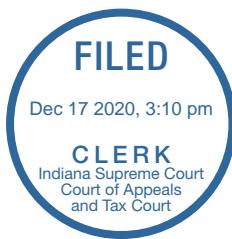


In the
Indiana Supreme Court

Cause No. 20S-MS-1



Order Amending 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, Indiana Trial Rules 81.1 and 86 are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

...

Rule 81.1. Procedures for Cases Involving Family or Household Members

...

H. Consolidation of Certain Cases. When juvenile paternity cases involving multiple children of the same two parents have been created pursuant to Administrative Rule 1(B)(4)(c), the court shall consolidate all those related cases into a single juvenile paternity case for the shared children. All children of the same two parents should be combined into the first filed case. Orders regarding the consolidation must be entered into each of the cases. The orders should include a requirement that after the consolidation date, all filings, orders, and hearings shall be filed within the primary case and all of the secondary cases will be closed.

...

Rule 86. General Electronic filing and electronic service

(A) **Definitions.** For purpose of Trial Rules 86, 87, 88:

...

(4) E Filing Manager (“EFM”). E Filing Manager is the centralized entity approved by the Supreme Court that receives and transmits all E Filing submissions between E Filing Service Provider(s) and the appropriate Case Management System.

(45) E-Filing Service Provider (“EFSP”). E-Filing Service Provider is the organization and software selected by a User and approved by the Supreme Court to receive and transmit all E-Filing submissions between the User and the Indiana E-Filing System.

(5) Electronic Notice (“E-Notice”). E-Notice is the method by which courts send orders, opinions, and notices.

...

(8) Notice of Electronic Filing (“NEF”). Notice of Electronic Filing is the notice generated automatically when a document is submitted and transmitted through the I~~E~~FS~~ndiana~~ E Filing System, which sets forth the time of transmission, the

name of the court, User, party or attorney transmitting the document, the title of the document, the type of document, and the name of the court, attorney, party, or other person meant to receive the Notice. ~~The time noted in a Notice of Electronic Filing will be the time at the location of the court where the case is pending. A The NEF Notice of Electronic Filing will appear immediately on the User's screen upon submission of the document for E-filing and will reflect the time at the location of the court where the case is pending.~~

...

(10) Service Contacts. A Service Contact is a person for whom an email address and other identifying information has been entered into the IEFS.

(a) Firm Service Contact. A Firm Service Contact is a Service Contact associated with the IEFS with an attorney, organization, or law firm.

(b) Public Service Contact. A Public Service Contact is a Service Contact who is listed on the Public Service List for purposes of E-Service.

(c) Public Service List. The Public Service List is a directory of attorneys who are e-filers.

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

(124) User. User is a Registered User or Filing User.

(a) Filing User. Filing Users include court and clerk staff, unrepresented litigants, attorneys, or an agent whom an attorney has expressly designated to make a filing on the attorney's behalf and who has an Indiana E-Filing System user ID, password, and limited authority to file documents electronically.

(b) Registered User. A Registered User is a person or entity with a user ID and password assigned by the IEFS Indiana E-Filing System or its designee who is authorized to use the IEFS Indiana E-Filing System for the electronic filing or service of documents. A User must execute a User Agreement with one or more EFSP before that User may utilize the IEFS.

(B) User Agreement Required. Every User must execute a User Agreement with one or more Electronic Filing Service Provider(s) before that User may utilize the Indiana E-Filing System.

(C) Commencement of an Action. An action must be commenced:

- (1) by using the Indiana E-Filing System unless exempted by these rules;
- (2) by paying the filing fee unless the fee is waived by an order of the court; and
- (3) by filing the complaint or equivalent pleading and the required summons(es) in the form set out in Trial Rule 4(C).

(D) Electronic Filing of Documents.

- (1) Unless otherwise permitted by these rules, all documents submitted for filing in courts identified in the E-Filing Implementation Schedule posted at

<http://courts.in.gov/efile>

(as updated from time to time) must be filed electronically with the clerk using the Indiana E Filing System. The e filing of documents shall be controlled by the case number in the Indiana Electronic Filing System designated by the User.

(2) Attorneys or unrepresented litigants who wish to be exempted from the requirement that they file electronically may file a petition for electronic filing exemption. The petition must be filed in each pending case to which these rules are applicable. The petition will be reviewed by the judicial officer assigned to that case and granted only upon a showing of good cause.

(E) **Proof of Filing.** Users should print or otherwise save each Notice of Electronic Filing as proof of E Filing. Confirmation of E Filing may also be made by referring to the Chronological Case Summary of the court in which the case is pending through the Case Management System of that court.

(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.

A person filing a will for probate shall file an accurate and complete copy of the will and an affidavit, signed under the penalties of perjury, containing substantially the following information:

- (1) Affiant possesses the Deedent'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 Deedent'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.

(BG) Service of Pleading and Other Papers:

- (1) Except as otherwise provided in this Rule, all process shall be served in accordance with Trial Rules 4 and 4.1 through 4.17.
- (2) *Issuance of Summons and Service of Initial Complaint or Equivalent Pleading.*
 - (a) Except as provided below in (EQ), at the time the initial complaint or equivalent pleading is filed, the Userfiler shall also file completed summons(es) designating the manner of service. The Clerk shall be responsible for dating, signing, and sealing, and transmitting the summons(es) and transmit the summons(es) to the Userfiler for service.
 - (b) The filer shall serve the initial complaint or equivalent pleading and the summons upon all parties in the manner provided in Trial Rules 4.1

through 4.14. For cases initiated by the Office of the Prosecuting Attorney, the clerk is responsible for service of process. In all other cases, the User is responsible for service of process.

(c) In the event of service by registered or certified mail, or other public means by which a written acknowledgement of receipt may be requested and obtained, or first class mail (as provided in Trial Rule 4.1(B)) the filer shall promptly transmit to the Clerk a dated and signed Certificate of Issuance of Summons specifying the method of service with respect to each party, the date of mailing, address of each party, and tracking or identifying number for each summons.

(cd) All returns regarding service may shall be sent directed and made to the Clerk or to the User. If the return is sent to the User, the User shall file the return with the clerk a signed affidavit of service in compliance with Trial Rule 4 and 4.1 through 4.17. A party served personally by the User shall execute an acknowledgement of service and such acknowledgement shall serve as proof of service in lieu of an affidavit of service pursuant to Trial Rule 4.15(D).

(i) If service was issued under Trial Rule 4.1(A)(1), the filer shall note the case number on each return receipt or equivalent form. If service by mailing or other public means is returned without acceptance, the Clerk shall reissue the summons(es) and complaint or other equivalent pleading for services as requested by the person seeking service.

(ii) If service was made by the filer personally delivering the summons and complaint or equivalent pleading to a party under Trial Rule 4.1(A)(2), the served party shall execute an acknowledgement of service that the filer shall promptly transmit to the Clerk. If the served party fails to execute an acknowledgement of service, the filer shall promptly execute and transmit a dated and signed Affidavit of Service to the Clerk.

(iii) If service was made by the filer leaving a copy of the summons and complaint or equivalent pleading at the dwelling house or usual place of abode of the party under Trial Rule 4.1(A)(3), the filer shall complete service as required by Trial Rule 4.1(B) and promptly transmit a dated and signed Affidavit of Service to the Clerk.

(iv) If service was made by Sheriff or other authorized police officer, constable or appointed process server, the person making service shall promptly make his or her return upon or attach it to a copy of the summons and deliver it to the Clerk, all as provided in Trial Rule 4.15(A).

(de) For service by publication the User filer, in addition to filing the complaint or equivalent pleading and summons(es) designating service by publication,

shall also transmit an affidavit for service by publication to the ~~E~~clerk as provided in Trial Rule 4.13. The ~~E~~clerk shall transmit to the ~~User filer~~ dated, signed and sealed summons(es) by publication. The ~~User filer~~ shall deliver the summons(es) to the publication authorized by Trial Rule 4.13(C), with instructions that after the completion of the period of publication the return shall be sent to the ~~E~~clerk or to the User. If the return is sent to the User, the User shall file the return with the clerk.

(ef) When fees and other court costs are waived, 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). Additionally, for service of separate or additional summons (alias summons) by the clerk, the filer shall provide documentation establishing that the filer is entitled to waiver of the fee for service.

(3) *Service of Subsequent Pleadings*

(a) *Service on Registered Users.* ~~Registered~~ Users must serve all documents in a case upon every other party who is a ~~Registered~~ User through E-Service using the IEFS Indiana E Filing System. E-Service has the same legal effect as service of an original paper document. E-Service of a document through the IEFS Indiana E Filing System 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 Notice of Electronic Filing 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 ~~Registered~~ Users.

(H) Format Requirements.

(1) ~~Documents filed electronically must be formatted in conformity with this Rule and the requirements of the Indiana E Filing System.~~

(2) ~~All documents must be submitted in the manner required by the E Filing Service Provider. The Indiana E Filing System may be accessed via any Internet connection available to the Registered User and at Public Access Terminals located in the offices of the county clerk.~~

(I) Signature.

(1) ~~All documents electronically filed that require a signature must include a person's signature using one of the following methods:~~

(a) ~~a graphic image of a handwritten signature, including an actual signature on a scanned document; or~~

(b) ~~the indicator "/s/" followed by the person's name.~~

(2) A document that is signed and E filed must be subject to the terms and provisions of Trial Rule 11(A). A Registered User may include the Signature of other attorneys in documents E filed with the court but in doing so represents to the court that any such Signature is authorized.

(J) **Time and Effect.** Subject to payment of all applicable fees pursuant to Section (C), a document is considered E filed with the court on the date and time reflected in the Notice of Electronic Filing associated with the document. E Filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with the time zone in the location of the court where the case is filed.

E Filing under these rules shall be available 24 hours a day, except for times of required maintenance.

(CK) **Official Court Record.** The electronic version of a document filed with or generated by the court under this rule is an official court record.

(L) **Clerk Processing of E-filed Documents.**

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

- the applicable filing fee has not been paid; or
- the filer selected an incorrect case management system; or
- the filer requests rejection.

(2) If an e filed document cannot be electronically processed, the clerk shall return it to the User for correction through the IEFS. The User may cure the defect within seventy two (72) hours from the time of return as set out in the notice of return.

(3) In all other cases where an e filed document does not conform to the IEFS or other applicable rules, the clerk must process the e filed document and may direct the non conforming document to the intended E Filing court. A court that receives a non conforming document shall:

- strike the non conforming document; or
- issue an appropriate order. If the court's order allows a party to cure a defective E Filing, the party has seventy two (72) hours, to cure the defect.

(4) In the event a user submits a cured document within seventy two (72) hours, excluding days the court is closed, the document is timely filed.

(M) **Certain Court Records Excluded From Public Access.**

(1) **Procedures for Excluding Court Records From Public Access.** Any User filing a Court Record that is to be excluded from Public Access must do so in accordance with the following procedures:

(a) Notice to maintain exclusion from Public Access.

(i) In cases where the Court Record is excluded from Public Access pursuant to Rules 5 or 6 of the Rules on Access to Court Records, the party or person submitting the confidential record must provide the separate written ACR Form required by the Rules on Access to Court Records identifying the specific Access to Court Records Rule 5(B),

~~5(C), or 5(D) ground(s) upon which exclusion is based. (See Rules on Access to Court Records Form ACR.)~~

~~(ii) In cases where all Court Records are excluded from Public Access in accordance with Rule 5(A) of the Rules on Access to Court Records, no notice of exclusion from Public Access is required.~~

~~(b) Public Access and Non Public Access Versions. Where only a portion of the Court Record has been excluded from Public Access pursuant to Rule 5(B), 5(C), or 5(D) of the Rules on Access to Court Records, the following requirements apply:~~

~~(i) Public Access Version.~~

- ~~a. If a document contains confidential Court Records to be excluded from Public Access, that confidential Court Record shall be omitted or redacted from this version.~~
- ~~b. The omission or redaction shall be indicated at the place it occurs in the Public Access version. If multiple pages are omitted, a separate place keeper insert must be inserted for each omitted page to keep PDF page numbering consistent throughout.~~
- ~~c. If the entire document is to be excluded from Public Access, the Access to Court Records ACR Form filed with the document will serve as the Public Access Version.~~

~~(ii) Non Public Access Version.~~

- ~~a. If the omitted or redacted Court Record is not necessary to the disposition of the case, the excluded Court Record need not be filed or tendered in any form and only the Public Access version is required. The Access to Court Records ACR Form shall indicate this fact. (See Rules on Access to Court Records Form ACR).~~
- ~~b. If the omitted or redacted Court Record is necessary to the disposition of the case, the excluded Court Record must be separately filed or tendered as follows.~~
 - ~~1. The first page of the Non Public Access Version shall be conspicuously marked "Not for Public Access" or "Confidential," with the caption and number of the case clearly designated.~~
 - ~~2. The separately filed Non Public Access version shall consist of a complete, consecutively paginated replication including both the Public Access material and the Non-Public Access material.~~
 - ~~3. Use of green paper is abolished for E Filing. Pages in the Non Public Access version containing Court Records that~~

are excluded from Public Access shall instead be identified with a header, label, or stamp that states, “~~CONFIDENTIAL PER RULES ON ACCESS TO COURT RECORDS~~” or “~~EXCLUDED FROM PUBLIC ACCESS PER RULES ON ACCESS TO COURT RECORDS~~.”

(iii) The requirements in Rule 86(M)(1)(b) do not apply to cases in which all Court Records are excluded from Public Access pursuant to Rule 5(A) of the Rules on Access to Court Records.

(2) ~~E filing document security codes settings.~~

- (a) ~~Where only a portion of the Court Record has been excluded from Public Access pursuant to Rules 5(B), 5(C), or 5(D) of the Access to Court Records Rules, the e filing document security codes setting for the Public Access Version shall be “Public Document.”~~
- (b) ~~Where only a portion of the Court Record has been excluded from Public Access pursuant to Rules 5(B), 5(C), or 5(D) of the Access to Court Records Rules, the e filing document security codes setting for the Non-Public Access Version shall be “Confidential document under the Rules on Access to Court Records.”~~
- (c) ~~In cases in which all Court Records are excluded from Public Access pursuant to Rule 5(A) of the Access to Court Record Rules), the e filing document security codes setting shall be “Confidential document under the Rules on Access to Court Records.”~~

(N) ~~Inability to E-File.~~

(1) ~~Indiana E-Filing System Failures.~~

- (a) ~~The rights of the parties shall not be affected by an Indiana E-Filing System failure.~~
- (b) ~~When E-Filing is prevented by an Indiana E-Filing System failure, a User or party may revert to conventional filing.~~
- (c) ~~With the exception of deadlines that by law cannot be extended, when E-Filing is prevented by an Indiana E-Filing System failure, the time allowed for the filing of any document otherwise due at the time of the Indiana E-Filing System failure must be extended by one day for each day on which such failure occurs, unless otherwise ordered by the court.~~
- (d) ~~Upon motion and a showing of an Indiana E-Filing System failure the court must enter an order permitting the document to be considered timely filed and may modify responsive deadlines accordingly.~~

(2) ~~Other Failures Not Caused by the User Who Was Adversely Affected. When E-Filing is prevented by any other circumstance not caused by the User who was adversely affected, the User may bring such circumstances to the attention of the~~

~~court and request relief as provided in Trial Rule 6(B), or the User may revert to conventional filing.~~

(O) Appearance Form in E Filed Cases. In all e filed cases the parties shall file an appearance as provided in Trial Rule 3.1, with the following modifications:

1. The appearance form shall omit the statement contained in Trial Rule 3.1(A)(4) regarding acceptance of service by FAX or by e mail.
2. The appearance form shall contain:
 - a) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date the appearance is filed;
 - b) Acknowledgment that orders, opinions, and notices, and all documents served under Trial Rule 86(G) will be sent to the attorney at the email address(es) on the Roll of Attorneys regardless of other contact information supplied by the attorney; and
 - c) Acknowledgment that each attorney listed on the appearance is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).

~~(See Form 86-1.)~~

(DP) [RESERVED]

(EQ) Protection Order Cases, Workplace Violence Restraining Order Cases, and Child Protection Orders: Issuance of Summons and Service of Petition and Ex Parte Order or Equivalent Proceeding.

...

Rule 87. Electronic Filing

(A) Commencement of an Action. An action must be commenced:

- (1) By using the IEFS unless exempted under these rules;
- (2) By paying the filing fee unless the fee is waived by an order of the court or pursuant to Trial Rule 86(B)(2)(e); and
- (3) By filing the complaint or equivalent pleading and the required summons(es) in the form set out in Trial Rule 4(C).

(B) Electronic Filing of Documents.

- (1) Unless otherwise permitted by these rules, documents submitted for filing in Indiana courts must be filed electronically with the clerk using the IEFS. The e-filing of documents is controlled by the case number in the IEFS designated by the User.
- (2) Attorneys who wish to be exempted from the requirement that they file electronically may file a petition for electronic filing exception. The petition must be filed in each pending case to which these rules are applicable. The

petition will be reviewed by the judicial officer assigned to that case and granted only upon a showing of good cause.

(3) Until further order of the Supreme Court, unrepresented litigants are not required but are encouraged to file using the IEFS.

(C) Proof of Filing. Users should save each NEF as proof of e-filing. Confirmation of e-filing may also be made by referring to the Chronological Case Summary of the court in which the case is pending through the CMS of that court.

(D) Conventionally Filed Documents. The clerk or court must convert conventionally filed documents into an electronic record. 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.

(E) Probate and Guardianship Filings.

(1) A user filing a Last Will and Testament for probate shall file an accurate and complete copy of the Will and an affidavit, signed under the penalties of perjury, containing substantially the following information:

(a) Affiant possesses the Decedent's original Last Will and Testament or the Will has been deposited with the clerk of the court;

(b) Affiant is filing a true and accurate copy of the Last Will and Testament;

(c) Unless the Last Will and Testament has been deposited with the clerk of the court, Affiant shall 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

(d) Affiant will file the original Last Will and Testament upon order of the court or as otherwise directed by statute.

(2) A personal representative or guardian shall file the notations regarding the allowance or disallowance of claims required by statute.

(F) Data and Format Requirements.

(1) All Users shall comply with the e-filing procedures prescribed by the Chief Administrative Officer of IOJA. The IOJA shall maintain a public website that contains procedures for submitting data and documents through the IEFS.

(2) All Users shall submit documents in the manner required by the EFSP. The IEFS may be accessed via any Internet connection available to the User and at Public Access Terminals located in the offices of the county clerk.

(3) A User shall identify Non-Public Access documents containing information that is excluded from Public Access with a header, label, or stamp identifying the document as Excluded From Public Access. See Commentary to Rule 5 of the Rules on Access to Court Records.

(G) Signature.

(1) All documents electronically filed that require a signature must include a person's signature using one of the following methods:

(a) a graphic image of a handwritten signature, including an actual signature on a scanned document;

(b) the indicator “/s/” followed by the person's name.

(2) A document that is signed and E-Filed is subject to the terms and provisions of Trial Rule 11(A). A User may include the signature of other attorneys in documents e-filed with the court but in doing so represents to the court that the signature is authorized.

(H) Time and Effect. Subject to payment of all applicable fees pursuant to Section (A), a document is considered e-filed with the court on the date and time reflected in the NEF associated with the document. E-filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with the time zone in the location of the court where the case is filed.

E-filing under these rules shall be available 24 hours a day, except for times of required maintenance.

(I) Certain Court Records Excluded From Public Access. Any User filing a document that is to be excluded from public access must do so as provided in Access to Court Records Rule 5.

(J) Inability to E-File.

(1) Indiana E-Filing System Failures.

(a) The rights of the parties shall not be affected by an IEFS failure.

(b) When E-Filing is prevented by an IEFS failure, a User or party may revert to conventional filing.

(c) With the exception of deadlines that cannot be extended, when E-Filing is prevented by an IEFS failure, the time allowed for the filing of any document otherwise due at the time of the IEFS failure is extended by one day for each day on which such failure occurs, unless otherwise ordered by the court.

(d) Upon motion and showing of an IEFS failure the court must enter an order permitting the document to be considered timely filed and modify responsive deadlines accordingly.

(2) Other Failures not Caused by the User Who Was Adversely Affected. When e-filing is prevented by any other circumstances not caused by the User who was adversely affected, the User may bring such circumstances to the attention of the court and request relief as provided in Trial Rule 6(B), or the User may revert to conventional filing.

Rule 88. Court and Clerk Electronic Filing Review

(A) Clerk Processing of E-Filed Documents.

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

- (a) the User did not pay the applicable filing fee;
- (b) the User selected an incorrect CMS; or
- (c) the User requested rejection.

(2) If an e-filed document cannot be electronically processed, the clerk shall return it to the User for correction through the IEFS. The User may cure the defect within three (3) days of return as set out in the notice of return.

(3) In all other cases where an e-filed document does not conform to the IEFS or other applicable rules, the clerk shall process the e-filed document and shall return it to the User through the IEFS for correction.

(B) Court Processing of Non-Conforming Documents.

(1) If a court determines that an e-filed document is non-conforming it shall issue an appropriate order. In the event a User submits a cured document within three (3) days the document is deemed filed as the original filing date.

(2) In the event a User submits a cured document within three (3) days, the document is deemed filed as of the original filing date.

...

These amendments shall take effect on January 1, 2021.

Done at Indianapolis, Indiana, on 12/17/2020.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.