

*The proposed amendment to Trial Rule 77 gives basic guidance to clerks and court staff for the creation and management of court records. The rule was promulgated in 1991 when court records were exclusively paper documents and each case had a physical case file. Now that most court records are maintained electronically, some required procedures are no longer necessary.

Rule 77. Court records

(A) Required records. ~~The clerk of the circuit court shall maintain the r~~Records for all circuit, superior, ~~and probate, city, town, and Marion County small claims~~ courts in the county must be maintained. The courts and clerk of each county, city, or town court must establish procedures to ensure compliance with this rule and maintenance of the following records, in accordance with applicable statutes.

- (1) ~~A~~The clerk of the circuit court shall maintain any record required by the Supreme Court of Indiana, by an act of the general assembly, ~~or~~ by a duly promulgated rule of any state agency, including the following:
- (a) Lis pendens record (IC 32-30-11-1);
 - (b) Record of transcripts and foreign judgments (IC 33-32-3-2(d));
 - (c) Judgment Docket (IC 33-32-3-2), wherein all orders requiring entry in the judgment docket shall include the term "judgment" in the title and shall set forth the specific dollar amount of the judgment in the body of the order;
 - (d) Execution docket (IC 33-32-3-5);
 - (e) Records specified under the probate code; ~~and~~
 - (f) Records specified by the state board of accounts as to the fiscal matters relating to the court and clerk.

~~(2) The clerk of the circuit court shall also maintain the following records as specified under this rule:~~

- ~~(g)~~ Case file and Chronological Case Summary (CCS);
- ~~(b)~~ ~~Case file;~~
- ~~(h)~~ Record of judgments and orders (RJO or order book); and
- (d) Indexes.

~~(3)~~ Records may be maintained in the following formats:

- (a) Paper;
- (b) Microfilm, provided the record is authorized to be microfilmed by the provisions of Administrative Rule 7(B) or;

- (c) Electronic, provided ~~which means~~ the record is readable through the use of an electronic device or software approved by the Supreme Court of Indiana regardless of the manner in which it was created.

(B) Chronological Case Summary (CCS). For each case, ~~the clerk of the circuit court shall maintain~~ a sequential record of the judicial events in such proceeding must be maintained. The record shall include the title of the proceeding; the assigned case number; the names, addresses (including electronic mail address), telephone, and facsimile numbers of all attorneys involved in the proceeding, or the fact that a party appears self-represented pro se with address (including electronic mail address), telephone, and facsimile number of the party so appearing; and the assessment of fees and charges (public receivables). ~~The judge of the case shall cause~~ CCS entries must to be made of all judicial events. Notation of judicial events in the CCS must shall be made promptly, ~~and~~ shall set forth the date of the event and briefly define any documents, orders, rulings, or judgments filed or entered in the case. The date of every notation in the CCS should be the date the notation is made, regardless of the date the judicial event occurred. The CCS must shall also note the entry of orders, rulings, and judgments in the record of judgments and orders, the notation of judgments in the judgment docket, and file status (pending/decided) under section (G) of this rule. The CCS may be kept in a paper ~~format, or~~ microfilm, or electronic formatally. The CCS is an official record of the ~~trial~~ court and must shall be maintained apart from other records of the court and organized by case number, if maintained in a paper or microfilmed format.

(C) Case file. ~~In each case files must be assigned a case number, the clerk of the circuit court shall maintain~~ a file in a single format, unless it is necessary to maintain a case file in a combination of formats to accommodate a filing that cannot be maintained in a single format. ~~The clerk shall make an entry on the CCS~~ must be made if it is necessary to maintain a single case file in a combination of formats. All case files, whether paper or electronic, must shall contain a copy of any order, entry, or judgment in the case placed in the RJO, ~~if the clerk is required to maintain a RJO,~~ and the original or electronic copy of all other documents relating to the case: including pleadings, motions, service of process, return of service, verdicts, executions, returns on executions and, if prepared, certified, and approved, the transcript of the testimony. The RJO must shall contain the original order, entry, or judgment and the case file must shall contain a copy of such original. Unless necessary to detail the filing chronology, the case file need not include transmittal letters, instructions, envelopes, or other extrinsic materials unrelated to the issues of the case. The case file, if maintained in a paper format, must shall contain an index tab listing the case number and an abbreviated designation of the parties and must shall note the information required under section (G) of this rule. In the event the court does not maintain a separate evidence file, documents entered into evidence, including depositions, must shall be placed in the case file.

(D) Record of judgments and orders (RJO or order book).

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- (1) Unless the court has a scanning system approved under Administrative Rule 6 that directly scans or electronically files documents into the court case management system and saves a digital image of a document as part of the electronic case file, the following must be maintained:

- (a) A~~following provisions apply: The clerk of the circuit court shall maintain a~~ daily, verbatim, compilation of all judgments of the court;
- (b) D~~e~~designated orders of the court;
- (c) O~~r~~ders and opinions of an appellate tribunal relating to a case heard by the court;
- (d) L~~o~~cal court rules under Trial Rule 81
- (e) C~~e~~rtification of the election of the regular judge of the court;
- (f) A~~n~~y order appointing a special judge, judge pro tempore, or temporary judge;
- (g) T~~h~~e oath and acceptance of any judge serving in the court;
- (h) A~~n~~y order appointing a special prosecutor; and
- (i) T~~h~~e oath and acceptance of a special prosecutor.

~~A~~The clerk ~~may maintain a~~ separate RJO as required for the functional management of the court's business may be maintained. ~~W~~Except where the RJO is maintained electronically, ~~the clerk shall maintain a~~ separate RJO for confidential materials must be maintained.

- (2) If the court has a scanning system approved under Administrative Rule 6 that directly scans or electronically files documents into the court case management system and saves a digital image of a document as part of the electronic case file, ~~the clerk need not maintain a~~ separate RJO is not necessary.

(E) Indexes. In addition to any index required under the provisions of this rule, state statute, or duly promulgated rule of a state agency, ~~the clerk of the circuit court shall prepare and maintain~~ indexes of all actions and proceedings in the ~~courts circuit, superior, and, probate courts in the county~~ must shall be prepared and maintained in an alphabetical format which notes the names of all parties, the date on which a party became part of the proceeding, and the case number of the proceeding. In the event courts are not located in the county courthouse, ~~an the clerk shall supervise the~~ appropriate preparation of indexes for these courts and ~~provide for~~ the combination of indexes for all ~~courts circuit, superior, and probate courts~~ in the county must be maintained. If the court has a case management system that is searchable by party name, date, and case number, or has the ability to produce an index upon demand, the ~~clerk is not required to preparation e and maintenance of ain the~~ indexes is not required. required by this rule.

(F) Pleadings and papers: Where filed and entered. All pleadings and papers not electronically submitted must shall be filed in accordance with the Trial Rules. ~~5 with the clerk of the circuit court.~~ In the event a court is not located in the same facility as

the clerk of the circuit court, all pleadings and papers ~~must shall~~ be filed with the clerk serving that court. If an initial pleading or complaint is assigned to a court not within the facility where the initial pleading or complaint was filed, the clerk shall promptly notify the person filing the pleading and transmit the documents to the clerk serving the court where the matter will be considered, and all further ~~documents must papers will~~ be filed with the latter court. In the event an initial pleading or complaint is filed with the clerk of the wrong court, the clerk, upon notice to the person filing the initial pleading or complaint, may transfer the case to the proper court before service of summons or appearance of other parties, or any opposing party may move for transfer as provided ~~by the for under~~ Trial Rules ~~12(B) or Trial Rule 75~~.

(G) Case File Status.

- (1) ~~C~~The clerk of the circuit court shall maintain the case files, as set forth under section (C) of this rule, ~~must have in either~~ a pending or decided status ~~designation~~. Pending ~~cases files, arranged by assigned case number,~~ consist of all cases which have not been decided. Decided ~~cases files~~ consist of the actions which have been concluded and no further proceedings remain to be conducted as evidenced by the final judgment or other order of the court.
- (2) When a case has been decided, the ~~case file must shall~~ be assigned a disposition date pursuant to ~~the retention schedules in the~~ Administrative Rules ~~7-00 of~~ the Indiana Supreme Court and maintained under the original case number, ~~in a location apart from pending files~~. In the event a decided case is redocketed for consideration by the court, the ~~change regarding the~~ disposition ~~must date shall~~ be ~~reflected in the CCS, deleted from the file and the case file returned to the pending cases in sequence with the case number originally assigned~~. A ~~new~~ disposition date ~~must shall~~ be ~~re~~assigned at the time the case returns to a decided status.

- (H) Statistics.** ~~A~~ The clerk of the circuit court shall establish procedures to determine a statistical count of all actions filed, decided, and reinstated as required by the Indiana Office of Judicial Administration (IOJA) ~~must be maintained~~.
- (I) Replacing lost papers.** If an original pleading or paper filed ~~with the clerk of the circuit court~~ cannot be located within the recordkeeping system set forth under this rule, the court may authorize a copy of such record to be filed and used as the original ~~following the procedures in the Administrative Rules of the Supreme Court of Indiana~~.
- (J) Method of record keeping.** ~~Records~~ Under the direction of the Supreme Court of Indiana, the clerk of the circuit court may ~~be~~, notwithstanding the foregoing sections, kept ~~on records~~ in any suitable media ~~approved by the Supreme Court of Indiana~~. ~~Regardless of w~~Records, whether a record is ~~required to be maintained permanently pursuant to the retention schedules in the Administrative Rules of the Supreme Court of Indiana, it must 7-D. (Retention Schedules) (Trial Rule 77 Schedules (10)), or not must,~~ if maintained electronically, be kept so that a hard copy can be generated at any time. All record keeping formats and systems, including case management systems,

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and the quality and permanency requirements employed for the CCS, the case file, and the RJO (order book) ~~must shall~~ be approved by the Office of Judicial Administration for compliance with the provisions of this rule. This Rule applies to court records maintained by clerks, judges, and to judicial branch agencies.

- (K) Electronic Posting of Court Records.** The clerk of the circuit, superior, or probate court, with the consent of the majority of the judges in the courts of record in that ~~county~~circuit, or the clerk of a city, town, or Marion County small claims court, with the consent of the city, town, or Marion County small claims court judge, may make available to the public through remote electronic access such as the internet, those court records approved by the Supreme Court of Indiana for electronic posting. The records to be posted, the specific information that is to be included, its format, pricing structure, if any, method of dissemination, and any subsequent changes thereto must be approved by the Office of Judicial Administration (IOJA) under the direction of the Supreme Court of Indiana. Such availability of court records ~~is shall be s~~subject to applicable laws regarding confidentiality.