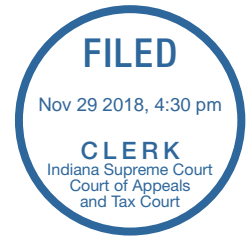


In the  
Indiana Supreme Court

Cause No. 18S-MS-141



Order Amending Indiana Rules of Appellate 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 Appellate Procedure are amended as follows (deletions shown by striking and new text shown by underlining):

...

**Appellate Rule 23. Filing**

...

**(D) Notice of Defect – Received but not Filed.** When the Clerk accepts ~~any a~~ document as received but not filed, including a document that is noncompliant with the Rules, the Clerk shall stamp the document as “received” (but not filed) as of the date it would have been filed.

(1) When a document is stamped as “received” due to noncompliance with the Rules the Clerk shall send a “Notice of Defect” to the attorney or unrepresented litigant that tendered the document, shall serve all other parties with a copy of the Notice of Defect, and shall note the transmission of the Notice of Defect on the docket if a cause number has been assigned to the matter.

(a) Individuals who are incarcerated in a penitentiary, prison, or jail and are not represented by an attorney must correct defect(s) no later than twenty (20) business days from the date of the Notice of Defect. All other persons have ten (10) business days from the date of the Notice of Defect within which to correct defect(s).

(b) If the attorney or unrepresented litigant corrects the defect(s) by the deadline provided in the Notice of Defect, and if the corrected document fully complies with the Rules in all other respects, the document shall be deemed filed as of the date the corrected document is filed with the Clerk’s Office pursuant to Appellate Rule 23(A) and shall be deemed timely for purposes of any applicable filing deadline. Any corrected document shall be served upon all other parties pursuant to Appellate Rule 24. The Clerk shall send a “Notice of Cure” to the parties indicating that the defect has been cured.

(c) If the attorney or unrepresented litigant fails to submit a fully compliant corrected document by the deadline provided in the Notice of Defect, the Clerk shall note this on the docket if a cause number has been assigned to the matter.

(d) A list of defects noncompliant with the Rules can be found in Appendix B.

(2) When a document is stamped as “received” for a reason other than noncompliance with the Rules any time limit for response or reply to that document shall run from the date on which the document is filed. The Clerk shall notify all parties of the date on which the any “received” document is subsequently filed.

...

**Appendix B. Tendered Documents That Do Not Comply with The Indiana Rules of Appellate Procedure.**

(1) A Notice of Defect may be issued if one or more of the following is missing, insufficient, or incomplete:

(a) A certificate of service, see Ind. Appellate Rules 24, 57(G)(7), 68(F);

(b) A word count certificate, see App. Rs. 34(G)(2), 44(E) & (F), 54(E), 57(G)(6);

(c) A table of contents or table of authorities, see App. Rs. 46(A)(1) & (2), 46(B), 46(E)(1), 50(A)(2), 50(B)(1), 50(C), 57(G)(2);

(d) For any document filed after the Notice of Appeal, a filing fee or material required by Appellate Rule 40; see App. Rs. 9(E), 40, 56(B), 63(P);

(e) For a motion to proceed *in forma pauperis*, a copy of any affidavit supporting the request to proceed *in forma pauperis* that was filed with the trial court or an affidavit conforming to Form #App. R. 40-2; or a copy of the order setting forth the trial court’s reasons for denying the *in forma pauperis* status on appeal;

(f) Document was tendered without first filing an appearance, see App. R. 16;

(g) For an Appendix, a verification of accuracy, see App. Rs. 50(A)(2)(i), 50(B)(1)(f);

(h) For an Appellant’s Brief, an accompanying copy of the trial court’s written opinion, memorandum of decision, or findings of fact and conclusions relating to the issue(s) raised in appeal, see App. R. 46(A)(12);

(i) For an Appellant’s Brief in a criminal appeal where the sentence is at issue, an accompanying copy of the sentencing order, see App. R. 46(A)(12);

(j) For a Petition to Transfer, a brief statement, set out by itself on the page immediately following the front page, identifying the issue, question presented, or precedent warranting transfer, see App. R. 57(G)(1);

(k) For a Petition for Review or brief in response, a brief section entitled *Reasons for Granting or Denying Review*, set out by itself immediately before the *Argument* section, explaining why review should or should not be granted, see App. R. 63(I).

(2) A Notice of Defect may be issued if one or more of the following prohibited items is included:

(a) For any Brief, any additional documents, other than the appealed judgment or order, see App. Rs. 46(F), 46(H);

(b) For any document, information excluded from public access when the document is not accompanied by a Notice to Maintain Exclusion from Public Access, see App. R. 23(F)(3).

(3) A Notice of Defect may be issued if the document is otherwise defective because:

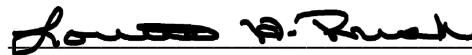
(a) Document Production issues exist, see App. Rs. 43(C), 51(A), and/or 54(F);

(b) Page numbering issues exist, see App. Rs. 23(F)(3)(b), 34(G), 43(F) and/or 51(C);

(c) The document was conventionally filed but should have been electronically filed through the Indiana E-Filing System, see App. R. 68(C).

These amendments shall take effect upon January 1, 2019.

Done at Indianapolis, Indiana, on 11/29/2018.

  
\_\_\_\_\_  
Loretta H. Rush  
Chief Justice of Indiana

All Justices concur.