

\*The proposed amendments to Trial Rules 53.1 and 53.2 would do the following:

- add excluded time periods for any period the parties are permitted to file post-hearing submissions
- remove application to the Supreme Court for extension of time for ruling
- add a new paragraph to allow a judicial officer to extend the time limitation for ruling by an additional thirty days (TR 53.1 only)
- add a new paragraph on waiver and tolling of time limitations
- revise references in TR 53.2.

## Rules of Trial Procedure

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### Rule 53.1. Failure to rule on motion

#### (A) Time limitation for ruling.

In the event a court fails for thirty ~~(30)~~ days to set a motion for hearing or fails to rule on a motion within thirty ~~(30)~~ days after it was heard or thirty ~~(30)~~ days after it was filed, if no hearing is required, upon application by an interested party, the submission of the cause may be withdrawn from the trial judge and transferred to the Supreme Court for the appointment of a special judge.

#### (B) ~~Exceptions~~Excluded Time Periods.

The time limitation for ruling on a motion established under ~~subdivision~~Section (A) ~~of this rule~~ shall excludes:

- (1) any period after which the case is referred to alternative dispute resolution and until a report on the alternative dispute resolution is submitted to the court;~~s~~ and
- (2) any period during which the court has permitted the parties to file post-hearing submissions. If the court allows post-hearing submissions, the court must make an entry on the Chronological Case Summary stating the date by which the parties are to file the submissions. The time limitation established under subdivision (A) begins when all parties have filed their post-hearing submissions or when the deadline for submissions occurs, whichever occurs first.

#### (C) ~~Exceptions~~

The time limitation for ruling on a motion established under ~~subdivision~~Section (A) ~~of this rule~~ doesnot apply where:

- (1) The Court, within thirty ~~(30)~~ days after filing, orders that a motion be considered during the trial on the merits of the cause; or

- (2) The parties who have appeared or their counsel stipulate or agree on record that the time limitation for ruling on a motion ~~does shall~~ not apply; or
- (3) ~~The time limitation for ruling has been extended by the Supreme Court as provided by Section (D) of this rule; or~~
- (34) The ruling in question involves a repetitive motion, a motion to reconsider, a motion to correct error, a petition for post-conviction relief, or a ministerial post-judgment act.

**(D) Time of ruling.**

For the purposes of ~~subdivision~~~~Section (A) of this rule~~, a court is deemed to have set a motion for hearing on the date the setting is noted in the Chronological Case Summary, and to have ruled on the date the ruling is noted in the Chronological Case Summary.

**(E) Extension of time for ruling.** ~~A judge may apply to the Supreme Court of Indiana to extend the time limitation set forth under Trial Rule 53.1, 53.2, or 53.3. The application must be filed prior to the filing of a praecipe with the Clerk under Trial Rules 53.1, 53.2, or 53.3, must be verified, must be served on the Clerk and all parties of record, and must set forth the following information:~~

- (1) The nature of the matter under submission;
- (2) The circumstances warranting the delay; and
- (3) The additional time requested.

~~The withdrawal of submission under Trial Rule 53.1 or 53.2 or denial of a motion to correct error under Trial Rule 53.3 may not take effect during the pendency of the application for an extension of time to rule. However, if the time limitation expires while the application is pending before the Supreme Court, the jurisdiction of the trial judge shall be suspended at that point pending the action of the Supreme Court.~~

~~A judicial officer may extend the time limitation set forth under Trial Rule 53.1, 53.2, or 53.3 by an additional thirty days by an entry in the Chronological Case Summary and notice to the parties made prior to the time period's expiration. A judicial officer is not entitled to further additional extension without the parties' written consent.~~

**(F) Procedure for withdrawing submission.**

Upon the filing by an interested party of a praecipe specifically designating the motion or decision delayed, the Clerk of the court ~~must shall~~ enter the date and time of the filing on the praecipe, record the filing in the Chronological Case Summary under the cause, which entry ~~must shall~~ also include the date and time of the filing of the praecipe, and promptly forward the praecipe and a copy of the Chronological Case Summary to the Chief Administrative Officer (CAO) of the Indiana Office of Judicial Administration (IOJA). The CAO

~~mustshall~~ determine whether or not a ruling has been delayed beyond the time limitation set forth under Trial Rule 53.1 or 53.2.

- (1) If the CAO determines that the ruling or decision has not been delayed, the CAO ~~mustshall~~ provide notice of the determination in writing to the Clerk of the court where the case is pending and the submission of the cause ~~mustshall~~ not be withdrawn. The Clerk of the court where the case is pending ~~mustshall~~ notify, in writing, the judge and all parties of record in the proceeding and record the determination in the Chronological Case Summary under the cause.
- (2) If the CAO determines that a ruling or decision has been delayed beyond the time limitation set forth under Trial Rule 53.1 or 53.2, the CAO ~~mustshall~~ give written notice of the determination to the judge, the Clerk of the trial court, and the Clerk of the Supreme Court ~~of Indiana~~ that the submission of the case has been withdrawn from the judge. The withdrawal is effective as of the time of the filing of the praecipe. The Clerk of the trial court ~~mustshall~~ record this determination in the Chronological Case Summary under the cause and provide notice to all parties in the case. The CAO ~~mustshall~~ submit the case to the Supreme Court ~~of Indiana~~ for appointment of a special judge or such other action deemed appropriate by the Supreme Court.

**(GF) Report to Supreme Court.**

When a special judge is appointed under Trial Rule 53.1 or 53.2, the judge from whom submission was withdrawn ~~mustshall~~, within ten ~~(10)~~ days from receipt of the order appointing a special judge, file a written report in the Supreme Court under the cause appointing the special judge. This report ~~mustshall~~ fully state the nature of the matters held in excess of the time limitations. Additionally, the report may relate any other facts or circumstances which the judge deems pertinent.

**(H) Waiver and tolling.**

- (1) ~~The filing of motions, correspondence, or pleadings after a matter is taken under advisement and before the filing of a praecipe does not waive the right to remove the judicial officer from the case.~~
- (2) ~~If the requesting party files additional motions, correspondence, or pleadings after filing a praecipe, the requesting party waives the right to remove the judicial officer from the case, and the praecipe is void and of no effect.~~
- (3) ~~Once a praecipe is filed, all time limitations are tolled until resolution of the praecipe.~~

**(I) Permanent record.**

The Supreme Court ~~mustshall~~ maintain a permanent record of special judge appointments under Trial Rules 53.1 and 53.2.

**Rule 53.2. Time for holding issue under advisement; delay of entering a judgment**

**(A) Time limitation for holding matter under advisement.**

Whenever a cause (including for this purpose a petition for post conviction relief) has been tried to the court and taken under advisement by the judge, and the judge fails to determine any issue of law or fact within ninety~~(90)~~ days, the submission of all the pending issues and the cause may be withdrawn from the trial judge and transferred to the Supreme Court for the appointment of a special judge.

**(B) Excluded Time Periods.**

The time limitation for ruling on a motion established under subdivision (A) must exclude:

- (1) Any period after which the case is referred to alternative dispute resolution and until a report on the alternative dispute resolution is submitted to the court; and
- (2) Any period during which the court has permitted the parties to file post-hearing submissions. If the court allows post-hearing submissions, the court must make an entry on the Chronological Case Summary stating the date by which the parties are to file the submissions. The time limitation established under subdivision (A) begins when all parties have filed their post-hearing submissions or when the deadline for submissions occurs, whichever occurs first.

**(C) Exceptions.**

The time limitation for holding an issue under advisement established under subdivision~~Section~~ (A)~~of this rule~~ ~~doesshall~~ not apply ~~whenwhere~~:

- (1) ~~The~~ the parties who have appeared or their counsel stipulate or agree on record that the time limitation ~~for decision~~ set forth in this rule ~~doesshall~~ not apply; or
- (2) ~~The time limitation for decision has been extended by the Supreme Court pursuant to Trial Rule 53.1(D).~~

**(D) Time of decision.**

For the purpose of ~~subdivision~~~~Section~~ (A)~~of this rule~~, a court is deemed to have decided on the date the decision is noted in the Chronological Case Summary.

**(E) Extension of time for decision.**

The procedure for extending the time limitation for decision ~~mustshall~~ be as set forth in Trial Rule 53.1(~~E~~D).

**(F) Procedure for withdrawing submission.**

The procedure for withdrawing submission and processing the appointment of a special judge ~~mustshall~~ be as set forth in Trial Rule 53.1(~~E~~E).

**(GF) Report to Supreme Court.**

Whenever a special judge is appointed pursuant to this rule, the judge from whom submission has been withdrawn ~~must shall~~ file a report with the Supreme Court as ~~set forth~~provided for in Trial Rule 53.1(GF).

**(H) Waiver and tolling.**

- (1) ~~The filing of motions, correspondence, or pleadings after a matter is taken under advisement and before the filing of a praecipe does not waive the right to remove the judicial officer from the case.~~
- (2) ~~If a requesting party files additional motions, correspondence, or pleadings after filing a praecipe, the party waives the right to remove the judicial officer from the case, and the praecipe is void and of no effect.~~
- (3) ~~Once a praecipe is filed, all time limitations are tolled until resolution of the praecipe.~~

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