

In the Indiana Supreme Court

Cause No. 24S-MS-1



Order Amending Rules of Trial Procedure and Administrative Rules

This Court directed the Committee on Rules of Practice and Procedure to review Local Rules of Court to ensure consistency with the Indiana Rules of Trial Procedure as recommended in the Civil Litigation Taskforce Report. The Rules Committee has reviewed Local Rules of Court and proposed the following amendments to the Rules of Trial Procedure and the Administrative Rules to incorporate common local rules for uniform statewide application:

- add language on substitution of appearance and written notice of intent to withdraw appearance;
- add language on automatic enlargement of time and response and reply deadlines;
- revise language on pleadings allowed and add language on requests for hearings and written motions for continuances;
- add language on form of pleadings, motions, memoranda, and briefs regarding page size, print size, spacing, numbering, and margins;
- delete obsolete rule on continuances of trial; and
- add language on authority of judicial officers to sit in other courts.

Under this Court's authority to establish procedures and supervise the administration of all courts in the state, the Indiana Rules of Trial Procedure and the Administrative Rules are amended as set forth in Exhibits A and B to this order (deletions shown by ~~strikethrough~~ and new text shown by underlining).

These amendments are effective January 1, 2025.

Done at Indianapolis, Indiana, on 10/30/2024.

A handwritten signature in black ink that reads "Loretta H. Rush".

Loretta H. Rush
Chief Justice of Indiana

All Justices concur.

Exhibit A

Rules of Trial Procedure

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Rule 3.1. Appearance

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(H) Withdrawal of Representation. Except as provided in subdivision (J), An attorney representing a party may file a motion to withdraw representation of the party upon a showing that the attorney has sent written notice of intent to withdraw to the party at least ten ~~(10)~~ days before filing a motion to withdraw representation, and either:

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(J) Substitution of Appearance. If a party wishes to substitute attorneys, a substitution of appearance signed by the original attorney and the new attorney must be filed. If the attorney being replaced is unavailable to sign the substitution of appearance, the new attorney must include a statement of the reasons for the unavailability.

(K) Written Notice of Intent Not Required. Written notice of intent to withdraw representation pursuant to subdivision (H) is not required:

(1) in criminal, family law, and juvenile cases, where no motion is pending and where no hearing or trial has been set; or

(2) in any case, after other counsel has appeared on the party's behalf.

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Rule 6. Time

(A) Computation. ...

... When the period of time allowed is less than seven ~~[7]~~ days, intermediate Saturdays, Sundays, legal holidays, and days on which the office is closed ~~must~~shall be excluded from the computations.

(B) Automatic Enlargement of time. A party may receive one automatic thirty-day enlargement of time to respond to a complaint or other pleading by filing a notice with the court. The notice must include the date when the response was initially due and the date to which time is enlarged. If the party files the notice on or before the original due date, the enlargement is granted without a written order by the court.

(BC) Other Requests for Enlargement of time. Except for the automatic enlargement of time allowed in subdivision (B), When an act is required or allowed to be done at or within a specific time by these rules, the court may upon motion~~at any time for cause shown:~~

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- (1) ~~order the period enlarged, with or without motion or notice, if the request therefor is made before the time has expired, order the time enlarged for cause shown~~ expiration of the period originally prescribed or extended by a previous order; or
- (2) ~~if the request is upon motion~~ made after the ~~time has expired~~ expiration of the specific period, ~~order the time enlarged~~ permit the act to be done where the failure to act was the result of excusable neglect; ~~However~~ but, the court may not extend the time ~~for taking any action for judgment on the evidence~~ under Rules 50(A), amendment of findings and judgment under Rule 52(B), ~~56, to correct errors under Rule 59(C), statement in opposition to motion to correct error under Rule 59(E), or to obtain relief from final judgment under Rule 60(B), except as to the extent and under the conditions~~ stated in those rules.

~~(C) Service of pleadings and Rule 12 motions.~~ A responsive pleading required under these rules, shall be served within twenty [20] days after service of the prior pleading. ~~Unless the court specifies otherwise, a reply shall be served within twenty [20] days after entry of an order requiring it. The service of a motion permitted under Rule 12 alters the time for service of responsive pleadings as follows, unless a different time is fixed by the court:~~

- ~~(1) if the court does not grant the motion, the responsive pleading shall be served in ten [10] days after notice of the court's action;~~
- ~~(2) if the court grants the motion and the corrective action is allowed to be taken, it shall be taken within ten [10] days, and the responsive pleading shall be served within ten [10] days thereafter.~~

~~(D) Response and Reply Deadlines.~~

~~Except as otherwise provided in these rules or ordered by the court, the following times apply:~~

- ~~(1) Pleadings. A response to a pleading must be filed within twenty days after service of the pleading.~~
- ~~(2) Motions. A response to a motion must be filed within twenty days after service. Any reply must be filed within fourteen days after service of the response.~~

~~These deadlines do not apply to motions to continue under Rule 7, summary judgment motions under Rule 56, and motions to correct error under Rule 59.~~

~~(DE) Time to For serve motions--Affidavits.~~ A written motion, other than one which may be heard ex parte, and notice of the hearing thereof ~~must~~ shall be served not less than five [5]

Exhibit A

days before the time specified for the hearing, unless a different period is fixed by these rules or by order of the court. Such an order may, for cause shown, be made on ex parte application.

(F) Affidavits. When a motion is supported by affidavit, the affidavit ~~must~~ be served with the motion; and, except as otherwise provided in Rule 59(D), opposing affidavits may be served not less than one ~~1~~ day before the hearing, unless the court permits them to be served at some other time.

(EG) Additional time after service by United States mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by United States mail, three ~~3~~ days ~~must~~ be added to the prescribed period.

(FH) Dissolution Actions--Sixty-day waiting period. ~~A~~ No cause for dissolution of marriage or for legal separation ~~must not~~ be tried or heard by any court until after the expiration of sixty ~~60~~ days from the date of the filing of the petition or from the date of the publication of the first notice to a nonresident.

(I) Local Rules Abrogated. Any local rule in contradiction with any provision within this rule is abrogated.

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Rule 7. Pleadings ~~allowed and motions--Form of motion.~~

(A) Pleadings. The only pleadings ~~shall consist of~~ allowed are:

- (1) a complaint and an answer;
- (2) a counterclaim and a reply to a ~~denominated~~ counterclaim;
- (3) a cross-claim and an answer to a cross-claim; and
- (4) a third-party complaint, if a person not an original party is summoned under ~~the provisions of~~ Rule 14~~;~~, and a third-party answer.
- (5) ~~a third-party answer~~ No other pleadings shall be allowed; but the court may, in its discretion, order a reply to an answer or third-party answer. Matters formerly required to be pleaded by a reply or other subsequent pleading may be proved even though they are not pleaded.

(B) Motions ~~and other papers.~~ Unless made during a hearing or trial, or otherwise ordered by the court, an application to the court for an order ~~must~~ be made by written motion. The motion ~~must~~ state the grounds therefor and the relief or order sought and be

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~~accompanied by a separate proposed order. The requirement of notice is satisfied by service of the motion.~~

~~(C) Demurrers, pleas, etc., abolished. Demurrers, pleas in abatement, and exceptions for insufficiency of a pleading or improper service shall not be used. All objections and defenses formerly raised by such motions shall now be raised pursuant to Rule 12.~~

(C) Requests for hearings. A party requesting a hearing on any motion must file a written request by separate motion. Unless otherwise required, a court has the discretion to set any motion for hearing.

(D) Written motions for continuance.

(1) A party must file a motion for continuance as soon after the cause for continuance or delay is discovered by the party seeking the same.

(2) Any written motion to continue a matter must be filed pursuant to subdivision (B) and must include:

(a) A statement that the opposing party has no objection;

(b) A statement that the opposing party objects; or

(c) A statement that the opposing party's position is unknown, and the date, time, and method by which the moving party filing the motion attempted to obtain agreement and the result, or why such outreach was not possible.

(3) If a party did not comply with subdivision (D)(2), a court may grant a motion for continuance only if the moving party certifies to the court, in writing, the efforts made to give notice and the reasons supporting the moving party's claim that actual notice should not be required.

(4) A party's motion must include:

(a) the approximate amount of time needed to elapse before the matter can be heard, and,

(b) a good faith estimate of the time needed for the rescheduled hearing or trial.

(5) Any local rules related to motions to continue are abrogated.

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Rule 10. Form of pleadings, motions, memoranda, and briefs. Pleadings, motions, memoranda, and briefs filed by counsel must be consistent with the following:

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(A) Page Size. The page size must be 8 1/2 by 11 inches. Conventionally filed documents must use white paper of a weight normally used in printing and typing.

(B) Production. The document must be produced in a neat and legible manner using black type. It may be typewritten, printed, or produced by a word processing system. For conventionally filed documents, text must appear on only one side of the paper.

(C) Print Size. The font must be Arial, Baskerville, Book Antiqua, Bookman, Bookman Old Style, Century, Century Schoolbook, Calisto MT, CG Times, Garamond, Georgia, New Baskerville, New Century Schoolbook, Palatino, or Times New Roman and the typeface must be 12-point or larger in both body text and footnotes.

(D) Spacing. All text must be double-spaced except that footnotes, tables, charts, or similar material and text that is blocked and indented must be single-spaced. Single-spaced lines must be separated by at least 4-point spaces.

(E) Numbering. All pages must be consecutively numbered at the bottom beginning with numeral one.

(F) Margins. All four margins for the text of the document must be at least one inch from the edge of the page.

(GA) Caption--Names of parties. ...

(HB) Paragraphs--Separate statements. ...

(G) Adoption by reference--Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in any motion. A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purpose.

(I) Self-represented litigants. Self-represented litigants must submit documents in a neat and legible manner, with text appearing on only one side of the paper. Self-represented litigants must comply with subdivisions (G) and (H).

(J) Substantial Compliance and Opportunity to Cure. A court may consider a filing in substantial compliance with this rule. The court must allow a party to cure a non-conforming filing within a reasonable time.

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Rule 53.5. Continuances

Upon motion, trial may be postponed or continued in the discretion of the court, and shall be allowed upon a showing of good cause established by affidavit or other evidence. The

Exhibit A

~~court may award such costs as will reimburse the other parties for their actual expenses incurred from the delay. A motion to postpone the trial on account of the absence of evidence can be made only upon affidavit, showing the materiality of the evidence expected to be obtained, and that due diligence has been used to obtain it; and where the evidence may be; and if it is for an absent witness, the affidavit must show the name and residence of the witness, if known, and the probability of procuring the testimony within a reasonable time, and that his absence has not been procured by the act or connivance of the party, nor by others at his request, nor with his knowledge and consent, and what facts he believes to be true, and that he is unable to prove such facts by any other witness whose testimony can be as readily procured. If, thereupon, the adverse party will consent that, on the trial, the facts shall be taken as true if the absent evidence is written or documentary; and, in case of a witness, that he will testify to said facts as true, the trial shall not be postponed for that cause, and in such case, the party against whom such evidence is used, shall have the right to impeach such absent witness, as in the case where the witness is present, or his deposition is used.~~

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Exhibit B

Administrative Rules

Rule 1. Preparation and Filing of Statistical Reports

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(E) County and Judicial District Caseload Plans; Authority of Judicial Officer to Serve in Other Courts. The judges of the courts of record in each county ~~must~~ shall, by a local rule, develop and implement a caseload allocation plan for the county that ensures an even distribution of judicial caseloads among the judges of the courts of record in the county. The judges of the courts of record in each judicial district (established by Administrative Rule 3) may, by local rule, develop a district caseload allocation plan that allows for the efficient adjudication of cases within the district. ~~Counties may elect, by approved local rule, to provide that~~ Upon request, a judicial officer of a court of record within a county or district may serve as acting judge ~~in another court in that county or district in any matter in any court within the judicial officer's county, district, and contiguous counties. The acting judge serves as if the judicial officer were the elected judge in that court. The authority to serve as acting judge applies even when the regular judge of the other court is present and available in the building that contains the court. Jurisdiction in the acting judge shall vest only after the Supreme Court enters an Order approving such local rule.~~

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