

In the  
Indiana Supreme Court



CAUSE NUMBER: 94S00-1401-MS-57

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, Indiana Rules of Appellate Procedure 2(O); 9(H); 10(F) and (G); 11(B), (C) and (D); 12(A); 14(G); 16(B); 24(A); 29(A); 40(A); and Form 11-2 are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

**Indiana Rules of Appellate Procedure**

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**Rule 2. Definitions**

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**O. Court Reporter.** "Court Reporter" shall mean a person who is designated by a court or Administrative Agency to perform official reporting services, including preparing the Transcript.

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**Rule 9. Initiation Of The Appeal**

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**H. Payment for Transcript.** Within ten (10)~~thirty (30)~~ days after the filing of a Notice of Appeal a party must enter into an agreement with the eCourt ~~R~~eporter for payment of the cost of the Transcript. Unless a court order requires otherwise, each party shall be responsible to pay for all transcription costs associated with the Transcript that party requests.

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**Rule 10. Duties Of Trial Court Clerk Or Administrative Agency**

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**F. Failure to File Notice of Completion of Clerk's Record.** If the trial court clerk or Administrative Agency fails to issue, file, and serve a timely Notice of Completion of Clerk's Record, the appellant shall seek an order from the Court on Appeal compelling the trial court clerk or Administrative Agency to complete the Clerk's Record and issue, file, and serve its Notice of Completion. Failure of appellant to seek such an order not later than seven (7)~~fifteen~~

~~(15)~~ days after the Notice of Completion of Clerk's Record was due to have been issued, filed, and served shall subject the appeal to dismissal.

**G. Failure to File Notice of Completion of Transcript.** If the trial court clerk or Administrative Agency fails to issue, file, and serve a timely Notice of Completion of Transcript required by Rule 10(D), the appellant shall seek an order from the Court on Appeal compelling the trial court clerk or Administrative Agency to issue, file and serve the Notice of Completion of Transcript. Failure of appellant to seek such an order not later than seven (7) fifteen ~~(15)~~ days after the Notice of Completion of Transcript was due to have been issued, filed, and served shall subject the appeal to dismissal.

## **Rule 11. Duties Of Court Reporter**

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**B. Deadline for Filing Transcript.** For appeals filed on or after July 1, 2016, For the period until July 1, 2003, and until revised thereafter, the eCourt #Reporter or Administrative Agency shall have forty-five (45) ninety ~~(90)~~ days after the appellant files the Notice of Appeal to file the Transcript with the trial court clerk or Administrative Agency.

**C. Extension of Time to File Transcript.** If the eCourt #Reporter believes the transcript cannot be filed within the time period prescribed by this rule, then the eCourt #Reporter shall promptly move the Court on Appeal designated in the Notice of Appeal for an extension of time to file the Transcript pursuant to Rule 35 (A) and shall state in such motion the factual basis for inability to comply with the prescribed deadline despite exercise of due diligence. (See Form # App.R. 11-2). The eCourt #Reporter shall file an original and one copy of the motion with the Clerk and shall serve a copy of the motion on the parties to the appeal in accordance with Rule 24. Motions for extension of time in interlocutory appeals, appeals involving worker's compensation, issues of child custody, support, visitation, paternity, adoption, determination that a child is in need of services, and termination of parental rights are disfavored and shall be granted only in extraordinary circumstances.

**D. Failure to Complete Transcript.** If the eCourt #Reporter fails to file the Transcript with the trial court clerk within the time allowed, the appellant shall seek an order from the Court on Appeal compelling the eCourt #Reporter to do so. The motion to compel shall be verified and affirmatively state that service as required under Rule 24(A)(1) was properly made and that the appellant has complied with the agreement for payment made in accordance with Rule 9(H). Failure of appellant to seek such an order not later than seven (7) fifteen ~~(15)~~ days after the Transcript was due to have been filed with the trial court clerk shall subject the appeal to dismissal.

## **Rule 12. Transmittal Of The Record**

**A. Clerk's Record.** Unless the Court on Appeal orders otherwise, the trial court clerk shall retain the Clerk's Record throughout the appeal. A party may request that the trial court clerk copy the Clerk's Record, or a portion thereof, and the clerk shall provide the copies within seven (7) thirty ~~(30)~~ days, subject to the payment of any usual and customary copying charges.

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## Rule 14. Interlocutory Appeals

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### G. Shortening or Extending Time.

(1) *Extensions.* Extensions of time ~~to prepare the Transcript or~~ to file any brief in an interlocutory appeal are disfavored and will be granted only upon a showing of good cause. Any motion for extension must comply with Rule 35.

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## Rule 16. Appearances

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**B. Responding Parties.** All other parties participating in an appeal shall file an appearance form with the Clerk. (See Form # App.R. 16-1). When the State is appellee in a Criminal Appeal, the Clerk shall enter the appearance of the Attorney General. The appearance form shall be filed within ~~thirty (30)~~ fifteen (15) days after the filing of the Notice of Appeal or contemporaneously with the first document filed by the appearing party, whichever comes first. The appearance form shall contain the following:

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## Rule 24. Service Of Documents

### A. Required Service.

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(2) *Documents filed in the* ~~thirty~~ fifteen (15) *-day period following the filing of Notice of Appeal.* A party filing any document in the ~~thirty~~ fifteen (15) day period after a Notice of Appeal is filed shall contemporaneously serve a copy upon:

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## Rule 29. Exhibits

**A. Documentary Exhibits.** Documentary exhibits, including testimony in written form filed in Administrative Agency proceedings and photographs, shall be included in separately-bound volumes that conform to the requirements of Rule 28(A)(6). The ~~e~~Court ~~R~~eporter shall also prepare an index of the exhibits contained in the separately-bound volumes, and that index will be placed at the front of the first volume of exhibits. The Court Reporter shall not utilize any other person, entity, or service to fulfill the obligations contained in this Rule.

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## Rule 40. Motion To Proceed In Forma Pauperis

### A. Appeal From a Trial Court.

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(4) *Motion to the Court on Appeal.* If the trial court denies a party authorization to proceed in forma pauperis the party may file a motion in the Court on Appeal for leave to so proceed within fifteen (15) ~~thirty (30)~~ days of service of the trial court's order. The motion shall be accompanied by a copy of any affidavit supporting the party's request filed in the trial court. If no affidavit was filed in the trial court or if the affidavit filed in the trial court is no longer accurate, the motion shall be accompanied by an affidavit conforming to Form #App.R. 40-1. The motion shall be accompanied by a copy of the order setting forth the trial court's reasons for denying the party in forma pauperis status on appeal.

**Form App. R. 11-2 Motion for Extension to File Transcript**

IN THE  
INDIANA [SUPREME COURT OR COURT OF APPEALS]

Case No.: \_\_\_\_\_  
[insert Supreme Court or Court of Appeals number, if known]

_____ , )	)	Appeal from the _____
Appellant(s),	)	Court
	)	
vs.	)	Trial Court Case No:
	)	_____
_____ ,	)	
Appellee(s).	)	The Honorable _____,
	)	Judge

**COURT REPORTER'S VERIFIED MOTION FOR EXTENSION OF TIME TO FILE TRANSCRIPT**

\_\_\_\_\_, the court reporter for \_\_\_\_\_ court, respectfully petitions the Court for an extension of time in which to file the transcript in this appeal. In support of this Motion, the court reporter shows the Court as follows:

1. The Appellant filed a Notice of Appeal on \_\_\_\_\_, 20\_\_\_. The notice of appeal requested the following transcript(s): \_\_\_\_\_.

2. Pursuant to Appellate Rule 11(B), the transcript is due ~~forty-five (45) ninety (90)~~ days after the Notice of Appeal is filed. Unless this Motion is granted, the transcript is due to be filed with the trial court no later than \_\_\_\_\_, 20\_\_.

3. Arrangements have been made to pay for the preparation of the transcript.

OR Satisfactory arrangements have not been made for the preparation of the transcript in that (explain).

4. I estimate the transcript will be \_\_\_\_\_ pages long and will take \_\_\_\_\_ hours to prepare.

5. I began work on the transcript on \_\_\_\_\_ and have completed \_\_\_\_\_ pages and spent \_\_\_\_\_ hours.

~~.(OR) I have not yet been able to begin work on the transcript because (state reasons specifically including case names and cause numbers and sizes of other transcripts, nature of case).~~

~~6.(OR) I will have not been able to complete the transcript because (state reasons specifically including case names and cause numbers and sizes of other transcripts, nature of case)~~

~~67. I anticipate that I will complete the transcript on \_\_\_\_\_.~~

~~78. I request that the time within which to complete the transcript be extended to \_\_\_\_\_.~~

~~89. I have not previously been granted an extension of time to file the transcript.~~

~~(OR) I cannot complete the transcript in the time provided under previous extension(s) granted \_\_\_\_\_ on \_\_\_\_\_, because: \_\_\_\_\_~~

~~This is the (first/second/third) Verified Motion for Extension of Time to File Transcript.~~

WHEREFORE, \_\_\_\_\_, court reporter for \_\_\_\_\_ court respectfully requests an extension of time of \_\_\_\_\_ (\_\_\_\_) days within which to file the transcript to \_\_\_\_\_, 20\_\_.

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

\_\_\_\_\_  
Court Reporter, \_\_\_\_\_ Court

**CERTIFICATE OF SERVICE**

I certify that on [insert date] I served a copy of this document upon the following person(s) by [specify means of service]:

**[Separately list name(s) and address(es) of person(s) served]**

\_\_\_\_\_  
Court Reporter

...

These amendments shall take effect July 1, 2016.

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.

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 9, 2014.

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

All Justices concur.