

In the
Indiana Supreme Court



Cause No. 94S00-1701-MS-5

Order Amending Indiana Rules of Trial Procedure

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, the Indiana Rules of Trial Procedure are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

Rule 3.1 Appearance

(A) **Initiating party.** At the time an action is commenced, the attorney representing the party initiating the proceeding or the party, if not represented by an attorney, shall file with the clerk of the court an appearance form setting forth the following information:

(10) In a proceeding involving a petition for guardianship, the initiating party shall provide a completed Guardianship Information Sheet in the form set out in Appendix C. The information sheet is a confidential Court Record excluded from public access under Administrative Rule 9.

(F) **Forms.** The Indiana Office of Judicial Division of State Court Administration (IOJA) shall prepare and publish a standard format for compliance with the provisions of this rule.

Rule 5. Service and Filing of Pleading and Other Papers

- (F) **Filing With the Court Defined.** The filing of pleadings, motions, and other papers with the court as required by these rules shall be made by one of the following methods:
- (1) Delivery to the clerk of the court;
 - (2) Sending by electronic transmission under the procedure adopted pursuant to Administrative Rule 12;
 - (3) Mailing to the clerk by registered, certified or express mail return receipt requested;
 - (4) Depositing with any third-party commercial carrier for delivery to the clerk within three (3) calendar days, cost prepaid, properly addressed;
 - (5) If the court so permits, filing with the judge, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk; or
 - (6) Electronic filing, as approved by the ~~Indiana Office of Judicial Division of State Court~~ Administration (IOJA) pursuant to Administrative Rule 16.

Filing by registered or certified mail and by third-party commercial carrier shall be complete upon mailing or deposit

Any party filing any paper by any method other than personal delivery to the clerk shall retain proof of filing.

Rule 9.2. Pleading and proof of written instruments

- (A) **When instrument or copy, or an Affidavit of Debt mustshall be filed.** When any pleading allowed by these rules is founded on a written instrument, the original, or a copy thereof, mustshall be included in or filed with the pleading. Such instrument, whether copied in the pleadings or not, shall be taken as part of the record. Further,

(1) if the claim:

(a) arises out of a written contract, a copy shall be attached; however, the fact that a copy of such contract is not in the custody of the plaintiff shall not bar the filing of the claim; or

(b) is on an account, an Affidavit of Debt, in a form substantially similar to Appendix A-2 shall be attached;

- (2) in addition to the requirements set forth above in subsection (1), if the plaintiff is not the original creditor, and the claim arises from a debt that is primarily for personal, family, or household purposes, the plaintiff shall provide an Affidavit of Debt that shall have attached as one or more Exhibits which shall include:

(a) a copy of the contract or other writing evidencing the original debt, which shall contain a signature of the defendant. If a claim is based on credit card or other debt and no such signed writing evidencing the original debt ever existed, then copies of documents generated when the debt was incurred or the credit card was actually used shall be attached; and

(b) a chronological listing of the names of all prior owners of the debt and the date of each transfer of ownership of the debt, beginning with the name of the original creditor; and

(c) a certified or other properly authenticated copy of the bill of sale or other document that transferred ownership of the debt to the plaintiff.

~~When any pleading allowed by these rules is founded on an account, an Affidavit of Debt, in a form substantially similar to that which is provided in Appendix A-2 to these rules, shall be attached.~~

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Rule 53.1. Failure to rule on motion

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(E) 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 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 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) Executive Director of the Indiana Office of Judicial Division of State Court Administration (IOJA Executive Director). The CAO Executive Director shall 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 Executive Director determines that the ruling or decision has not been delayed, the CAO Executive Director shall provide notice of the determination in writing to the Clerk of the court where the case is pending and the submission of the cause shall not be withdrawn. The Clerk of the court where the case is pending shall 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 Executive Director 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 Executive Director shall 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 shall record this determination in the Chronological Case Summary under the cause and provide notice to all parties in the case. The ~~CAO Executive Director~~ shall 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.

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Rule 77. Court records

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(H) Statistics. 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 ~~division of state court administration (IOJA)~~.

. . . .
(J) Method of record keeping. Under the direction of the Supreme Court of Indiana, the clerk of the circuit court may, notwithstanding the foregoing sections, keep records in any suitable media. Records, whether required to be maintained permanently pursuant to Administrative Rule 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 The~~ record keeping formats and systems, including case management systems, -and the quality and permanency requirements employed for the CCS, the case file, and the RJO (order book) shall be approved by the Office of Judicial Administration ~~division of state court 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 court, with the consent of the majority of the judges in the courts of record in that 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 ~~Division of State Court Administration~~ under the direction of the Supreme Court of Indiana. Such availability of court records shall be subject to applicable laws regarding confidentiality.

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Rule 79. Special judge selection: circuit, superior, and probate courts

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(I) Discontinuation of service or Unavailability of special judge.

- (1) In the event a special judge assumes jurisdiction and thereafter ceases to act for any reason, except the timely granting of a motion for change of judge, the regular judge of the court where the case is pending shall assume jurisdiction, provided such judge has not previously served in the case and is otherwise eligible to serve. In the event of the timely granting of a motion for change of judge from a special judge or if the regular judge does not assume jurisdiction under this section, a successor special judge shall be appointed in accordance with Sections (D) and (H) of this rule.
- (2) In the event that a special judge assumes jurisdiction and is thereafter unavailable for any reason on the date when a hearing or trial is scheduled:
 - (a) the special judge may, as appropriate, appoint a judge pro tempore, temporary judge, magistrate, or senior judge of the court where the case is pending, provided such judge or magistrate is otherwise eligible to serve and has not previously had jurisdiction of the case removed from them pursuant to the Rules of Trial Procedure, or
 - (b) the regular judge of the court where the case is pending may assume temporary jurisdiction, provided such judge is otherwise eligible to serve and has not previously had jurisdiction of the case removed pursuant to the Rules of Trial Procedure.

If the regular judge, judge pro tempore, temporary judge, magistrate, or senior judge does not assume jurisdiction under this section, such hearing or trial shall be reset to a date when the special judge is available.

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 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 ~~Division of State Court~~ Administration (IOJA) are subject to the provisions of this rule.
- (B) Notice and comment.**
 - (1) When a court or administrative district proposes to adopt or amend local or administrative district rules, it shall give notice to the bar and public of the content of the proposal, the time period for the bar and public to comment, the address to which comments should be sent, and the proposed effective date.

Notice shall include, but not be limited to, transmitting the proposal to the officers of any local county bar association.

(2) The court shall also transmit the proposal to the county clerk and to the ~~IOJA Division of State Court Administration~~ 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 Division of State Court Administration~~ shall post the proposal on the Indiana Judicial Website for public inspection and comment. The court and the ~~IOJA Division of State Court Administration~~ shall receive comments for not less than thirty (30) days.

(C) Schedule. The ~~IOJA Division of State Court Administration~~ shall establish and publish a uniform annual schedule, similar to the schedule for proposed Supreme Court rules under Rule 80(D), for publishing proposed local and administrative district rules, receiving comment, adopting rules, and the effective date of adopted rules.

(D) Exceptions to the schedule. If a court finds that there is good cause to deviate from the schedule established by the ~~IOJA Division of State Court Administration~~, 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.

(E) Style, format, and numbering. The ~~IOJA Division of State Court Administration~~ shall establish and publish a standard format for drafting and amending local and administrative district rules. The format shall include a uniform numbering system which, to the extent practicable, corresponds to the numbering of these Rules of Trial Procedure and other Rules of the Indiana Supreme Court.

(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 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 Division of State Court Administration~~ 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 Division of State Court Administration~~ 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 Division of State Court Administration~~ for posting on the Indiana Judicial Website. By January 1, 2007, local rules must be in compliance with the terms of this Rule.

Rule 86. Electronic filing and electronic service

(A) Definitions.

- (10) *User Agreement.* A User Agreement is an agreement in a form approved by the Indiana Office of Judicial ~~Division of State Court~~ Administration (IOJA) that establishes obligations and responsibilities of the User within the Indiana E-Filing System.

Trial Rule 86

(F) Conventionally Filed Documents. Conventionally filed documents must be converted into an electronic record by the clerk or court. The filer must also conventionally serve these documents in accordance with these Rules and applicable Local Rule(s) and file a certificate of service. If the original documents cannot be converted into a legible electronic document, then annotation must be made in the Chronological Case Summary and the documents returned to the filer.

- (1) Affiant possesses the Decedent’s original Last Will and Testament or the Will has been deposited with the clerk of the court;
- (2) Affiant is filing a true and accurate copy of the Last Will and Testament;
- (3) Unless the Last Will and Testament has been deposited with the clerk of the court, Affiant will retain the original Last Will and Testament until the Decedent’s estate is closed and the Personal Representative is released from liability, or the time to file a will contest has expired, whichever is later; and,
- (4) Affiant will file the original Last Will and Testament upon order of the court or as otherwise directed by statute.

(G) Service of Pleadings and Other Papers.

- (2) *Issuance of Summons and Service of Initial Complaint or Equivalent Pleading.*

(f) When fees and other court costs are waived under I.C. 33-37-3-2, and the clerk has received the required notification that the filer is entitled to this waiver, the clerk shall serve the complaint and summons(es).

(L) ~~Non-conforming Clerk Processing of E-filed Documents.~~

- (1) The clerk may reject an e-filing only when:

- (a) the applicable filing fee has not been paid; or
- (b) ~~the case number does not exist~~ the filer selected an incorrect case management system; or
- (c) the filer requests rejection.

Appendix A-2. AFFIDAVIT OF DEBT

AFFIDAVIT OF DEBT

Comes now affiant, and states:

...

Plaintiff:

is the original owner of this debt, and evidence of the debt, as required in Rules 9.2(A)(1), is attached as one or more Exhibits to this Affidavit.

OR

has obtained this debt from _____ and the original owner of this debt was _____. Evidence of the debt, as required in Rule 9.2(A)(2), is attached as one or more Exhibits to this Affidavit.

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Appendix C. Guardianship Registry Information Sheet

Guardianship Registry Information Sheet

(Individual Estate Estate and Individual)

Choose One* (Minor Adult) **Choose One*** (Temporary Permanent)

Related Cases (List any cases in which the Protected Person is a party, e.g., CHINS)

Petitioner		Relationship to Protected Person*	
Last:*	Suffix:	First:*	Middle:
DOB:	Gender:*	Race:*	Hispanic?: Yes/No
Address:*			
Home Phone:	Work Phone:	Cell Phone:	
Email Address:*			
Attorney Name:	Bar Number:	App. Filed Date:	
Protected Person		Estimated Value \$	
Last:*	Suffix:	First:*	Middle:
DOB:*	Gender:*	Race:*	Hispanic?: Yes/No

Eye Color: _____ Hair Color: _____ Height: _____ Weight: _____ lbs

Scars, Marks, and Tattoos: _____

Address:* _____

Home Phone: _____ Work Phone: _____ Cell Phone: _____

Email Address: _____

Attorney Name: _____ Bar Number: _____ App. Filed Date: _____

Guardian Ad Litem Full Name: _____

Interpreter required? Yes/No _____ Language: _____

Guardian Check if same as petitioner Certified (Only check if Federal or State Certified)

Last:* _____ Suffix: _____ First:* _____ Middle: _____

DOB: _____ Gender:* _____ Race:* _____ Hispanic?: Yes/No _____

Address:* _____

Home Phone: _____ Work Phone: _____ Cell Phone: _____

Email Address:* _____

Attorney Name: _____ Bar Number: _____ App. Filed Date: _____

Guardian Institution _____

Name:* _____

Address:* _____

Phone: _____ Fax: _____ Agent Name: _____

Close Relative (Entitled to Notice) _____ Relationship to Protected Person _____

Last:* _____ Suffix: _____ First:* _____ Middle: _____

Gender:* _____ Race:* _____ Hispanic?: Yes/No _____

Mailing Address:* _____

Home Phone: _____ Work Phone: _____ Cell Phone: _____

Email Address: _____

Guardianship Information Information Sheet (Additional)

Petitioner _____ Relationship to Protected Person _____

Last:* _____ Suffix: _____ First:* _____ Middle: _____

DOB: _____ Gender:* _____ Race:* _____ Hispanic?: Yes/No _____

Address:* _____

Home Phone: _____ Work Phone: _____ Cell Phone: _____

Email Address: _____

Attorney Name: _____ Bar Number: _____ App. Filed Date: _____

Guardian Check if same as petitioner Certified (Only check if Federal or State Certified)

Last:* _____ Suffix: _____ First:* _____ Middle: _____

DOB: _____ Gender:* _____ Race:* _____ Hispanic?: Yes/No _____
Address:* _____
Home Phone: _____ Work Phone: _____ Cell Phone: _____
Email Address: _____
Attorney Name: _____ Bar Number: _____ App. Filed Date: _____

Close Relative (Entitled to Notice) Relationship to Protected Person

Last:* _____ Suffix: _____ First:* _____ Middle: _____
Gender:* _____ Race:* _____ Hispanic?: Yes/No _____
Mailing Address:* _____
Home Phone: _____ Work Phone: _____ Cell Phone: _____
Email Address: _____

Interested Party

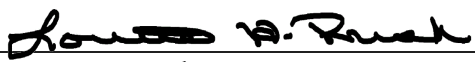
Last:* _____ Suffix: _____ First:* _____ Middle: _____
Gender:* _____ Race:* _____ Hispanic?: Yes/No _____
Address:* _____
Home Phone: _____ Work Phone: _____ Cell Phone: _____
Email Address: _____

Interested Party

Last:* _____ Suffix: _____ First:* _____ Middle: _____
Gender:* _____ Race:* _____ Hispanic?: Yes/No _____
Address:* _____
Home Phone: _____ Work Phone: _____ Cell Phone: _____
Email Address: _____

These amendments shall take effect January 1, 2018, except that the amendments to Trial Rule 9.2 and Appendix A-2, shall not take effect until January 1, 2020.

Done at Indianapolis, Indiana, on 10/31/2017 .



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.