be meaningful.

Trial Rule 77(B) The C.C.S.

- It is not necessary to include all of the details of a particular action but a reader should have enough details to correctly understand the activity.

Trial Rule 77(B) The C.C.S.

- What should I do if I make a mistake?
Can I delete a CCS entry?

Trial Rule 77(B) The C.C.S.

- No. The proper way to correct a mistake is to do a corrective entry.

Trial Rule 77(C) The Case File

- ## Trial Rule 77(C) The Case File
- Contains:
 - > Copies of all orders, entries and judgments.
 - > The originals of these documents must be kept in the record of judgments and orders.

- ## Trial Rule 77(C) The Case File
- Contains:
 - > Originals of all other documents related to the issues of the case such as
 - Pleadings, motions service of process, return of service, verdicts, executions, returns on executions, and approved, certified transcripts of testimony.

Trial Rule 77(C) The Case File

- Must contain an index tab:
 - > Listing case number,
 - > An abbreviated designation of the parties, and
 - > Note the information required under T.R. 77(C).

Trial Rule 77(C) The Case File

- May contain:
 - > Documents entered into evidence such as depositions **IF** the court does not maintain a separate evidence file.

Trial Rule 77(C) The Case File

- Does not need to contain:
 - > Documents not related to the issues of the case **UNLESS** they are needed to detail the filing chronology.
 - > These unnecessary document include transmittal letters, envelopes, instructions, and other extrinsic materials.

Trial Rule 77(D)
The Record of Judgments
and Orders

Trial Rule 77(D)
The Record of Judgments and
Orders

- The RJO is a daily, verbatim, compilation of all judgments of the court, **designated** orders of the court, orders and opinions of an appellate tribunal relating to the case, local court rules in T.R. 81 etc.

Trial Rule 77(D)
The Record of Judgments and
Orders

- What is a designated order?

Trial Rule 77(D) The Record of Judgments and Orders

- An order that reflects some substantive content such as a judicial action or opinion that contributes to the resolution of the case plus
- Any order the judge instructs you to place in the RJO.

Trial Rule 77(D) The Record of Judgments and Orders

- What is not a designated order?

Trial Rule 77(D) The Record of Judgments and Orders

- Procedural orders, such as orders granting a continuance.
- These should not be placed in the RJO.

Trial Rule 77(D)
The Record of Judgments and
Orders

- What do I do with confidential materials?

Trial Rule 77(D)
The Record of Judgments and
Orders

- Unless the RJO is maintained electronically, a separate RJO for confidential materials must be maintained.

Trial Rule 77(E)
Indexes

Trial Rule 77(E) Indexes

- The clerk must maintain an index of all actions and proceedings in the circuit, superior, probate, and municipal courts in the county.
- The index can be maintained in an electronic format.

Trial Rule 77(F) through (K) The Rest of the Rule

Trial Rule 77(F) through (K) The Rest of the Rule

- Covers filing documents
- Case file status (pending or decided)
- Keeping statistics
- Replacing lost papers
- Method of record keeping
- Electronic posting of court records

Trial Rule 77(F) through (K) The Rest of the Rule

- See the Trial Rule 77 Quick Guide or contact STAD with questions.

New Legislation

Procedure for name changes of minors

effective July 1, 2010

New Legislation Procedure for name changes of minors

- I.C. 34-28-2-2 **Filing petition; procedure for change of name of minor**
- Sec. 2. (a) The petition described in section (1) of this chapter
- **may** be filed with the circuit court of the county in which the person resides.
- (b) In the case of a parent or guardian who wishes to change the name of a minor child, the petition must be verified, and it must state in detail the reason the change is requested. In addition, except where a parent's consent is not required under IC 31-19-9, the written consent of a parent, or the written consent of the guardian if both parents are dead, must be filed with the petition.
- (c) Before a minor child's name may be changed, the parents or guardian of the child must be served with a copy of the petition as required by the Indiana trial rules.

New Legislation Procedure for name changes of minors

- I.C. 34-28-2-2 **Filing petition; procedure for change of name of minor**
- Sec. 2. (a) The petition described in section 1 of this chapter may **not**:
 - (1) **if applicable, include the information required by section 2.5 of this chapter;**
 - (2) **in the case of a petition filed by a person described in section 2.5 of this chapter, be subscribed and sworn to (or affirmed):**
 - (A) **under the penalties of perjury; and**
 - (B) **before a notary public or other person authorized to administer oaths; and**
 - (3) **be filed with the circuit court of the county in which the person resides.**
 - (b) **In the case of a parent or guardian who wishes to change the name of a minor child, the petition must be verified, and it must state in detail the reason the change is requested. In addition, except where a parent's consent is not required under IC 31-19-9, the written consent of a parent, or the written consent of the guardian if both parents are dead, must be filed with the petition.**
 - (c) **Before a minor child's name may be changed, the parents or guardian of the child must be served with a copy of the petition as required by the Indiana trial rules.**

New Legislation Procedure for name changes of minors

- IC 34-28-2.5
- (a) **if a person petitioning for a change of name under this chapter is at least seventeen (17) years of age, the person's petition must include at least the following information:**
 - (1) **The person's date of birth.**
 - (2) **The person's current:**
 - (A) **residence address; and**
 - (B) **if different than the person's residence address, mailing address.**
 - (3) **The person's valid:**
 - (A) **Indiana driver's license number or**
 - (B) **Indiana identification card (as described in IC 9-24-16) number.**
 - (4) **A list of all previous names used by the person.**
 - (5) **Proof that the person is a United States citizen.**
 - (6) **A statement concerning whether the person holds a valid United States passport.**
 - (7) **A description of all judgments of criminal conviction of a felony under the laws of any state or the United States that have been entered against the person.**
- (b) **A petition under subsection (a) is subject to Indiana Rules of Court Administrative Rule 9.**

New Legislation Procedure for name changes of minors

- **IC 34-28-2-3 Notice of petition**
- Sec. 3. (a) No change
- (b) ~~In the case of a petition described in section 2(b) of this chapter, the petitioner must publish the first notice of the petition not more than seven (7) days after the date the petition is filed.~~
- Sections (c) (d) (e) (f) (g) (h) no changes.

New Legislation Name changes of minors SUMMARY

- Must be filed in circuit court

New Legislation Name changes of minors SUMMARY

- If the person petitioning for name change is at least 17 years of age, the petition must include:
 - > Person's date of birth,
 - > Person's current residence address and mailing address if different from their residence,
 - > Person's valid Indiana Driver's License number OR Indiana identification card,
 - > A list of all previous names used by the person,
 - > Proof that person is a U.S. citizen,

New Legislation Name changes of minors SUMMARY

- If the person petitioning for name change is at least 17 years of age, the petition must include:
 - > A statement concerning whether the person holds a valid U.S. passport,
 - > A description of all judgments of criminal conviction of a felony under the laws of any state or the U.S. that have been entered against the person.

New Legislation Name changes of minors SUMMARY

- If the person petitioning for name change is at least 17 years of age, the first notice of the petition no longer needs to be published within 7 days of filing.

New Legislation Name changes of minors SUMMARY

- If the person petitioning for name change is at least 17 years of age, the petition is subject to Administrative Rule 9.

New Legislation Name changes of minors SUMMARY

- The petition must be subscribed and sworn under penalties of perjury and before a notary public or other person authorized to administer oaths.
