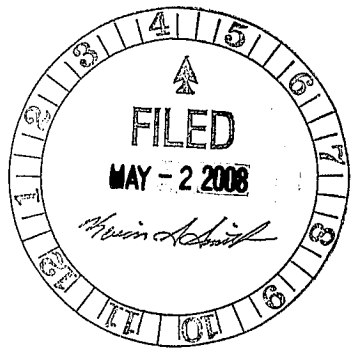
In the
Indiana Supreme Court



CAUSE NUMBER: 94S00-0801-MS-15

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 35, 43 and 44 are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

INDIANA RULES OF APPELLATE PROCEDURE

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Rule 35. Motion for Extension of Time

A. Time for Filing. Any motion for an extension of time shall be filed at least seven (7) days before the expiration of time unless the movant was not then aware of the facts on which the motion is based. No motion for an extension of time shall be filed after the time for doing the act expires.

B. Content.

(1) Required in All Motions. All motions shall be verified and state

(a) The date of the appealed judgment or order.
(b) The date any motion to correct error was ruled on or deemed denied.
(c) The date the Notice of Appeal was filed.
(d) The time period that is sought to be extended, and the event which triggered it.
(e) The date the act is to be done, how that date was established, including, if relevant, the means of service, whether the current due date is pursuant to a previous extension of time, and if so, whether final.
(f) The due date requested. This date shall be a business day as defined by Rule 25.
(g) The reason, in spite of the exercise of due diligence shown, for requesting the extension of time, including, but not limited to, the following:

(i) Engagement in other litigation, provided such litigation is identified by caption, number and court;

(ii) The matter under appeal is so complex that an adequate brief cannot reasonably be prepared by the date the brief is due; or
(iii) Hardship to counsel will result unless an extension is granted, in which event the nature of the hardship must be set forth.

(h) If the motion is filed within seven (7) days before the expiration of time, the reasons why counsel was unaware of the need for the extension.

(2) Criminal Appeals. A motion in a Criminal Appeal shall also state, if applicable:

(a) the date the trial court granted permission to file a belated Notice of Appeal or a belated motion to correct error;
(b) the date of sentencing;
(c) the sentence imposed; and
(d) a concise statement of the status of the case, including whether the defendant has been released on bond, and whether the defendant has been incarcerated.

C. Proceedings in Which Extensions are Prohibited. No motion for extension of time shall be granted to file a Petition for Rehearing, a Petition to Transfer to the Supreme Court, ~~a Petition for Review of the Tax Court decision by the Supreme Court,~~ any brief supporting or responding to such Petitions, or in appeals involving termination of parental rights.

D. Restrictions on Extensions. Motions for extension of time in appeals involving worker's compensation, issues of child custody, support, visitation, paternity, adoption, and determination that a child is in need of services shall be granted only in extraordinary circumstances.

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Rule 43. Form of Briefs and Petitions

A. Applicability. This Rule governs the form of briefs, Petitions for Rehearing (Rule 54), Petitions to Transfer to the Supreme Court (Rule 57), and Petitions for Review of a Tax Court decision (Rule 63) by the Supreme Court.

B. Paper. The pages shall be 8 ½ by 11 inch white paper of a weight normally used in printing and typing.

C. Production. The document shall be produced in a neat and legible manner using black print. It may be typewritten, printed or produced by a word processing system. It may be copied by any copying process that produces a distinct black image on white paper. Text shall appear on only one side of the paper.

D. Print Size. The typeface shall be 12-point or larger in both body text and footnotes.

E. Spacing. All printing in the text shall be double-spaced except lengthy quotes and footnotes shall be single-spaced. Single-spaced lines shall be separated by at least 4-point spaces.

F. Numbering. The pages shall be numbered at the bottom.

G. Margins. All four margins for the text of the document shall be at least one (1) inch

from the edge of the page.

H. Cover Colors. The document shall have a front and back cover in the following colors:
Appellant's Brief and Appendix: Blue.
Appellee's Brief and Appendix: Red.
Any reply brief (except as provided below): Gray.
Brief of intervenor or amicus curiae: Green.
Petition for Rehearing: White.
Brief in response to a Petition for Rehearing: White.
Petition to Transfer or for Review: Orange.
Brief in response to a Petition seeking Transfer or Review: Yellow.
Reply brief to brief in response to a Petition seeking Transfer or Review: Tan.
~~Petitioner's brief after Review of a Tax Court decision is granted: Blue.~~
~~Response brief after Review of a Tax Court decision is granted: Red.~~
~~Reply brief after Review of a Tax Court decision is granted: Gray.~~

I. Cover Content. The front cover of the document shall conform substantially to Form # App.R. 43-1.

J. Binding. The document shall be bound in book or pamphlet form along the left margin. Any binding process which permits the document to lie flat when opened is preferred.

K. Copy of Document in Electronic Format. All documents may be accompanied by a copy of the document in electronic format. Any electronic format used by the word processing system to generate the document is permissible.

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 (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~~ or for Review~~: ten (10) pages
Brief in response to a Petition seeking Transfer~~ or Review~~: ten (10) pages
Reply brief to brief in response to a Petition seeking Transfer~~ or Review~~: three (3) pages
~~Petitioner's brief after~~Petition for Review of a Tax Court decision~~ is granted~~: thirty (30) pages
~~Response brief after~~Brief in response to a Petition for Review of a Tax Court decision~~ is granted~~: thirty (30) pages
Reply brief ~~after~~to brief in response to a Petition for Review of a Tax Court decision~~ is granted~~: 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~~ or for Review~~: 4,200 words
Brief in response to a Petition seeking Transfer~~ or Review~~: 4,200 words
Reply brief to brief in response to a Petition seeking Transfer~~ or Review~~: 1,000 words
~~Petitioner's brief after~~Petition for Review of a Tax Court decision~~ is granted~~: 14,000 words
~~Response brief after~~Brief in response to a Petition for Review of a Tax Court decision~~ is granted~~: 14,000 words
Reply brief ~~after~~to brief in response to a Petition for Review of a Tax Court decision~~ is granted~~: 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.

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These amendment shall take effect immediately.

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; 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 the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit 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, Indiana, this 2nd day of May, 2008.

Randall T. Shepard

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.