*In 2021, the Indiana Supreme Court created the Civil Litigation Taskforce as part of the Indiana Innovation Initiative. The Court directed the Taskforce to focus on improving civil litigation procedures and case management. The Taskforce recommended several amendments to the Rules of Trial Procedure in the areas of service of process and discovery to reduce costs and delays, plus improve service to litigants, attorneys, and trial courts. (Please note that Trial Rule 26(B) and Trial Rule 30(A) have two versions for comment).

Rule 4.1. Summons: Service on individuals

…

(B) Copy Service to Be Followed With Mail. Whenever service is made under ~~Clause~~subsection (A)(3) or (A)(4) ~~of subdivision (A)~~, the person making the service also shall send by first class mail, a copy of the summons and the complaint to the ~~last known address~~ address ~~shown~~ on the summons ~~for service of process~~ of the person being served, and this fact shall be shown upon the return.

…

Rule 4.6. Service Upon Organizations

…

(B) Manner of service. Service under section~~subdivision~~ (A) of this rule shall be made on the proper person in the manner provided by these rules for service upon individuals, but service ~~a person seeking service or his attorney~~ shall not knowingly be directed ~~service~~ to ~~be made at~~ the person's residence~~dwelling house~~ or place of abode, unless the ~~such is an~~ address is furnished under the requirements of a statute or valid agreement, or unless an affidavit on or attached to the summons states that service in another manner is impractical. A registered agent that has consented to electronic service may be served in such a manner.

…

Rule 4.14. Service Under Special Order of Court

Upon ~~application of~~ a verified motion filed by any party setting forth facts sufficient to show that prior attempts to obtain service pursuant to the trial rules have been unsuccessful, the court in which any action is pending may make an appropriate order for service in ~~a~~ any other manner ~~not provided by these rules or statutes when such service~~ that is reasonably calculated to give the defendant actual knowledge of the proceedings and an opportunity to be heard. Such other forms of service may include social media, email, or other technology.

...

Rule 5. Service and filing of pleadings, documents, and other papers

(A) Service: When Required. Unless otherwise provided by these rules or an order of the court, each party and special judge, if any, shall be served with ~~each of the following papers~~:

...

(B) Service: How made. Whenever a party is represented by an attorney of record, service shall be made upon such attorney unless service upon the party is ordered by the court. Service upon the attorney or party shall be made by delivering or mailing a copy of the papers to the last known address, or where service is by electronic means approved by the Indiana Office of Judicial Administration (IOJA) a copy of the documents to the fax number or email ~~e-mail~~ address set out in the appearance form or correction as required by Rule 3.1(E).

...

(2) *Service by Mail.* If service is made by mail, the papers shall be deposited in the United States mail or third-party commercial carrier ~~other public means~~ by which a written acknowledgement of receipt may be requested and obtained addressed to the person on whom they are being served, with postage prepaid. Service shall be deemed complete upon mailing. Proof of service of all papers permitted to be mailed may be made by written acknowledgment of service, by affidavit of the person who mailed the papers, or by certificate of service ~~an attorney~~. It shall be the duty of attorneys when entering their appearance in a cause or when filing pleadings or papers therein, to have noted in the Chronological Case Summary or said pleadings or papers so filed the address and telephone number of their office. Service by delivery or by mail at such address shall be deemed sufficient and complete.

...

(C) Certificate of Service. Any person ~~attorney or unrepresented self-represented party~~ tendering a document ~~to the Clerk~~ for filing shall include ~~certify that cause that~~ a certificate of service ~~has been to be made,~~ listing the parties served, and specifying the date and means of service. The certificate of service shall be placed at the end of the document and shall not be separately filed. The separate filing of a certificate of service, however, shall not be grounds for rejecting a document for filing. A ~~The~~ court ~~Clerk~~ that receives ~~may permit~~ documents ~~to be filed~~ without a certificate of service ~~but~~ shall require prompt filing of a separate certificate of service.

~~**(D) Same: Numerous defendants.** In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order~~

~~(1) that service of the pleadings of the defendants and replies thereto need not be made as between the defendants;~~

~~(2) that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties; and~~

~~(3) that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties.~~

~~A copy of every such order shall be served upon the parties in such manner and form as the court directs.~~

(DE) Filing.

(1) Except as ~~otherwise~~ provided in ~~subparagraph~~ (D)(2) ~~hereof~~, all pleadings and papers ~~subsequent to~~ after the complaint ~~which~~ that are required to be served upon a party shall be filed with the ~~C~~court either before service or within a reasonable period of time thereafter.

(2) No deposition, ~~or~~ request for discovery, or response to request for discovery ~~thereto~~ under ~~Trial~~ Rules 27, 30, 31, 33, 34 or 36 shall be filed with the ~~C~~court unless:

(a) A motion is filed pursuant to ~~Trial~~ Rule 26(C) or ~~Trial~~ Rule 37 and the original deposition, ~~or~~ request for discovery, or response to request for discovery ~~thereto~~ is necessary to enable the ~~C~~court to rule; or

(b) A party desires to use the deposition, ~~or~~ request for discovery, or response to request for discovery ~~thereto~~ for evidentiary purposes at trial or in connection with a motion, and the ~~C~~court, either upon its own motion or that of any party, or as a part of any pre-trial order, orders the filing of the original.

(EF) Filing with the Court Defined. ...

(FG) Confidentiality of Court Records. ...

(GH) Distribution of Orders. ...

...

Rule 16. Pre-trial procedure: Formulating Issues.

(A) When required--Purpose. In any action except criminal cases, the court may in its discretion and shall upon the motion of any party, direct the attorneys for the parties to appear before it for a conference to consider:

...

(6) the entry of a discovery order;

(7) the desirability of using one or more types of alternative dispute resolution under the rules ~~therefor~~;

(87) the desirability of setting deadlines for dispositive motions in light of the date set for trial; and

(98) such other matters as may aid in the disposition of the action.

…

(C) Conference of attorneys. Unless otherwise ordered by the court, at least ten [10] days prior to the pre-trial conference, attorneys for each of the parties shall meet and confer for the following purposes:

…

(6) Discuss discovery, including a discovery order.

(7) Discuss settlement. The possibility of compromise settlement shall be fully discussed and explored.

…

Rule 26. General provisions governing discovery

(A) Discovery methods. Parties may obtain discovery by one or more of the following methods:

(1) depositions upon oral examination or written questions;

(2) written interrogatories;

(3) production of documents, electronically stored information, or things or permission to enter upon land or other property, for inspection and other purposes;

(4) physical and mental examination;

(5) requests for admission.

Unless these rules provide otherwise or the court orders otherwise under sectionsubdivision (C) of this rule, the frequency of use of these methods is not limited. However, duplication of discovery methods to obtain the same information and discovery requests that are disproportionate in terms of burden or expense should be avoided.

…

(B) Scope of discovery. ***(version 1)*** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject-matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter and is proportional to the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, the importance of the proposed discovery in resolving the issues and whether the burden or expense of the proposed discovery outweighs its likely benefit. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The frequency or extent of use of the discovery methods otherwise permitted under these rules and by any local rule shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought or; (iii) the discovery is not proportional to ~~burden or expense of the proposed discovery outweighs its likely benefit, taking into account~~ the needs of the case, taking into account the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, ~~and~~ the importance of the proposed discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. The court may act upon its own initiative after reasonable notice or pursuant to a motion under Rule 26(C).

(B) Scope of discovery. ***(version 2)*** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) In General. Parties may obtain discovery regarding any matter, not privileged, which is relevant to ~~the subject-matter involved in the pending action, whether it relates to~~ the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The frequency or extent of use of the discovery methods otherwise permitted under these rules and by any local rule shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought or; (iii) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues. The court may act upon its own initiative after reasonable notice or pursuant to a motion under Rule 26(C).

…

(C) Protective orders.

(1) Upon motion by any party or by the person from whom discovery is sought, and for good cause shown, the court in which the action is pending or alternatively, on matters relating to a deposition, the court in the county where the deposition is being taken, may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense.~~,~~

(2) The order may includ~~e~~~~ing~~ one or more of the following:

(a~~1~~) that the discovery not be had;

(b~~2~~) that the discovery may be had only on specified terms and conditions, including a designation of the time, ~~or~~ place, and manner of sharing costs;

(c~~3~~) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(d4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;

(e~~5~~) that discovery be conducted with no one present except the parties and their attorneys and persons designated by the court;

(f~~6~~) that a deposition after being sealed be opened only by order of the court;

(g~~7~~) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way;

(h~~8~~) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court; ~~. If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of Trial Rule 37(A)(4) apply to the award of expenses incurred in relation to the motion.~~

(i~~9~~) that a party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause. The court may specify conditions for the discovery.

(3) If the motion for a protective order is denied in whole or in part, the court may order that any party or person provide or permit discovery on such terms and conditions as are just. The provisions of Rule 37(A)(4) apply to the award of expenses incurred in relation to the motion.

(4) An order issued under this rule does not exclude the document or information from public access if filed with a court. Parties must comply with Rule 6 of the Indiana Rules on Access to Court Records to exclude a Court Record from public access.

...

...

Rule 30. Depositions Upon Oral Examination

(A) When depositions may be taken. ***(version 1)*** After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination without leave of court except as provided in Rule 30(A)(2). A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(B)(1): ~~Leave of court, granted with or without notice, must be obtained only~~

(1) if the plaintiff seeks to take a deposition prior to the expiration of twenty ~~[20]~~ days after service of summons and complaint upon any defendant except that leave is not required in these circumstances:

~~(1)~~ if a defendant has served a notice of taking deposition or otherwise sought discovery; or

~~(2)~~ if special notice is given as provided in subsection~~subdivision~~ (B)(2) ~~of this rule~~.

(2) if the parties have not stipulated to the deposition and: the deposition would result in more than ten depositions being taken under this rule or Rule 31 by plaintiffs, or by the defendant, or by the third-party defendant; the deponent has already been deposed in the case; or the deponent is confined in prison, in which case the deposition may be taken only on such terms as the court prescribes.

The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. ~~The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.~~

Each party is limited to not more than ten depositions (excluding experts and parties or party representatives), with a seven-hour limit for each deposition (unless the deposition is of an expert, a party, or a party representative), unless otherwise agreed to by the parties or Court order.

(A) When depositions may be taken. ***(version 2)*** After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of twenty ~~[20]~~ days after service of summons and complaint upon any defendant except that leave is not required ~~in these circumstances~~:

(1) if a defendant has served a notice of taking deposition or otherwise sought discovery; or

(2) if special notice is given as provided in subsection~~subdivision~~ (B)(2) ~~of this rule~~.

The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(B) Notice of examination: General requirements--Special notice--Non-stenographic recording--Production of documents and things--Deposition of organization.

...

(6) A party may in the~~his~~ notice name as the deponent an organization, including without limitation a governmental organization, or a partnership and designate with reasonable particularity the matters on which examination is requested. At least fifteen days ~~B~~before

the date of the deposition ~~or promptly after the notice or subpoena is served~~, the serving party and the organization or its counsel must confer in good faith about the matters for examination. The organization so named shall designate one or more officers, directors, or managing agents, executive officers, or other persons duly authorized and consenting to testify on its behalf. The persons so designated shall testify as to matters known or available to the organization. This subsection~~subdivision (B)(6)~~ does not preclude taking a deposition by any other procedure authorized in these rules.

…

Rule 33. Interrogatories to Parties

…

(B) Format of interrogatory and response. A party who serves written interrogatories under this rule shall provide, after each interrogatory, a reasonable amount of space for a response or an objection. Answers or objections to interrogatories shall include the interrogatory which is being answered or to which an objection is made. The interrogatory which is being answered or objected to shall be placed immediately preceding the answer or objection.

Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objections shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. General objections shall not be made and will have no effect. A general objection is an objection that is not directed to a specific interrogatory, does not specifically state the grounds on which it was based, or applies globally.

(**C**) Time for service, response, and sanctions. The party upon whom the interrogatories have been served shall serve a copy of the answers and objections within a period designated by the party submitting the interrogatories, not less than thirty ~~(30)~~ days after the service thereof or within such shorter or longer time as the court may allow. The party submitting the interrogatories may move for an order under Rule 37(A) with respect to any objection to or other failure to answer an interrogatory.

The party upon whom the interrogatories have been served may object to the failure to follow the Format requirements in section~~subpart~~ (B) by returning the interrogatories to the party who caused them to be served. If this objection is to be made, the interrogatories shall be returned to the party who caused them to be served not later than the seventh ~~(7th)~~ day after they were received. If the interrogatories are not returned in that time, then this objection is waived.

(**D**) Scope--Use at trial. Interrogatories may relate to any matters which can be inquired into under Rule 26(B) and must be stated with reasonable particularity, and the answers may be used to the extent permitted by the rules of evidence.

An interrogatory otherwise proper is not objectionable merely because an answer to the interrogatory involves an opinion, contention, or legal conclusion, but the court may order that

such an interrogatory be answered at a later time, or after designated discovery has been completed, or at a pre-trial conference.

…

Rule 34. Production of documents, electronically stored information, and things and entry upon land for inspection and other purposes

(A) Scope. Any party may serve on any other party a request:

(1) to produce and permit the party making the request, or someone acting on the requester's behalf, to inspect and copy, any designated documents or electronically stored information (including, without limitation, writings, drawings, graphs, charts, photographs, sound recordings, images and other data or data compilations from which information can be obtained or translated, if necessary, by the respondent into reasonably usable form)~~;~~ or

(2) to inspect and copy, test, or sample any designated tangible things which constitute or contain matters within the scope of Rule 26(B) and which are in the possession, custody~~,~~ or control of the party upon whom the request is served; or

(3~~2~~) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of Rule 26(B).

(B) ~~Procedure~~Timing. The request may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party.

(C) Procedure. The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request may specify the form or forms in which electronically stored information is to be produced. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. ~~Service is dispensed with if the whereabouts of the parties is unknown.~~

(D) Responses. The party upon whom the request is served shall serve a written response within a period designated in the request, not less than thirty ~~[30]~~ days after ~~the~~ service~~, thereof~~ or within such shorter or longer time as the court may allow. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested~~,~~ unless documents are produced with the response or an objection is asserted. ~~it is objected to, including an objection to the requested form or forms for producing electronically stored information, stating in which event the reasons for objection shall be stated.~~

(E) Objections. If objection is made to part of an item or category, the part shall be specified. If objection is made to the requested form or forms for producing electronically stored information--or if no form was specified in the request--the responding party must state the

form or forms it intends to use. General objections shall not be made and will have no effect. A general objection is an objection that is not directed to a specific request, does not specifically state the grounds on which it is based, or applies globally. The party submitting the request may move for an order under Rule 37(A) with respect to any objection to or other failure to respond to the request or any part of the request ~~thereof~~, or any failure to permit inspection as requested.

(F) Manner of production. Unless the parties otherwise agree, or the court otherwise orders, a party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

If a request for electronically stored information does not specify the form or forms of production, a responding party must produce the information in a form or forms in which it is ordinarily maintained or in a form or forms that are reasonably usable.

A party need not produce the same electronically stored information in more than one form.

(G~~C~~) Application to Non-parties:

(1) Scope. A witness or person other than a party may be requested to produce or permit the matters allowed by subsection (A) ~~of this rule~~. Such request shall be served upon other parties and included in or with a subpoena served upon such witness or person.

(2) Timing. Neither a request nor subpoena to produce or permit as permitted by this rule shall be served upon a non-party until at least ten~~fifteen (15)~~ days after the date on which the party intending to serve such request or subpoena serves a copy of the proposed request and subpoena on all other parties. Provided, however, that if such request or subpoena relates to a matter set for hearing within such ~~fifteen (15)~~ ten-day period or arises out of a bona fide emergency, such request or subpoena may be served upon a non-party one ~~(1)~~ day after service~~receipt~~ of the proposed request or subpoena to~~by~~ all other parties.

(3) Objections. Any party objecting to the request or subpoena must serve a written response within ten days of service setting forth the specific grounds for the objection and a proposed date and time to meet and confer under Rule 26(F). If the parties cannot reach an agreement, the objecting party must move to quash or modify as permitted by Rule 45(B) within twenty days of the objection. If no timely motion to quash is filed, the party may serve the request or subpoena.

(~~43~~) Procedure. The request shall contain the matter provided in subsection (B) ~~of this rule. It shall~~ and also state that the witness or person to whom it is directed:

(i) is entitled to security against damages or payment of damages resulting from such request;

(ii) and may respond to such request by submitting to its terms, by proposing different terms, by objecting specifically or generally to the request by serving a written response to the party making the request within thirty ~~(30)~~ days, or by moving to quash as permitted by Rule 45(B).

(5) Responses. Any party, or any witness or person upon whom the request properly is made may respond to the request as provided in subsection (B) ~~of this rule~~. If the non-party objects, ~~response of the witness or person to whom it is directed is unfavorable, if he moves to quash, if he~~ refuses to cooperate after responding, ~~or~~ fails to respond, or if the response is incomplete~~he objects~~, the party making the request may move for an order under Rule 37(A) with respect to any such response or objection. In granting an order under this subsection and Rule 37(A)(2) the court shall condition relief upon the prepayment of damages to be proximately incurred by the witness or person to whom the request is directed or require an adequate surety bond or other indemnity conditioned against such damages. Such damages shall include reasonable attorneys' fees incurred in reasonable resistance and in establishing such threatened damage or damages.

(6~~4~~) Providing copies. A party receiving documents from a non-party ~~pursuant to this provision~~ shall serve copies on all other parties within fifteen ~~(15)~~ days of receiving the documents. If the documents are voluminous and service of a complete set of copies is burdensome, the receiving party shall notify all parties within fifteen ~~(15)~~ days of receiving the documents that the documents are available for inspection at the location of their production by the non-party, or at another location agreed to by the parties. The parties shall agree to arrangements for copying, and any party desiring copies shall bear the cost of reproducing them.

(H~~D~~) Exception to best evidence rule. When a party or witness in control of a writing or document subject to examination under this rule or Rule 9.2(E) refuses or is unable to produce it, evidence thereof shall be allowed by other parties without compliance with the rule of evidence requiring production of the original document or writing as best evidence.

…

Rule 36. Requests for admission

(A) Request for admission. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(B) ~~to establish a fact as set forth in the request~~, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying.

(B) Timing. The request may, without leave of court, be served not earlier than ten days after the issues are first closed on the merits or thirty days from commencement of the action in cases where no responsive pleading is required~~upon the plaintiff after commencement of the action and upon any other party with or after service of the summons and complaint upon that party~~. Requests for admission shall not be combined in the same document with any other pleading and must be served separately from any other form of discovery.

(C) Failure to admit or deny. Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within a period designated in the request,

not less than thirty ~~[30]~~ days after service thereof or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney.

(D) Objections. If objection is made, the reasons must~~therefor shall~~ be stated. General objections shall not be made and will have no effect. A general objection is an objection that is not directed to a specific request for admission, does not specifically state the grounds on which it was based, or applies globally. The answer must~~shall~~ specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial must~~shall~~ fairly meet the substance of the requested admission, and when good faith requires that a party qualify the~~his~~ answer or deny only a part of the matter of which an admission is requested, the party~~he~~ must~~shall~~ specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party~~he~~ states that ~~he has made~~ reasonable inquiry has been made and that the information known or readily obtainable ~~by him~~ is insufficient to enable an admission~~him to admit~~ or denial~~deny~~ or that the inquiry would be unreasonably burdensome. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; the party~~he~~ may, subject to the provisions of Rule 37(C), deny the matter or set forth reasons why the party~~he~~ cannot admit or deny it.

(E) Motion to compel and order. The party who has requested the admissions may move for an order with respect to the answers or objections after the parties attempt to resolve their dispute under Rule 26(F). Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served. The court may, in lieu of these orders, determine that final disposition of the request be made at a pre-trial conference or at a designated time prior to trial. The provisions of Rule 37(A)(4) apply to the award of expenses incurred in relation to the motion.

~~**(B)**~~**(F) Effect of admission.** Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice ~~him in~~ maintaining the~~his~~ action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending action only and is not an admission ~~by him~~ for any other purpose nor may it be used against the party~~him~~ in any other proceeding.

(G) Expenses on failure to admit. If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the party may apply to the court for an order requiring the other party to pay the reasonable

expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that

(1) the request was held objectionable pursuant to Rule 36(A),

(2) the admission sought was of no substantial importance,

(3) the party failing to admit had reasonable ground to believe that he might prevail on the matter, or

(4) there was other good reason for the failure to admit.

...

Rule 37. Failure to make or cooperate in discovery: Sanctions

. . .

~~(C) **Expenses on failure to admit.**~~

~~If a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make the order unless it finds that (1) the request was held objectionable pursuant to Rule 36(A), or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe that he might prevail on the matter, or (4) there was other good reason for the failure to admit.~~

(C~~D~~) **Failure of party to attend at own deposition or serve answers to interrogatories or respond to requests for inspection.**

If a party or an officer, director, or managing agent of a party or an organization, including without limitation a governmental organization, or a person designated under Rule 30(B)(6) or 31(A) to testify on behalf of a party or an organization, including without limitation a governmental organization, fails (1) to appear before the officer who is to take the~~his~~ deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under paragraphs (a), (b), and (c) of subsection~~subdivision~~ (B)(2) of this rule. In lieu of any order or in addition thereto, the court shall require the party failing to act or the advising attorney ~~advising him~~ or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this subdivision may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order as provided by Rule 26(C).

(DE) Electronically stored information. ~~Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good faith operation of an electronic information system.~~If a party in a civil case fails to take reasonable steps to preserve electronically stored information that:

(1) is relevant and
(2) material to the litigation and
(3) should have been preserved in anticipation of or during litigation and is lost because a party fails to take reasonable steps to preserve it, and
(4) cannot be restored or replaced through additional discovery, and either
    a. prejudice results to another party from loss of the information; or
    b. the party acted with the intent to deprive another party of the information's use in the litigation,

the court may impose sanctions, including

(1) a presumption that the lost information was unfavorable to the party;
(2) an instruction the jury must presume the information was unfavorable to the party;
(3) dismissal of the action
(4) entry of a default judgment; or
(5) other orders as are just and necessary to cure the prejudice.

…

Rule 53. Masters

(A) Appointment and compensation. Each trial court ~~with the concurrence of the Supreme Court~~ may appoint a ~~special~~ master in a case pending therein if: (1) All parties consent to appointment of a master; or (2) If all parties do not consent, the Court, after giving notice to the parties and an opportunity to be heard finds it probable that appointment of a master will materially assist the Court in resolving the case in a just and timely manner; the anticipated costs associated with the appointment of a master are proportionate to the value of the case; and the anticipated costs associated with the appointment of a master will not be unduly burdensome to any party. As used in these rules the word "master" includes without limitation an attorney, a senior judge, a referee, an auditor, an examiner, a commissioner, ~~and~~ an assessor, or any attorney or non-attorney who has special skills or training appropriate to perform the tasks that may be required. If an attorney, the master must be an attorney licensed and in good standing in the State of Indiana. Selection of the master may be by agreement of the parties or selected by the Court. The compensation to be allowed to a master shall be reasonable~~allowed in the manner and amount paid to judges pro tem and such additional compensation as is fixed by the Supreme Court~~.

(B) Reference. The order of reference may also direct the master to report only upon particular issues, to perform particular acts, or to receive and report evidence only, and fix the time and place for beginning and closing hearings, and for the filing of the master's report.~~A reference to a master shall be the exception and not the rule. In actions to be tried by a jury, a reference shall~~

~~be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it. Reference shall be allowed when the parties agree prior to trial as provided by these rules or by statute.~~

(C) Powers. Subject to the specifications and limitations stated in the order of reference, the master has the power to regulate all proceedings before the master, and to take all measures necessary or proper for the efficient performance of the duties assigned under the order.~~The order of reference to the master may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master's report. Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary or proper for the efficient performance of his duties under the order. He may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. He may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may himself examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43(C) for a court sitting without a jury.~~

(D) Proceedings.

(1) Meetings. When a reference is made, the clerk shall ~~forthwith~~ furnish the master with a copy of the order of reference. Upon receipt thereof unless the order of reference otherwise provides, the master shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within twenty ~~[20]~~ days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master to proceed with all reasonable diligence. Either party, on notice to the parties and master, may apply to the court for an order requiring the master to speed the proceedings and to make the~~his~~ report. If a party fails to appear at the time and place appointed, the master may proceed ex parte or, in the master's~~his~~ discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) Witnesses. The master may examine witnesses, including the parties to the action, under oath. The master may permit the parties to examine witnesses under oath and may place reasonable limits on the examination of witnesses by the parties. The parties may procure the attendance of witnesses before the master by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence,

the witness~~he~~ may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) Evidence and Statement of accounts. The master may require the production of evidence on all matters embraced in the order of reference, including the production of records and documents of all kinds, including electronic media. The master may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to place witnesses under oath. If a party so requests, the ~~M~~master must make a record of the evidence offered and excluded in the same manner, and subject to the same limitations, as provided for a court sitting without a jury. When matters of accounting are in issue before the master, the master~~he~~ may prescribe the form in which the amounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master may require a different form of statement to be furnished, or the accounts or specific items thereof to be provided by oral examination of the accounting parties or upon written interrogatories or in such other manner as ~~he~~ directeds~~s~~.

(E) Report.

(1) Contents and filing. The master shall prepare a report upon the matters submitted ~~to him~~ by the order of reference and, if required by request of any party or the court prior to hearing or the taking of evidence ~~by him~~ to make findings of fact, the master~~he~~ shall set them forth in the report. The master~~He~~ shall file the report with the clerk of the court ~~and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing~~.

(2) In nonjury actions. ~~In an action to be tried without a jury the court shall accept the master's decision or his findings of fact unless clearly erroneous.~~ Within ten ~~[10]~~ days after being served with notice of the filing of the report any party may serve written objections ~~thereto~~ upon the other parties. Application to the court for action upon the report and upon objections ~~thereto~~ shall be by motion and upon notice as prescribed in Rules 5 and 6. The court after hearing may adopt the report or may reject it in whole or in part or may receive further evidence or may re-commit it with instructions.

(3) In jury actions. In an action to be tried by a jury the master shall not be directed to report the evidence. The~~His~~ findings upon the issues submitted to the master~~him~~ are admissible as

evidence of the matters found and may be read to the jury, subject to the ruling of the court upon any objections in point of law which may be made to the report.

…

(5) Draft report. Before filing the~~his~~ report a master may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions. The Court may also request interim report(s) from the master at any time.

…

Rule 81. Local court rules

(A) Authority. Courts may regulate local court and administrative district practice by adopting and amending in accordance with this Rule local and administrative district rules not inconsistent with--and not duplicative of--these Rules of Trial Procedure or other Rules of the Indiana Supreme Court. ~~Courts are strongly encouraged to adopt a single set of local rules for use in all courts of record in a county and will be required to do so after January 1, 2007~~. The local and administrative district rules~~single set~~ may reflect different practices due to geographic, jurisdictional, and other variables. Courts shall not use standing orders (that is, generic orders not entered in the individual case) to regulate local court or administrative district practice. Local and administrative district rules requiring approval of the Indiana Supreme Court or the Indiana Office of Judicial Administration (IOJA) are subject to the provisions of this rule.

(B) Notice and comment.

…

(2) The court shall also transmit the proposal to the county clerk and to the IOJA in digital format. The county clerk shall post the proposal in the county clerk's office(s) and on the county clerk's website, if any, and the IOJA shall post the proposal on the Indiana Judicial Website for public inspection and comment. The court and the IOJA shall receive comments for not less than thirty ~~(30)~~ days.

…

(D) Exceptions to the schedule. If a court finds that there is good cause to deviate from the schedule established by the IOJA, the court or administrative district may adopt or amend local or administrative district rules at other times. However, a local or administrative district rule shall not take effect unless it has first been posted for thirty ~~(30)~~ days in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website. The court

promptly thereafter shall provide opportunity to comment in the manner provided in subsection (B)(1) ~~above~~.

…

(F) Adopted Rules. The court shall cause ~~adopted rules and amendments to be placed in the Record of Judgments and Orders, shall cause~~ the county clerk to post local rules and amendments~~them~~ in the county clerk's office(s) and on the county clerk's website, if any, for public inspection, and shall transmit a copy of the rules in digital format to the IOJA for posting on the Indiana Judicial Website.

…

~~(I) Transition. To continue in effect local and administrative district rules promulgated before the effective date of this Rule, the court shall (1) renumber such rules according to the uniform numbering system established by the IOJA under subsection (E) above, (2) cause such rules to be posted and available in the clerk's office as required by subsection (G) above, and (3) transmit a copy of such rules in digital format to the IOJA for posting on the Indiana Judicial Website. By January 1, 2007, local rules must be in compliance with the terms of this Rule.~~

(I~~J~~) Periodic review and update. At least once every two years, ~~C~~courts and administrative districts must~~shall~~ review ~~periodically~~ and change local and administrative district rules as required by changes in statutes, case law, or these Rules of Trial Procedure or other Rules of the Indiana Supreme Court. Each county must certify that the judges have made the required review when submitting the county caseload allocation plan required by Administrative Rule 1(E)(1).

…

Rule 86. General electronic filing and electronic service

…

(B) Service of Pleadings, Documents, and Other Papers.

…

(3) *Service of Pleadings~~Subsequent Documents~~ and Other Papers following the Complaint.*

(a) *Service on Users*. All documents required to be served under Rule 5(A) must be served upon users ~~Except for service required by Trial Rule 4 and except as provided for in this rule, Users users must serve all documents pleadings and papers in a case upon every other party who is a User~~ through E-Service using the IEFS. E-Service has the same legal effect as service of an original paper document. E-Service of a document through the IEFS is deemed complete upon transmission to the email address for the User shown on the appearance filed in the case or the Public Service List, as confirmed by the NEF

associated with the document. Exempt parties must serve all documents in a case as provided by ~~Trial~~ Rules 4 or 5.

(b) *Service on Others*. ~~Trial~~ Rules 4 and 5 shall govern service of documents on attorneys of record and on unrepresented parties who are not Users.

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