

In the
Indiana Supreme Court



Cause No. 94S00-1602-MS-86

Order

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, the Indiana Rules of Trial Procedure are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

...

Trial Rule 86

...

(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) ~~except for cases filed through CEFM, by filing a paper~~the complaint or equivalent pleading and the required summons(es) in the form set out in Trial Rule 4(C) 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.~~

...

(F) Conventionally Filed Documents. Conventionally filed documents must be converted into an electronic record~~entered into the Indiana E-Filing System~~ 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 a notation must be made~~the originals must be placed into the case file and that action must be noted~~ in the Chronological Case Summary and the documents returned to the filer. ~~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.~~

~~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) ~~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. Issuance of Summons and Service of Initial Complaint or Equivalent Pleading.~~

~~(a) At the time the initial complaint or equivalent pleading is filed, the filer shall also file completed summons(es) designating the manner of service. The Clerk shall date, sign and seal the summons(es) and transmit the summons(es) to the filer 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.~~

~~(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.~~

~~(d) All returns regarding service shall be directed and made to the Clerk.~~

~~(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 acknowledgment 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).
- (e) For service by publication the 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 Clerk as provided in Trial Rule 4.13. The Clerk shall transmit to the filer dated, signed and sealed summons(es) by publication. The 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 Clerk.

(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 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.
- (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.

(L) Non-conforming Documents.

- (1) The clerk may reject an E-Filing only when:
 - (a) the applicable filing fee has not been paid; or
 - (b) the case number does not exist.
- (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 ~~of e-filings that do~~ where an e-filed document does not conform to the ~~Indiana Electronic Filing System IEFS or other applicable rules~~, the clerk ~~shall~~ must process the e-filed document and may direct the non-conforming document to the intended ~~eE-f~~Filing court. ~~(2)~~ A court that receives a non-conforming document shall:
 - (a) strike the non-conforming document; or
 - (b) issue an appropriate order. If the court's order allows a party to cure a defective E-e-Filing, the party has seventy-two (72) hours, ~~excluding days the court is closed~~ 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. ~~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.~~

- (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 Administrative Rule 9(G)(1)(b,c), 9(G)(2), 9(G)(3), or 9(G)(4), the party or person submitting the confidential record must provide the separate written notice required by Administrative Rule 9(G)(5)(a) identifying the specific 9(G)(2) or 9(G)(3) ground(s) upon which exclusion is based. (See Administrative Rule 9(G) Forms 9-G1 and 9-G2.)
- (ii) In cases where all Court Records are excluded from Public Access in accordance with Administrative Rule 9(G)(1)(a), 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 Administrative Rule 9(G)(2) or 9(G)(3), 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 Administrative Rule 9(G)(5)(a) Notice 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 Administrative Rule 9(G)(5)(a) Notice shall indicate this fact. (See Administrative Rule 9(G) Form 9-G3.)
 - 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 A.R. 9(G)” or “EXCLUDED FROM PUBLIC ACCESS PER A.R. 9(G).”

(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 Administrative Rule 9(G)(1).

(2) E-filing document security codes settings.

(a) Where only a portion of the Court Record has been excluded from Public Access pursuant to Administrative Rule 9(G)(2) or 9(G)(3), 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 Administrative Rule 9(G)(2) or 9(G)(3), the e-filing document security codes setting for the Non-Public Access Version shall be “Confidential document under Admin Rule 9.”

(c) In cases in which all Court Records are excluded from Public Access pursuant to Administrative Rule 9(G)(1), the e-filing document security codes setting shall be “Confidential document under Admin Rule 9.”

These amendments shall take effect on July 1, 2016.

Done at Indianapolis, Indiana, on 4/12/2016 .



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.