

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 Rules of Trial Procedure 3.1, 5, 16, 43, 58, 64(A) and 81.1 are amended as follows (deletions shown by ~~striking~~ and new text shown by underlining):

INDIANA RULES OF TRIAL PROCEDURE

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Rule 3.1. Appearance

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(D) Confidentiality of ~~Information~~ Court Record Excluded from Public Access. Any appearance form or ~~Court~~ Record defined as not accessible to the public pursuant to Administrative Rule 9(G)~~(4)~~ shall be filed in ~~a~~ the manner required by ~~Trial Rule 5~~ Administrative Rule 9(G)(5).

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Rule 5. Service and Filing of Pleading and Other Papers

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~~(G) Filing of Documents and Information Excluded from Public Access and Confidential Pursuant to Administrative rule 9(G)(1) Confidentiality of Court Records.~~ Every document filed in a case shall separately identify information excluded from public access pursuant to Admin. R. 9(G)(1) as follows:

- ~~(1) Whole documents that are excluded from public access pursuant to Administrative Rule 9(G)(1) shall be tendered on light green paper or have a light green coversheet attached to the document, marked "Not for Public Access" or "Confidential."~~
- ~~(2) When only a portion of a document contains information excluded from public access pursuant to Administrative Rule 9(G)(1), said information shall be omitted [or redacted] from the filed document, and set forth on a separate accompanying document on light green paper conspicuously marked "Not for Public Access" or "Confidential" and clearly~~

~~designated [or identifying] the caption and number of the case and the document and location within the document to which the redacted material pertains.~~

~~(3) With respect to documents filed in electronic format, the trial court, by local rule, may provide for compliance with this rule in manner that separates and protects access to information excluded from public access.~~

~~(4) This rule does not apply to a record sealed by the court pursuant to IC 5-14-3-5.5 or otherwise, nor to records, documents, or information filed in cases to which public access is prohibited pursuant to Administrative Rule 9(G).~~

(1) Court Records are accessible to the public, except as provided in Administrative Rule 9(G).

(2) Any Court Record excluded from Public Access pursuant to Administrative Rule 9(G) must be filed in accordance with Administrative Rule 9(G)(5).

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Rule 16. Pre-trial procedure: Formulating issues

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(C) Conference of attorneys. Unless otherwise ordered by the court, at least ten [10] days prior to the pre-trial conference, attorneys for each of the parties shall meet and confer for the following purposes:

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(5) Discuss Administrative Rule 9(G) issues that may arise during the proceedings.

(6) Discuss settlement. The possibility of compromise settlement shall be fully discussed and explored.

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Rule 43. Evidence

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(E) Public Access. Information-Court Records filed or introduced in court proceedings ~~is~~ are not confidential except to the extent provided by ~~statutes, rules of court and Indiana~~ Administrative Rule 9(G).

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Rule 58. Entry and content of judgment

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(C) ~~Documents and Information Court Records~~ Excluded from Public Access and Confidential Pursuant to Administrative Rule 9(G)(4). Every court that issues a judgment or order containing ~~documents or information Court Records~~ excluded from ~~p~~Public ~~a~~Access pursuant to Administrative Rule 9(G)(4) shall comply with the provisions of ~~Trial Rule 5(G) Administrative Rule 9(G)(5)~~.

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Rule 64. Seizure of person or property

(A) Ancillary remedies to assist in enforcement of judgment. At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by law and existing at the time the remedy is sought. The remedies thus available include, without limitation, arrest, attachment, attachment and garnishment, lis pendens notice, ejectment, replevin, sequestration, and other corresponding or equivalent legal or equitable remedies, however designated and regardless of whether by existing procedure the remedy is ancillary to an action or must be obtained by an independent action. Such remedies are subject to the provisions of this rule, and, except as herein otherwise provided, the action in which any of the foregoing remedies is used shall be commenced and prosecuted pursuant to these rules. A person taken into custody in a civil action must be brought before the court that issued the writ, bench warrant or body attachment, or before a judicial officer having jurisdiction over the person within forty-eight (48) hours, excluding weekends and holidays, following the person being taken into custody. The person shall be advised of the procedures under IC 34-47-4-2 or IC 31-16-12-6.5 for release, including any bond, escrow amount set by the issuing court in the writ, bench warrant or body attachment.

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Rule 81.1. Procedures for Cases Involving Family or Household Members

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G. Court Records Excluded from Public Access. In a ~~e~~Court using Family Procedures, each party shall have access to all records in cases joined under this Rule, with the exception of ~~e~~Court ~~r~~Records excluded from ~~p~~Public ~~a~~Access pursuant to Administrative Rule 9. A party may seek access to such confidential records from another case joined under this Rule ~~by written petition based on relevancy and need in accordance with Administrative Rule 9(G)(7)~~. Records excluded from ~~p~~Public ~~a~~Access shall retain their confidential status and the court using Family Procedures shall direct that confidential records not be included in the public record of the proceedings.

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These amendments shall take effect on January 1, 2015.

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.