

# In the Indiana Supreme Court

CAUSE NUMBER: 94S00-0909-MS-

## 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 Appellate Rules 4, 5, 15, 16, 20, 44, 66 and Form 15-1 are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

...

### **Rule 4. Supreme Court Jurisdiction**

#### **A. Appellate Jurisdiction.**

...

(3) Certain Interlocutory Appeals. The Supreme Court shall have jurisdiction over interlocutory appeals authorized under Appellate Rule 14 in any case in which the State seeks the death penalty or in life without parole cases in which the interlocutory order raises a question of interpretation of IC 35-50-2-9.

...

### **Rule 5. Court Of Appeals Jurisdiction**

...

**B. Appeals From Interlocutory Orders.** The Court of Appeals shall have jurisdiction over appeals of interlocutory orders under Rule 14 except those appeals described in Rule 4(A)(3).

...

### **Rule 15. Appellant's Case Summary**

...

**C. Content.** The Appellant's Case Summary shall set forth the following information, as applicable:

...

*(4) Appeal Information.*

- (a) A short and plain statement of the anticipated issues on appeal; provided, however, that the statement of anticipated issues shall not prevent the raising of any issue on appeal;
- (b) Prior appeals in same case;
- (c) Related appeals (prior, pending or potential) known to the party;
- (d) Whether a motion for oral argument will be filed;
- (e) Whether a motion for pre-appeal conference will be filed;
- (f) In Criminal Appeals, the status of the defendant (e.g., on bond, incarcerated and, if so, where);
- (g) Whether Alternative Dispute Resolution has been used and whether appellant is willing to participate in Appellate ADR~~it should be used on appeal~~;

...

### **Rule 16. Appearances**

**A. Initiating Parties.** The filing of an Appellant's Case Summary pursuant to Rule 15 satisfies the requirement to file an appearance.

**B. Responding Parties.** All other parties participating in an appeal shall file an appearance form with the Clerk. 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) days after the filing of the first Appellant’s Case Summary or contemporaneously with the first document filed by the appearing party, whichever comes first. The appearance form shall contain the following:

- (1) Name and address of the appearing party, and if the appearing party is not represented by counsel, the party’s FAX number, telephone number, and electronic mail address, if any;
- (2) Name, address, attorney number, telephone number, FAX number, and electronic mail address, if any, of the attorneys representing the parties; ~~and~~
- (3) Whether the attorney requests transmittal of orders and opinions by FAX pursuant to Rule 26-; and
- (4) If it is a civil case, whether Appellee is willing to participate in Appellate ADR.

...

**Rule 20. Appellate Alternative Dispute Resolution**

The parties in civil cases are encouraged to consider appellate mediation. The Court on Appeal may, upon motion of any party or its own motion, conduct or order appellate alternative dispute resolution.

...

**Rule 44. Brief And Petition Length Limitations**

...

**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: ten (10) pages

Brief in response to a Petition seeking Transfer: ten (10) pages

Reply brief to brief in response to a Petition seeking Transfer: three (3) pages

Brief of intervenor or amicus curiae on transfer or rehearing: ten (10) pages

Petition for Review of a Tax Court decision: thirty (30) pages

Brief in response to a Petition for Review of a Tax Court decision: thirty (30) pages

Reply brief to brief in response to a Petition for Review of a Tax Court decision: 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: 4,200 words

Brief in response to a Petition seeking Transfer: 4,200 words

Reply brief to brief in response to a Petition seeking Transfer: 1,000 words

Brief of intervenor or amicus curiae on transfer or rehearing: 4,200 words

Petition for Review of a Tax Court decision: 14,000 words

Brief in response to a Petition for Review of a Tax Court decision: 14,000 words

Reply brief to brief in response to a Petition for Review of a Tax Court decision: 7,000 words

...

**Rule 66. Relief Available on Appeal**

...

**E. Damages Against Appellant for Frivolous or Bad Faith Filings.** The Court may assess damages if an appeal, petition, or motion, or response, is frivolous or in bad faith. Damages shall be in the Court’s discretion and may include attorneys’ fees. The Court shall remand the case for execution.

...

**Form App. R. 15-1. Appellant’s Case Summary (Appearance)**

IN THE INDIANA [SUPREME COURT/COURT OF APPEALS/TAX COURT]  
CAUSE NO. \_\_\_\_\_

NAME, )  
[Appellant/Petitioner/ ) [Appeal or petition] from the \_\_\_\_\_  
Plaintiff/Defendant,] ) \_\_\_\_\_ Court.  
)  
v. ) Trial Court case no.: \_\_\_\_\_  
) \_\_\_\_\_  
NAME, )  
[Appellee/Respondent/ ) The Honorable \_\_\_\_\_  
Plaintiff/Defendant.] ) \_\_\_\_\_, Judge.

**APPELLANT’S CASE SUMMARY  
(Appearance)**

**Party Information**

Party or parties that filed Notice of Appeal:

Name: \_\_\_\_\_ Tel. No.: \_\_\_\_\_ (Only if unrepresented by counsel)  
Address: \_\_\_\_\_

Attorney or attorneys representing party filing a Notice of Appeal:

Name: \_\_\_\_\_ Attorney # \_\_\_\_\_  
Address: \_\_\_\_\_  
Tel. No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Requesting service of orders and opinions of the Court by FAX: Yes  1 No  2

*In forma pauperis:* Yes [ ] No [ ] (if yes, attach proof of appointment or proof on indigency).

**Trial Information**

Date case commenced: \_\_\_\_\_  
Date of Judgment/order: \_\_\_\_\_ (Attach copy of judgment or order appealed from including findings and conclusions (civil) and sentencing order (criminal))

Check the appropriate line(s) to show the ruling being appealed:

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> 3 Administrative ruling  | <input type="checkbox"/> 4 Injunction               | <input type="checkbox"/> 5 (Judgment notwithstanding the verdict) |
| <input type="checkbox"/> 6 Declaratory judgment   | <input type="checkbox"/> 7 Judgment (bench trial)   | <input type="checkbox"/> 8 Judgment (probation revocation)        |
| <input type="checkbox"/> 9 Directed verdict       | <input type="checkbox"/> 10 Judgment (guilty plea)  | <input type="checkbox"/> 11 Summary judgment                      |
| <input type="checkbox"/> 12 Dismissed             | <input type="checkbox"/> 13 Judgment (jury verdict) |   |
| <input type="checkbox"/> 14 Other (specify) _____ |   |   |

Is this a final judgment as to all claims and all parties?  15 Yes  16 No

If no, state the basis on which the judgment/order is immediately appealable.

T.R. 54(B)  17 App.R. 14(A)(1-9)  18 App.R. 14(B)  19

Did the trial court issue an order sealing or excluding from public access all or any portion of the trial court records?  20 Yes  21 No

If yes, attach copies of all orders and entries relating to the trial court's decision to seal or exclude information from public access.

Check the appropriate line(s) best describing the nature of the case:

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> 22 Attorney's fees                      | <input type="checkbox"/> 36 Education law          | <input type="checkbox"/> 51 Professional malpractice       |
| <input type="checkbox"/> 23 Child custody/support                | <input type="checkbox"/> 37 Employment and labor   | <input type="checkbox"/> 52 Real property rights           |
| <input type="checkbox"/> 24 Civil rights                         | <input type="checkbox"/> 38 Environmental law      | <input type="checkbox"/> 53 Sanctions                      |
| <input type="checkbox"/> 25 Construction law                     | <input type="checkbox"/> 39 Equitable distribution | <input type="checkbox"/> 54 Taxation                       |
| <input type="checkbox"/> 26 Contempt                             | <input type="checkbox"/> 40 Guardianship           | <input type="checkbox"/> 55 Termination of parental rights |
| <input type="checkbox"/> 27 Contract law                         | <input type="checkbox"/> 41 Health care            | <input type="checkbox"/> 56 Tort claims act                |
| <input type="checkbox"/> 28 Corporate law                        | <input type="checkbox"/> 42 Insurance, auto        | <input type="checkbox"/> 57 Unemployment compensation      |
| <input type="checkbox"/> 29 Criminal law, Misdemeanor            | <input type="checkbox"/> 43 Insurance, other       | <input type="checkbox"/> 58 Unfair and deceptive practices |
| <input type="checkbox"/> 30 Criminal law, habitual felon         | <input type="checkbox"/> 44 Intentional torts      | <input type="checkbox"/> 59 Utilities                      |
| <input type="checkbox"/> 31 Criminal law, probation revocation   | <input type="checkbox"/> 45 Juvenile               | <input type="checkbox"/> 60 Wills, trusts, estates         |
| <input type="checkbox"/> 32 Criminal law, post conviction relief | <input type="checkbox"/> 46 Landlord/tenant        | <input type="checkbox"/> 61 Workers' compensation          |
| Specify _____  | <input type="checkbox"/> 47 Municipal law          | <input type="checkbox"/> 62 Wrongful death                 |
| <input type="checkbox"/> 33 Debtor/creditor rights               | <input type="checkbox"/> 48 Negligence             | <input type="checkbox"/> 63 Wrongful discharge             |
| <input type="checkbox"/> 34 Dissolution of marriage              | <input type="checkbox"/> 49 Paternity              | <input type="checkbox"/> 64 Zoning/annexation              |
| <input type="checkbox"/> 35 Driver's license revocation          | <input type="checkbox"/> 50 Products liability     |  |
| <input type="checkbox"/> 65 Other _____                          |  |  |

Synopsis of judgment and sentence, if applicable: \_\_\_\_\_

### Record Information

Date notice of appeal filed \_\_\_\_\_ (Attach copy of ~~n~~Notice of ~~a~~Appeal)

Date clerk's record due to be assembled: \_\_\_\_\_

Transcript information:

Court reporter responsible for preparing transcript (Name, address, telephone number):  
\_\_\_\_\_

Transcript ordered: Yes  66 No  67 Payment arrangements made: Yes  68 No  69

If no, reason not ordered or made: \_\_\_\_\_

Est. Transcript length \_\_\_\_\_ pp.

Transcript due date: \_\_\_\_\_

### Appeal Information

A short and plain statement of the anticipated issues on appeal: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (Attach copy of motion to correct errors)

Prior appeals in this case with cause number: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Related appeals with Cause Number (prior, pending, or potential): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Motion for oral argument will be filed: Yes 70 No 71 Undecided 72

Motion for pre-appeal conference will be filed: No 73 Yes 74  
 Purpose: Shorten record 75 Appellate ADR 76 Refine issues 77  
 Other 7778

If civil case, was ADR used in the trial court? Yes 79 No 80  
 If civil case, is Appellant willing to participate in Appellate ADR? Yes 81 No 82  
 If yes, provide a brief statement of the facts of the case. Attach additional pages as needed.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

If criminal case, status of defendant: On bond 8183 Incarcerated 8284  
 Location: \_\_\_\_\_

I certify that this case does does not involve issues relating to child custody, child support, child visitation, paternity, termination of parental rights, CHINS, adoption, or any other issue entitled to priority by statute.

I also certify that I have reviewed and complied, and will continue to comply, with the requirements of Indiana Administrative Rule 9(G)(4) to the extent it applies to this appeal.

\_\_\_\_\_  
 /s/ Attorney/or pro se litigant's signature

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the forgoing was served upon the following counsel of record by [state method of service]:

\_\_\_\_\_  
 \_\_\_\_\_

[List Counsel served (including name and address where served)]:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_  
 [Signature]

These amendments shall take effect January 1, 2010.

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 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 15th day of September, 2009.

/s/ Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.