

## Rules of Criminal Procedure

### Rule 22. Trial by ~~j~~Jury ~~in misdemeanor cases: Demand: Notice: Waiver~~

(A) A defendant charged with a felony or Class A misdemeanor is entitled to a trial by jury unless that right is waived personally, knowingly, voluntarily, and intelligently.

(B) A defendant charged with a Class B or C misdemeanor may demand trial by jury by filing a written demand therefor not later than ten (10) days before ~~his~~the first scheduled trial date. The failure of a defendant to demand a trial by jury as required by this rule shall constitute a waiver ~~by him~~ of trial by jury unless the defendant has not had at least fifteen (15) days advance notice of ~~his~~the scheduled trial date and of the consequences of ~~his~~the failure to demand a trial by jury.

The trial court shall not grant a demand for a trial by jury filed after the time fixed has elapsed except upon the written agreement of the state and defendant, which agreement shall be filed with the court and made a part of the record. If such agreement is filed, then the trial court may, in its discretion, grant a trial by jury.

## Rules of Appellate Procedure

### **Rule 44. Brief And Petition Length Limitations**

**A. Applicability.** This Rule governs the length of briefs, Petitions for Rehearing, Petitions to Transfer to the Supreme Court, and Petitions for Review of a Tax Court decision by the Supreme Court.

**B. Oversized Brief.** A motion requesting leave to file any oversized brief or Petition shall be filed at least ~~fifteen~~ ~~five~~ (15) days before the brief or Petition is due. The motion shall state the total number of words requested, not pages.

**C. Items Excluded From Length Limits.** The text of the following shall not be included in the page or word length limits of this rule:

Cover information

Table of contents

Table of authorities

Signature block

Certificate of service

Word count certificate

Appealed judgment or order of trial court or Administrative Agency, and items identified in Rule 46(A)(10).

Headings and footnotes are included in the length limits.

**D. Page Limits.** Unless a word count complying with Section E is provided, a brief or Petition may not exceed the following number of pages:

Appellant's brief: thirty (30) pages

Appellee's brief: thirty (30) pages

Reply brief (except as provided below): fifteen (15) pages

Reply brief with cross-appellee's brief: thirty (30) pages

Brief of intervenor or amicus curiae: fifteen (15) pages

Petition for Rehearing: ten (10) pages

Brief in response to a Petition for Rehearing: ten (10) pages

Petition to Transfer: ten (10) pages

Brief in response to a Petition seeking Transfer: ten (10) pages

Reply brief to brief in response to a Petition seeking Transfer: three (3) pages

Brief of intervenor or amicus curiae on transfer or rehearing: ten (10) pages

Petition for Review of a Tax Court decision: thirty (30) pages

Brief in response to a Petition for Review of a Tax Court decision: thirty (30) pages

Reply brief to brief in response to a Petition for Review of a Tax Court decision: fifteen (15) pages

**E. Word Limits.** A brief or Petition exceeding the page limit of Section D may be filed if it does not exceed, and the attorney or the unrepresented party preparing the brief or Petition certifies that, including footnotes, it does not exceed, the following number of words:

Appellant's brief: 14,000 words

Appellee's brief: 14,000 words

Reply brief (except as provided below): 7,000 words

Reply brief with cross-appellee's brief: 14,000 words

Brief of intervenor or amicus curiae: 7,000 words

Petition for Rehearing: 4,200 words

Brief in response to a petition for Rehearing: 4,200 words

Petition to Transfer: 4,200 words

Brief in response to a Petition seeking Transfer: 4,200 words

Reply brief to brief in response to a Petition seeking Transfer: 1,000 words

Brief of intervenor or amicus curiae on transfer or rehearing: 4,200 words

Petition for Review of a Tax Court decision: 14,000 words

Brief in response to a Petition for Review of a Tax Court decision: 14,000 words

Reply brief to brief in response to a Petition for Review of a Tax Court decision: 7,000 words

**F. Form of Word Count Certificate.** The following are acceptable word count certifications: "I verify that this brief (or Petition) contains no more than (applicable limit) words," and "I verify that this brief (or Petition) contains (actual number) words." The certification shall appear at the end of the brief or Petition before the certificate of service. The attorney or the unrepresented party certifying a word count may rely on the word count of the word processing system used to prepare the brief or Petition.

## Rules for Small Claims

### Rule 8. Informality of Hearing

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**(C) Appearance.** Any assigned or purchased claim, or any debt acquired from the real party in interest by a third party cannot be presented or defended by said third party unless this third party is represented by counsel. In all other cases, the following rules shall apply:

- (1) *Natural Persons.* A natural person may appear *pro se* or by counsel in any small claims proceeding.
- (2) *Sole Proprietorship and Partnerships.* A sole proprietor or partnership may appear by a designated full-time employee of the business in the presentation or defense of claims arising out of the business, if the claim does not exceed one thousand five hundred dollars (\$1,500.00). However, claims exceeding one thousand five hundred dollars (\$1,500.00) must either be defended or presented by counsel or *pro se* by the sole proprietor or a partner.
- (3) *Corporate Entities, Limited Liability Companies (LLC's), Limited Liability Partnerships (LLP's), Trusts.* All corporate entities, Limited Liability Companies (LLC's), ~~and~~ Limited Liability Partnerships (LLP's), ~~and~~ Trusts may appear by a designated full-time employee of the corporate entity, or, in the case of a trust by a trustee, in the presentation or defense of claims arising out of the business if the claim does not exceed one thousand five hundred dollars (\$1,500.00). However, claims exceeding one thousand five hundred dollars (\$1,500.00) must be defended or presented by counsel.
- (4) *Full-Time Employee Designations--Binding Effect of Designations and Requirements.*
  - (a) In the event a corporate entity, sole proprietorship, partnership, LLC, ~~or~~ LLP, or trust designates a full-time employee or trustee to appear in its stead, the corporate entity, sole proprietor, partnership, LLC, ~~or~~ LLP, or trust will be bound by any and all agreements relating to the small claims proceedings entered into by the designated employee or trustee and will be liable for any and all costs, including those assessed by reason of contempt, levied by a court against the designated employee or trustee.
  - (b) By authorizing a designated full-time employee or trustee to appear under this Rule, the corporate entity, sole proprietorship, partnership, LLC, ~~or~~ LLP, or trust waives any present or future claim in this or any other forum in excess of one thousand five hundred dollars (\$1,500.00.)
  - (c) No person who is disbarred or suspended from the practice of law in Indiana or any other jurisdiction may appear for a corporate entity or on behalf of a sole proprietor, partnership, LLC, ~~or~~ LLP, or trust under this rule.

- (5) *Full-Time Employee Designations--Contents.* Before a designated employee or trustee is allowed to appear in a small claims proceeding, the corporate entity, sole proprietorship, partnership, LLC, ~~or LLP~~, or trust must have on file with the court exercising jurisdiction of the proceedings, a certificate of compliance with the provisions of this rule, wherein the corporate entity, sole proprietorship, partnership, LLC, ~~or LLP~~, or trust must expressly accept, by a duly adopted resolution in the case of a corporate entity, LLC or LLP; or a document signed under oath by the sole proprietor or managing partner of a partnership, or trustee the binding character of the designated employee's or trustee's acts, the liability of the corporate entity, sole proprietorship, partnership, LLC, ~~or LLP~~, or trust for assessments and costs levied by a court, and that the corporate entity, sole proprietorship, partnership, LLC, ~~or LLP~~, or trust waives any claim for damages in excess of one thousand five hundred dollars (\$1,500.00) associated with the facts and circumstances alleged in the notice of claim. Additionally, the designated employee must have on file with the court exercising jurisdiction of the proceedings an affidavit stating that he/she is not disbarred or suspended from the practice of law in Indiana or any other jurisdiction.

## Rules of Trial Procedure

### **Rule 3. Commencement of an action**

A civil action is commenced by the following:

a. filing with the court a complaint or such equivalent pleading or document as may be specified by statute;

b. filing an appearance including a mailing address and e-mail address, or filing a petition for an order granting an exemption as to the e-mail address;

c. ~~by payment of~~ paying the prescribed filing fee or filing a petition for an order waiving the filing fee;  
and,

d. where service of process is required, ~~by~~ furnishing to the clerk as many copies of the complaint and summons(es) as are necessary.

## Rules of Trial Procedure

### Rule 5. Service and filing of pleadings and other papers

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#### **(H) Distribution of Orders**

- (1) Unless otherwise provided by statute or these rules, the clerk shall distribute court orders to parties.
- (2) All orders in Trial Rule 69 Proceedings Supplemental, Execution, and Foreclosure Sales shall be distributed for service by the party who submitted the proposed order(s).

## Rules of Trial Procedure

### **Rule 64. Seizure of person or property**

#### **(A) Ancillary remedies to assist in enforcement of judgment.**

(1) At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by law and existing at the time the remedy is sought. The remedies thus available include, without limitation, arrest, attachment, attachment and garnishment, lis pendens notice, ejectment, replevin, sequestration, and other corresponding or equivalent legal or equitable remedies, however designated and regardless of whether by existing procedure the remedy is ancillary to an action or must be obtained by an independent action. Such remedies are subject to the provisions of this rule, and, except as herein otherwise provided, the action in which any of the foregoing remedies is used shall be commenced and prosecuted pursuant to these rules.

(2) The court may issue a writ of attachment, bench warrant, or body attachment if:

(a) a rule to show cause has been issued by the court and served upon the judgment debtor by delivering a copy of the same to the judgment debtor personally. Personal service under this rule includes certified mail signed by the judgment debtor;

(b) if service is not made in open court, the person making service has filed a return or affidavit stating that personal service was made upon the judgment debtor and setting forth the time, place, and manner thereof; and

(c) the judgment debtor has failed to appear at the rule to show cause hearing as ordered.

In addition to statutory requirements, the writ of attachment, bench warrant, or body attachment shall contain sufficient information to identify the judgment debtor.

(3) A person taken into custody in a civil action must be brought before the court that issued the writ, bench warrant or body attachment, or before a judicial officer having jurisdiction over the person within forty-eight (48) hours, excluding weekends and holidays, following the person being taken into custody. The person shall be advised of the procedures ~~under IC 34-47-4-2 or IC 31-16-12-6.5~~ for release, including any bond, escrow amount set by the issuing court in the writ, bench warrant or body attachment.

**(B) Attachment or attachment and garnishment.** Attachment or attachment and garnishment shall be allowed in the following cases in addition to those where such remedies prior to judgment are now permitted by law:

(1) It shall be a cause for attachment that the defendant or one of several defendants is a foreign corporation, a nonresident of this state, or a person whose residence and

whereabouts are unknown and cannot be determined after reasonable investigation before the commencement of the action.

(2) Any interest in tangible or intangible property owned by the defendant shall be subject to attachment or attachment and garnishment, as the case may be, if it is subject to execution, proceedings supplemental to execution or any creditor process allowed by law. Wages or salaries shall not be subject to pre-judgment attachment and garnishment, except as otherwise provided by law under Indiana Acts, ch. 38, §§ 197-244 [FN1].

(3) Attachment or attachment and garnishment shall be allowed in favor of the plaintiff suing upon a claim for money, whether founded on contract, tort, equity or any other theory and whether it is liquidated, contingent or unliquidated; or upon a claim to determine the rights in the property or obligation attached or garnisheed.

(4) It shall not be objectionable that the property or obligation being attached or garnisheed is in the possession of the plaintiff or is owing by the plaintiff to the defendant or by the defendant to the plaintiff.

(5) A governmental organization, or a representative, including a guardian, receiver, assignee for the benefit of creditors, trustee or representative of a decedent's estate may be named as a garnishee and bound by the duties of a garnishee.

(6) A writ of attachment against the defendant's real estate or his interest therein is effectively served by recordation of notice of the action in the appropriate lis pendens record, and, unless vacant, by serving the writ of attachment or notice thereof upon a person in possession of the land.

**(C) Defendant's title raised by denial--Effect of dismissal.** In action where the plaintiff is required to establish title to any fund or property, including without limitation any ejectment, replevin, quiet title, partition, equitable, legal or other action, the defendant in his answer may deny the plaintiff's claim of title and thereby place in issue the defendant's title or interest therein. If the defendant prevails under such an answer he shall be entitled to a judgment or decree enunciating his title or interest and any proper negative or affirmative relief against the plaintiff consistent with his proof.

Unless the defendant joins in the notice of dismissal, no voluntary dismissal by the plaintiff in such cases shall be allowed without prejudice after the plaintiff has obtained possession of the property or fund or other relief with respect thereto by posting bond, or after the defendant by answer (whether by denial, affirmative defense, counter-claim or cross-claim) has placed title in issue.

[FN1] IC 34-1-11-1 to 34-1-11-48.

## Rules of Trial Procedure

### Rule 69. Execution, proceedings supplemental to execution, foreclosure sales

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**(E) Proceedings supplemental to execution.** Notwithstanding any other statute to the contrary, proceedings supplemental to execution may be enforced by verified motion or with affidavits in the court where the judgment is rendered alleging generally:

- (1) that the plaintiff owns the described judgment against the defendant;
- (2) that the plaintiff has no cause to believe that levy of execution against the defendant will satisfy the judgment;
- (3) that the defendant be ordered to appear before the court to answer as to his non-exempt property subject to execution or proceedings supplemental to execution or to apply any such specified or unspecified property towards satisfaction of the judgment; and,
- (4) if any person is named as garnishee, that garnishee has or will have specified or unspecified nonexempt property of, or an obligation owing to the judgment debtor subject to execution or proceedings supplemental to execution, and that the garnishee be ordered to appear and answer concerning the same or answer interrogatories submitted with the motion.

If the court determines that the motion meets the foregoing requirements it shall, ex parte and without notice, order the judgment debtor, other named parties defendant and the garnishee to appear for a hearing thereon or to answer the interrogatories attached to the motion, or both.

The motion, along with the court's order stating the time for the appearance and hearing or the time for the answer to interrogatories submitted with the motion, shall be served upon the judgment debtor as provided in Rule 5, and other parties and the garnishee shall be entitled to service of process as provided in Rule 4. The date fixed for appearance and hearing or answer to interrogatories shall be not less than twenty [20] days after service. No further pleadings shall be required, and the case shall be heard and determined and property ordered applied towards the judgment in accordance with statutes allowing proceedings supplementary to execution. In aid of the judgment or execution, the judgment creditor or his successor in interest of record and the judgment debtor may utilize the discovery provisions of these rules in the manner provided in these rules for discovery or as provided under the laws allowing proceedings supplemental.

Writs of attachment, bench warrants, and body attachments are governed by Trial Rule 64(A).

## Rules of Trial Procedure

### Trial Rule 86. Electronic Filing and Electronic Service

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**(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 **an appearance**, ~~the~~ complaint or equivalent pleading, and the required summons(es) in the form set out in Trial Rule 4(C).