

In the
Indiana Supreme Court

CAUSE NUMBER: 94S00-1401-MS-57



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, Indiana Rule of Trial Procedure 86 is added as follows (deletions shown by ~~striking~~ and new text shown by underlining):

INDIANA RULES OF TRIAL PROCEDURE

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Trial Rule 86. Electronic Filing and Electronic Service

(A) Definitions.

(1) Case Management System ("CMS"). Case Management System is the system of networked software and hardware used by any Indiana court that may receive, organize, store, retrieve, transmit, and display all relevant documents in any case before it.

(2) Conventional Filing. Conventional Filing is the physical non-electronic presentation of documents to the clerk or court .

(3) Electronic Filing ("E-filing"). E-filing is a method of filing documents with the clerk of any Indiana court by electronic transmission utilizing the Indiana E-Filing System. E-filing does not include transmission by facsimile or by email.

(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.

(5) 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.

(6) Electronic Service ("E-service"). E-service is a method of serving documents by electronic transmission on any User in a case via the Indiana E-Filing System.

(7) *Indiana E-Filing System (“IEFS”).* Indiana E-Filing System is the system of networked hardware, software, and service providers approved by the Supreme Court for the filing and service of documents via the Internet, into the Case Management System(s) used by Indiana courts.

(8) *Notice of Electronic Filing (“NEF”).* Notice of Electronic Filing is the notice generated automatically when a document is submitted and transmitted through the Indiana 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 Notice of Electronic Filing will appear immediately on the User’s screen upon submission of the document for E-filing.

(9) *Public Access Terminal.* A Public Access Terminal is a publicly accessible computer provided by clerk or court that allows a member of the public to access the Indiana E-Filing System and public court records.

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

(11) *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 Indiana E-Filing System or its designee who is authorized to use the Indiana E-Filing System for the electronic filing or service of documents.

(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) electronically, using the Indiana E-Filing System unless exempted by these rules; and

(2) by filing a paper complaint and furnishing to the clerk the requisite number of copies of all documents in accordance with Trial Rule 3 within three (3) business days of initiating the case electronically.

(D) Electronic Filing of Documents.

(1) Unless otherwise permitted by these rules, all documents submitted for filing must be filed electronically with the clerk using the Indiana E-Filing System.

(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 and a completed and verified Electronic Filing Technical Requirements Questionnaire, which is appended hereto as E-Filing Form 1. The petition and Questionnaire must be filed in each pending case to which these rules are applicable. The petition and Questionnaire 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 entered into the Indiana E-Filing System by the clerk or court. If the original documents cannot be converted into a legible electronic document, then the originals must be placed into the case file and that action must be noted in the Chronological Case Summary. The filer must also conventionally serve these documents in accordance with these Rules and applicable Local Rule(s) and file a certificate of service.

(G) Service of Pleading and Other Papers:

(1) 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 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 Indiana E-Filing System is deemed complete upon transmission, as confirmed by the 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.

(2) Service on Others. Service of documents on attorneys of record who are not Registered Users or on unrepresented parties must be as provided by Trial Rules 4 or 5.

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

(K) 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) Fees. All applicable fees for E-filing are due and payable at the time of E-filing unless waived by order of the court. Failure to timely pay a required fee may cause the document submitted through the Indiana E-Filing System to be refused by the clerk or stricken by the court.

(M) Certain Court Records Excluded From Public Access. When a document to be filed contains confidential information to be excluded from public access pursuant to Indiana Administrative Rule 9, the User must identify that confidential information and e-file both an unredacted copy of the document and a copy with the confidential information redacted. The User must file the unredacted document in a manner designated by the E-Filing Service Provider that protects the confidentiality of the information.

(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.

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This amendment shall NOT take effect until further Order of this Court.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Public Defender's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters. The Clerk is also directed to post this Order to the Court's website.

Thomson Reuters is directed to publish this Order in the advance sheets and bound volumes of this Court's decisions. Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit and Superior Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by

the Bar and general public.

DONE at Indianapolis, on September 2, 2014.

/s/Loretta H. Rush
Loretta H. Rush
Chief Justice of Indiana

All Justices concur.