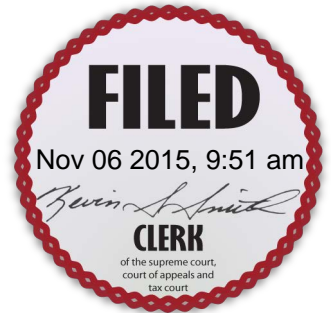


**In the
Indiana Supreme Court**

IN THE MATTER OF ELECTRONIC) Supreme Court Case No.
FILING IN THE INDIANA SUPREME) 94S00-1511-MS-640
COURT AND COURT OF APPEALS)



**ORDER INITIATING ELECTRONIC FILING
IN INDIANA SUPREME COURT AND COURT OF APPEALS**

On May 21, 2014, this Court determined that Indiana’s state courts would move to electronic filing. The project is underway in Hamilton County, and will now be expanded to include the Indiana Supreme Court and Court of Appeals. Effective November 9, 2015, electronic filing in the Supreme Court and Court of Appeals shall commence with pilot participants under the parameters set forth below:

1. In appeals in which: (a) either the Indiana Public Defender or the Marion County Public Defender, on one side, and the Attorney General of Indiana, on the other side, represent the parties to the appeal; and (b) the Notice of Appeal has already been conventionally filed, all party filings **shall** be filed through the Indiana E-filing System (“IEFS”).
2. In all other appeals in which the Notice of Appeal has been conventionally filed, all party filings **may** be filed through the IEFS.
3. Pilot participants filing documents electronically through the IEFS shall follow the current Indiana Rules of Appellate Procedure except as indicated below. The modifications below to the Indiana Rules of Appellate Procedure are for piloting purposes only and do not constitute permanent changes to the Indiana Rules of Appellate Procedure. The modifications (deletions shown by ~~striking~~ and new text shown by underlining) are indicated below and can also be found at <http://courts.IN.gov/efile>:

Rule 2. Definitions.

In these Rules, the following definitions apply:

* * * *

P. Case Management System (“CMS”). Case Management System is the system of networked software and hardware used by any Indiana court that may receive, organize, store, retrieve, transmit, and display all relevant documents in any case before it.

Q. Conventional Filing. Conventional Filing is the physical non-electronic presentation of documents to the Clerk or Court.

R. Electronic Filing (“E-Filing”). E-Filing is a method of filing documents with the clerk of any Indiana court by electronic transmission utilizing the Indiana E-Filing System. E-Filing does not include transmission by facsimile or by email.

S. E-Filing Manager (“EFM”). E-Filing Manager is the centralized entity approved by the Supreme Court that receives and transmits all E-Filing submissions between E-Filing Service Provider(s) and the appropriate Case Management System.

T. E-Filing Service Provider (“EFSP”). E-Filing Service Provider is the organization and software selected by a User and approved by the Supreme Court to receive and transmit all E-Filing submissions between the User and the Indiana E-Filing System.

U. Electronic Service (“E-service”). E-service is a method of serving documents by electronic transmission on any User in a case via the Indiana E-Filing System.

V. Indiana E-Filing System (“IEFS”). Indiana E-Filing System is the system of networked hardware, software, and service providers approved by the Supreme Court for the filing and service of documents via the Internet, into the Case Management System(s) used by Indiana courts.

W. Notice of Electronic Filing (“NEF”). Notice of Electronic Filing is the notice generated automatically when a document is submitted and transmitted through the IEFS, which sets forth the time of transmission, the name of the Court, User, party, attorney, trial court clerk, or Administrative Agency transmitting the document, the title of the document, the type of document, and the name of the Court, attorney, party, or other person meant to receive the Notice. The time noted in a Notice of Electronic Filing will be the time at the location of the court where the case is pending. A Notice of Electronic Filing will appear immediately on the User’s screen upon submission of the document for E-Filing.

X. Public Access Terminal. A Public Access Terminal is a publicly accessible computer provided by clerk or court that allows a member of the public to access the IEFS and public court records.

Y. User Agreement. A User Agreement is an agreement in a form approved by the Division of State Court Administration that establishes obligations and responsibilities of the User within the IEFS.

Z. User. User is a Registered User or Filing User.

(1) **Filing User.** Filing Users include court and clerk staff, unrepresented litigants, attorneys, or an agent whom an attorney has expressly designated to make a filing on the attorney’s behalf and who has an IEFS user ID, password, and limited authority to file documents electronically.

(2) **Registered User.** A Registered User is a person or entity with a user ID and password assigned by the IEFS or its designee who is authorized to use the IEFS for the electronic filing or service of documents.

* * * *

Rule 14.1. Expedited Appeal for Payment of Placement and/or Services

* * * *

J. Service. If a party provides service~~Service, if~~ by mail or third-party commercial carrier pursuant to Rule 68(F)(2), then the party shall also provide service ~~by~~ contemporaneous fax or email on all parties whose FAX number or e-mail address is known by the serving party. Parties who are served by contemporaneous FAX or e-mail shall not be entitled to the extension of time set forth in Appellate Rule 25(C). Any party filing an appearance after documents have been served shall promptly be served with all documents not previously provided to the later-appearing party.

* * * *

Rule 23. Filing

A. Time for Filing. All papers Documents exempted from E-Filing under Rule 68 will be deemed filed with the Clerk when they are:

(1) personally delivered to the Clerk (which, when the Clerk's Office is open for business, shall mean personally tendering the ~~papers~~documents to the Clerk or the Clerk's designee; and at all other times (unless the Clerk specifies otherwise) shall mean properly depositing the ~~papers~~documents into the "rotunda filing drop box" located in the vestibule of the east second-floor entrance to the State House);

(2) deposited in the United States Mail, postage prepaid, properly addressed to the Clerk; or

(3) deposited with any third-party commercial carrier for delivery to the Clerk within three (3) calendar days, cost prepaid, properly addressed.

Documents not exempted from E-Filing under Rule 68 will be deemed E-Filed with the Clerk, subject to payment of all applicable fees, on the date and time reflected in the Notice of Electronic Filing. See Appellate Rule 68(I).

* * * *

E. Signature required. Every motion, petition, brief, appendix, acknowledgment, notice, response, reply, or appearance must be signed by at least one [1] attorney of record in

the attorney's individual name, whose name, address, telephone number, and attorney number shall also be typed or printed legibly below the signature. If a party or amicus is not represented by an attorney, then the party or amicus shall sign such documents and type or print legibly the party or amicus's name, address, and telephone number. The signing of the verification of accuracy required by Rule 50(A)(2)(i) or 50(B)(1)(f) satisfies this requirement for appendices. E-filed documents submitted through the IEFS shall comply with Rule 68(H).

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Rule 24. Service of Documents

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C. Manner and Date of Service. All ~~papers~~electronically filed documents will be deemed served when they are electronically served through the IEFS in accordance with Rule 68(F)(1). Documents exempted from E-service will be deemed served when they are:

- (1) personally delivered;
- (2) deposited in the United States Mail, postage prepaid, properly addressed; or
- (3) deposited with any third-party commercial carrier for delivery within three (3) calendar days, cost prepaid, properly addressed.

Parties appealing pursuant to Rule 14.1 must comply with the additional requirements found in that Rule.

* * * *

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. Page SizePaper. The pages size shall be 8 1/2 by 11 inches. Conventionally filed documents shall use 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 ~~type~~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.~~ For conventionally filed documents, Text shall appear on only one side of the paper.

D. Print Size. The font shall be Arial, Baskerville, Book Antigua, Bookman, Bookman Old Style, Century, Century Schoolbook, Courier, Courier New, CG Times, Garamond, Georgia, New Baskerville, New Century Schoolbook, Palatino or Times New Roman and the typeface shall be 12-point or larger in both body text and footnotes.

E. Spacing. All text shall be double-spaced, except that footnotes, tables, charts, or similar material and text that is blocked and indented 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~~All pages of the brief, including the front page (see Rule 43(I)), table of contents, and table of authorities, shall be consecutively numbered at the bottom beginning with numeral one.

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~~Page Headers. Each page, except for the front page, of the document shall contain a header that lists the name of the party(ies) filing the document and the document name (e.g., “Brief of Appellant Acme Co.” or “Appellee John Doe’s Brief in Response to Petition to Transfer”).~~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.~~

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

J. Binding. Conventionally filed ~~The documents shall be bound with a single staple or binder clip. They shall not 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.~~

* * * *

Rule 46. Arrangement And Contents Of Briefs

A. Appellant's Brief. The appellant's brief shall contain the following sections under separate headings and in the following order:

(1) *Table of Contents.* The table of contents shall list each section of the brief, including the headings and subheadings of each section and the page on which they begin.

(2) *Table of Authorities.* The table of authorities shall list each case, statute, rule, and other authority cited in the brief, with references to each page on which it is cited. The authorities shall be listed alphabetically or numerically, as applicable.

(3) *Statement of Supreme Court Jurisdiction.* When an appeal is taken directly to the Supreme Court, the brief shall include a brief statement of the Supreme Court's jurisdiction to hear the direct appeal.

(4) *Statement of Issues.* This statement shall concisely and particularly describe each issue presented for review.

(5) *Statement of Case.* This statement shall briefly describe the nature of the case, the course of the proceedings relevant to the issues presented for review, and the disposition of these issues by the trial court or Administrative Agency. Page references to the Record on Appeal or Appendix are required in accordance with Rule 22(C).

(6) *Statement of Facts.* This statement shall describe the facts relevant to the issues presented for review but need not repeat what is in the statement of the case.

(a) The facts shall be supported by page references to the Record on Appeal or Appendix in accordance with Rule 22(C).

(b) The facts shall be stated in accordance with the standard of review appropriate to the judgment or order being appealed.

(c) The statement shall be in narrative form and shall not be a witness by witness summary of the testimony.

(d) In an appeal challenging a ruling on a post-conviction relief petition, the statement may focus on facts from the post-conviction relief proceeding rather than on facts relating to the criminal conviction.

(7) *Summary of Argument.* The summary should contain a succinct, clear, and accurate statement of the arguments made in the body of the brief . It should not be a mere repetition of the argument headings.

(8) *Argument.* This section shall contain the appellant's contentions why the trial court or Administrative Agency committed reversible error.

(a) The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on, in accordance with Rule 22.

(b) The argument must include for each issue a concise statement of the applicable standard of review; this statement may appear in the discussion of each issue or under a separate heading placed before the discussion of the issues. In addition, the argument must include a brief statement of the procedural and substantive facts necessary for consideration of the issues presented on appeal, including a statement of how the issues relevant to the appeal were raised and resolved by any Administrative Agency or trial court.

(c) Each argument shall have an argument heading. If substantially the same issue is raised by more than one asserted error, they may be grouped and supported by one argument.

(d) If the admissibility of evidence is in dispute, citation shall be made to the pages of the Transcript where the evidence was identified, offered, and received or rejected, in conformity with Rule 22(C).

(e) When error is predicated on the giving or refusing of any instruction, the instruction shall be set out verbatim in the argument section of the brief with the verbatim objections, if any, made thereto.

(9) *Conclusion.* The conclusion shall include a precise statement of the relief sought and the signature of the attorney and pro se party.

~~(10) *Appealed Judgment or Order.* The brief shall include any written opinion, memorandum of decision or findings of fact and conclusions thereon relating to the issues raised on appeal. When sentence is at issue in a criminal appeal, the brief shall contain a copy of the sentencing order.~~

(10+) *Word Count Certificate* (if necessary). See Rule 44(F).

(11±) *Certificate of Service.* See Rule 24(D).

(12) *Appealed Judgment or Order.* Any written opinion, memorandum of decision or findings of fact and conclusions thereon relating to the issues raised on appeal shall be submitted with the brief. When sentence is at issue in a criminal appeal, the sentencing order shall be submitted with the brief. These documents shall be contained within conventionally filed briefs, and shall be tendered with briefs filed in conformity with the IEFs.

B. Appellee's Brief. The Appellee's Brief shall conform to Section A of this Rule, except as follows:

(1) *Agreement with Appellant's Statements.* The appellee's brief may omit the statement of Supreme Court jurisdiction, the statement of issues, the statement of the case, and the statement of facts if the appellee agrees with the statements in the appellant's brief. If any of these statements is omitted, the brief shall state that the appellee agrees with the appellant's statements.

(2) *Argument.* The argument shall address the contentions raised in the appellant's argument.

(3) *Rule 46(A)(±01±).* Items listed in Rule 46(A)(±01±) may be omitted.

* * * *

Rule 51. Form And Assembly Of Appendices

A. Copying. For conventionally filed appendices, The the copies shall be on 8 1/2 by 11 inch white paper of a weight normally used in printing and typing. The copying process used shall produce text in a distinct black image on only one side of the paper. ~~The left~~

~~margin shall be wide enough to permit the text to be read after binding.~~ Color copies of exhibits that were originally in color are permitted and encouraged.

B. Order of Documents. Documents included in an Appendix shall be arranged in the order listed in Rule 50.

C. Numbering. All pages of the Appendix, including the front pages and tables of contents, shall be consecutively numbered at the bottom consecutively, beginning with numeral one and without obscuring the Transcript page numbers existing on the original documents, regardless of the number of volumes the Appendix requires.

D. Binding Volumes. All Appendices shall be ~~bound~~ submitted separately from the brief. ~~No more than~~ An Appendix volume may not exceed either two hundred fifty (250) PDF or PDF/A pages or 20 megabytes. Conventionally filed ~~Each volume~~ shall be bound with a single staple or binder clip. ~~They shall not along the left margin. 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.~~ Each volume shall contain a table of contents for the entire Appendix ~~which shall not be included in the page count for that volume.~~

E. Cover Front Page. Each volume of a ~~separately bound~~ an Appendix shall have a front and back cover. ~~Each cover of a separately bound Appendix shall be the same color as the brief filed by that party, and the front cover shall state the name of the party submitting the appendix and the brief with which it is submitted, if any. The front cover page that shall conform~~ substantially to Form #App.R. 51-1.

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Rule 68. Electronic Filing and Electronic Service

A. User Agreement Required. Every User must execute a User Agreement with one or more Electronic Filing Service Provider(s) before that User may utilize the IEFS.

B. [Reserved]

C. [Reserved]

D. Proof of Filing. Users should print or otherwise save each Notice of Electronic Filing as proof of E-Filing. Confirmation of E-Filing may also be made by referring to the Chronological Case Summary of the court in which the case is pending through the Case Management System of that court.

E. Conventionally Filed Documents. Conventionally filed documents must be entered into the IEFS by the Clerk. If the original documents cannot be converted into a legible electronic document, then the originals must be placed into the case file and that action must be noted in the Chronological Case Summary. The filer must also conventionally serve these documents in accordance with these Rules.

F. Service.

(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 IEFS. E-service

has the same legal effect as service of an original paper document. E-service of a document through the IEFS 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 these Rules.

(2) *Service on Others.* Service of documents on attorneys of record or on unrepresented parties who are not Registered Users must be as provided by these Rules.

G. Format Requirements.

(1) Documents filed electronically must be formatted in conformity with these Rules and the requirements of the IEFS.

(2) All documents must be submitted in the manner required by the E-Filing Service Provider.

H. Signature.

(1) All documents electronically filed that require a signature must include a person's signature using one of the following methods:

(a) a graphic image of a handwritten signature, including an actual signature on a scanned document; or

(b) the indicator "/s/" followed by the person's name.

(2) A document that is signed and E-filed must be subject to the terms and provisions of Appellate 23(E). A Registered User may include the Signature of other attorneys in documents E-filed with the court but in doing so represents to the court that any such Signature is authorized.

I. Time and Effect. Subject to payment of all applicable fees, a document is considered E-filed on the date and time reflected in the Notice of Electronic Filing associated with the document. E-Filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with the time zone in the location of the court where the case is pending. E-Filing under these rules shall be available 24 hours a day, except for times of required maintenance.

J. Official Court Record. The electronic version of a document filed with or generated by the court under this rule is an official court record.

K. [Reserved]

L. 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 and these Rules, the User must identify that confidential information and e-file both an unredacted copy of the document and a version 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.

M. Inability to E-file.

(1) *Indiana E-Filing System Failures.*

(a) The rights of the parties shall not be affected by an IEFS failure.

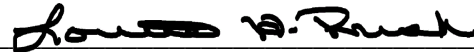
(b) When E-Filing is prevented by an IEFS failure, a User or party may revert to conventional filing.

(c) With the exception of deadlines that by law cannot be extended, when E-Filing is prevented by an IEFS failure, the time allowed for the filing of any document otherwise due at the time of the IEFS failure must be extended by one day for each day on which such failure occurs, unless otherwise ordered by the court.

(d) Upon motion and a showing of an IEFS failure the Court must enter an order permitting the document to be considered timely filed and may modify responsive deadlines accordingly.

(2) Other Failures Not Caused by the User who was Adversely Affected. When E-Filing is prevented by any other circumstance not caused by the User who was adversely affected, the User may bring such circumstances to the attention of the Court and request relief as provided in Appellate Rule 35, or the User may revert to conventional filing.

Done at Indianapolis, Indiana, on 11/6/2015 .



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.