V DEPOSITIONS	AND DISCO	VEDV (CON	TINITED)
V DEPOSITIONS	AND DISCO	IVERKY (CCUIN)	

v 1011	OSITIONS IND BISCOVER (CONTINUED)
Trial	Rule 34 Production of Documents, Electronically Stored
	Information, and Things and Entry upon Land for
0.4	Inspection and Other Purposes
34	
34	
	relevance; requirements for making a request; and
34	enforcement .3 Reasonable particularity
$\frac{34}{34}$	1 0
$\frac{54}{34}$	
$\frac{34}{34}$	
	camera review
34	
34	.8 How the claim of medical privilege relates to a party and non-party
34	.9 Evidence—A few general comments, and an exception to the "best evidence" rule
34	.10 Non-party criminal discovery under Trial Rule 34: Privilege
-	and other discovery issues
Trial	Rule 35 Physical and Mental Examination of Persons
	.1 History of court ordered physical and mental examinations
	before Ind. Trial Rule 35
35	.2 Amendments to Trial Rule 35
35	.3 General operation of Trial Rule 35
35	.4 In controversy; good cause
35	.5 Conduct of the examination—Tape recording or third party
	attendance
35	P
	parties
35	.7 Indiana's waiver of the physician-patient privilege, and related problems and holdings
Trial	Rule 36 Requests for Admission
36	.1 History of the request for admission; key changes implemented by Ind. Trial Rule 36
36	.2 Purpose and use
36	.3 Duty of the requesting party
36	
36	1
36	
36	

Withdrawal and amendment of admissions, and appellate

review

Rules Of Procedure Annotated—Indiana Practice Series

- 36.9 Trial Rule 36 and the Indiana Rules of Evidence; the Admission Problem
- Trial Rule 37 Failure to Make or Cooperate in Discovery: Sanctions
 - 37.0 Historic Background
 - 37.1 Indiana's history in Trial Rule 37, and enforcement powers
 - 37.2 Applications of Trial Rule 37 in actions other than a civil action in a court of general jurisdiction
 - 37.3 Motion for order compelling discovery—Procedure when privilege asserted
 - 37.4 Motion for order compelling discovery—Orders
 - 37.5 Sanctions available when the trial court's order is disregarded
 - 37.6 Effect of dismissal or default judgment
 - 37.7 Spoilation of evidence
 - 37.8 Representative illustrations and comments discussing sanctions imposed

VI TRIALS

- Trial Rule 38 Jury Trial of Right
 - 38.0 Rule Changes
 - 38.1 Jury trial in Indiana—Issues or causes of action
 - 38.2 Jury trial in Indiana—Trial Rule 38(A) absorbs Trial Rules 38(C) and 39(A)
 - 38.3 Jury trial in Indiana—The "totality of the proceedings"
 - 38.4 Demand for jury trial and specification of issues
 - 38.5 Time for demand; How to handle a belated demand
 - 38.6 How the demand must be made
 - 38.7 Demand for jury trial—When pleadings are amended
 - 38.8 Waiver
- Trial Rule 39 Trial by Jury or by the Court
 - 39.0 Rule changes
 - 39.1 Trial by jury—Overview
 - 39.2 Trial by jury—Limited to claims, not issues
 - 39.3 Trial by jury-waiver and estoppel
 - 39.4 Trial by advisory jury and by consent—Advisory jury
 - 39.5 Trial by advisory jury and by consent—A jury by consent
 - 39.6 Rulings of the court—Objections
- 39.7 Findings of fact if an advisory jury is used
- Trial Rule 40 Assignment of Cases for Trial
- Trial Rule 41 Dismissal of Actions
 - 41.1 Voluntary dismissal—By plaintiff
 - 41.2 Voluntary dismissal—Evidentiary Hearing may Defeat Dismissal
 - 41.3 Voluntary dismissal—Right to Dismiss is not absolute
 - 41.4 Plaintiff's voluntary dismissal does necessarily require

- dismissal of other pending claims; Trial Rule 41(A) applies to claims not actions
- 41.5 Effect of voluntary dismissal—Statute of limitations
- 41.6 Voluntary dismissal at common law; retraxit
- 41.7 Voluntary dismissal—By order of court
- 41.8 Voluntary dismissal and Trial Rule 15
- 41.9 Trial Rule 41(B)—Involuntary dismissal—History in Indiana after 1970, including the 1982 amendment
- 41.10 Involuntary dismissal—Overview
- 41.11 Involuntary dismissals—Findings of fact; review of findings
- 41.12 Involuntary dismissals—Review of "negative judgment" or judgment against plaintiff or burdened party
- 41.13 Dismissal of a counterclaim, cross-claim, or third-party claim
- 41.14 Costs of previously dismissed action
- 41.15 Failure to prosecute civil actions or comply with rules— Dismissal under Trial Rule 41(E)
- 41.16 Failure to prosecute civil actions or comply with rules—A dismissal is with prejudice if it is within the court's jurisdiction
- 41.17 Overlap between Trial Rules 37(B) and 41(E)
- 41.18 Problem areas—Trial rule 41(E) is distinct from Indiana administrative statutes
- 41.19 Problem areas—A trial court's power under Trial Rules 41(E) and 41(F); and related issues
- 41.20 Reinstatement and Trial Rule 60
- 41.21 Standards for appellate review

Trial Rule 42 Consolidation—Separate Trials

- 42.0 Changes to Consolidation rule
- 42.1 Historical Use of Consolidation Before Trial Rule 42
- 42.2 Consolidation—Actions pending before same court
- 42.3 Trial Rule 42 compared with Trial Rules 18(A), 20(A) and 21(A)
- 42.4 Separate trials and submission to jury in stages; Trial Rules 42(B) and (C)
- 42.5 Historical background before Trial Rule 42(D): the power to consolidate under Trial Rule 42(A) did not permit transfer to another court; but it did not limit transfer under Trial Rule 21(B)
- 42.6 Consolidation—Actions pending in different courts; Trial Rule 42(D)

Trial Rule 43 Evidence

- 43.0 Rule changes
- 43.1 Comparison with the federal rule
- 43.2 Form and admissibility; witness testimony in open court; remote trials

Rules Of Procedure Annotated—Indiana Practice Series

43.4 Interpreters 43.5 How evidence is presented; order of proof 43.6 Discretion of the Court 43.7 Public access Proof of Official Record Trial Rule 44 44.1 Proof of official records Trial Rule 44.1 Determination of Foreign Law 44.1.1 Determination of foreign law 44.1.2 Determination of another Jurisdiction's law 44.1.3 Review 44.1.4 Choice of Law Trial Rule 45 Subpoena 45.1 Rule changes 45.2Subpoena-Form and issuance; overview 45.3Subpoena—Service 45.4Service—Tender of fees 45.5Subpoena duces tecum 45.6 Subpoena duces tecum—Compared to subpoena ad testificandum 45.7Subpoena duces tecum—Compared with Trial Rule 34(B) 45.8 Subpoena duces tecum—Protective orders 45.9Enforcement by contempt 45.10Geographical reach—Subpoenas for trial 45.11Subpoenas for depositions 45.12 Geographic reach—Subpoenas for deposition 45.13 Criminal cases Trial Rule 46 **Exceptions Unnecessary** 46.1 Preserving errors for review 46.2Continuing objection 46.3Motion in limine Trial Rule 47 Jurors and Peremptory Challenges 47.1 History of the rule in Indiana 47.2Jury pool; assembly and selection; systematic exclusion Number of jurors; alternate jurors; grounds for replacing 47.3juror; hearing 47.4 Voir dire; impartial jury requirement 47.5 Peremptory challenges 47.6 Challenges for cause 47.7 Waiver; exhaustion rule 47.8 Challenge to the array Trial Rule 48 Juries of Less Than Six—Majority Verdict Trial Rule 49 Special Verdicts and Interrogatories 49.1 Special verdicts Trial Rule 50 Judgment on the Evidence (Directed Verdict)

Evidence on motions

- 50.0 Introduction to Trial Rule 50 and an explanation of Subsections 50.3 through 50.11 in these Author's Comments
- 50.1 The Rule as Adopted in 1970, and comparisons with Federal Rule 50
- 50.2 The motion, the tests by which it is determined and reviewed, and New Trial: Indiana's Current Standards
- 50.3 The historical distinctions in judgments on the evidence as they began to appear between 1967 and 1971
- 50.4 The "Hendrix-Miller" Standard
- 50.5 The "Hendrix-Miller" standard and a brief comparative legal history with other American jurisdictions
- 50.6 The Indiana Origin of the "Hendrix-Miller" Standard, or the "Scintilla Rule," in 19th and 20th Century Indiana Decisions—The Appearance of the Scintilla Rule in the 1820s and its use until the 1860s
- 50.7 The Indiana Origin of the "Hendrix-Miller" Standard, or the "Scintilla Rule," in 19th and 20th century Indiana Decisions—A mature understanding of evidence replaces the Scintilla Rule, between the 1870s and the 1890s
- 50.8 The Indiana Origin of the "Hendrix-Miller" Standard, or the "Scintilla Rule," in 19th and 20th Century Indiana Decisions—Between the late 1890s and the early 1940s Indiana courts accept dual and competing standards: The "Scintilla rule" is textually denied, but functionally approved
- 50.9 The Indiana Origin of the "Hendrix-Miller" Standard, or the "Scintilla Rule," in 19th and 20th Century Indiana Decisions—The Hendrix-Miller line of cases receives a foundation in 1954
- 50.10 The "Huff-American Optical" Standard
- 50.11 "Huff-American Optical" as applied in one Federal Appellate Court Opinion
- 50.12 Appellate review—Standard for reviewing Trial Court's ruling on motion for judgment on the evidence
- 50.13 Appellate Review—Standard for reviewing Trial Court's order that grants motion at close of plaintiff's case
- Trial Rule 51 Instructions to Jury: Objections, Requests: Submission in Stages
 - 51.0 Rule changes
 - 51.1 Instructions; overview of Trial Rule 51 and Jury Rules 14, 20, and 26
 - 51.2 Objecting to instructions; preservation of error when instructions are given, omitted, or refused
 - 51.3 Limiting instructions and admonishments
- Trial Rule 52 Findings by the Court
 - 52.1 Overview; purpose of court findings; submission by parties

RULES OF PROCEDURE ANNOTATED—INDIANA PRACTICE SERIES

52.2	When a court must make special findings of fact
52.3	Proposed findings and findings upon less than all issues in the case
52.4	Amendment of findings and judgment
52.5	Review on appeal—Overview
52.6	Review on appeal—Of a general finding; negative judgment
52.7	Review on appeal—The clearly erroneous standard
52.8	Review on appeal—When findings are clearly erroneous; or
	an incorrect legal standard was used
52.9	Review on appeal—The clearly erroneous doctrine does not apply in Indiana to a "documents case"
52.10	Review on appeal—The clearly erroneous rule and
	preliminary injunctions
52.11	Review on appeal—Review of specific or special findings of fact
52.12	Review on appeal—Review of specific findings when made in a summary judgment setting

Table of Laws and Rules

Table of Cases

Index

VI TRIALS	(CONTINUED)
Trial Rule	53 Masters
	rial by masters, in general
	owers of masters
	roceedings before a master
	faster's report
	aws not affected
	53.1 Failure to Rule on Motion
	Rule Changes
53.1.1	
	Exceptions to withdrawing submission because of a failure to rule on a motion
53.1.3	Time for ruling
53.1.4	Time for ruling—Injunctions: Interplay between Trial Rules 53.1 and $65(A)(3)$
53.1.5	Extension of time for ruling
53.1.6	Procedure for withdrawing a case
53.1.7	Waiver
53.1.8	Report to the Supreme Court
53.1.9	Permanent record
Trial Rule	53.2 Time for Holding Issue under Advisement; Delay of Entering a Judgment
53.2.0	Historical Notes and Amendments to the Rule
53.2.1	Time for holding an issue under advisement; delay of entering a judgment
53.2.2	Exceptions to the rule
53.2.3	Time of decision
53.2.4	Procedure for withdrawing submission
53.2.5	Report to Supreme Court
Trial Rule	8
53.3.0	Historical Notes on Rule changes
53.3.1	Motion to correct rrror—Overview; time limitations for ruling; cross-appeal
Trial Rule	53.4 Repetitive Motions and Motions to Reconsider; Time for Holding under Advisement; Automatic Denial
53.4.0	Historical Note
53.4.1	Repetitive motions; court's power to reconsider; overview
53.4.2	Hearing not required
53.4.3	The "automatic" denial provision
Trial Rule	53.5 Continuances
53.5.0	Historical Note

- 53.5.1 Continuances; overview
- 53.5.2 Criminal and civil cases and continuances

VII JUDGMENT

- Trial Rule 54 Judgment; Costs
 - 54.0 History of Rule
 - 54.1 Judgment; overview
 - 54.2 Judgment in action involving multiple claims or parties— Indiana moves away from "Distinct and Definite" Doctrine in Trial Rule 54(B) Cases
 - 54.3 Judgment in action involving multiple claims or parties— Trial Rule 54(B)'s certification requirements
 - 54.4 Demand for judgment and the trial court's authority to grant relief according to the evidence
 - 54.5 Demand for Judgment—Claim preclusion or res judicata
 - 54.6 Costs; taxing attorney fees and other litigation expenses as
 - 54.7 Attorney fees; sanctions for bad conduct; reasonableness of
 - 54.8 Costs, and the claim that attorney fees and other expenses should be taxed as costs—Fundamental Indiana Attorney Fee-Shifting Decisions and Policies
 - 54.9 Federal and Seventh Circuit cases on costs: Witness fees, depositions, and expenses
 - 54.10 Judgments severable
- Trial Rule 55 Default
 - 55.0 History of Rule
 - 55.1 Entry of default; history and current use of Trial Rule 55(A)
 - 55.2 Default judgment; notice and hearing; overview of Trial Rule 55
 - 55.3 Entry of default judgment—Default for failure to plead, but the complaint and summons were not served on defendant
 - 55.4 Entry of default judgment—Defendant answers but does not appear at trial
 - 55.5 Entry of default judgment—Appearance and withdrawal
 - 55.6 Attorney misconduct in failing to give notice; an exception to the three-day notice rule?
 - 55.7 Entry of default judgment—Default for failure to comply with trial rules; a comment about discovery
 - 55.8 Entry of default judgment—Entry of default and judgment of default
 - 55.9 Indiana policies concerning default judgment
 - 55.10 Additional comments about three-day notice requirement, and more
- 55.11 Trial relief; finality of judgment; appellate review Trial Rule 56 Summary Judgment

56.0	Rule changes
56.1	History, purpose of Trial Rule 56, and general application
56.2	Restriction on use of summary judgment; Trial Rule 12(B)
56.3	Standard and proof of motion; a trial court's hearing
56.4	Time Requirements; extensions; Trial Rule 56(F) and 56(I)
56.5	Summary judgment: Conversion of Motion to Dismiss under Trial Rule 12(B)(6); notice of conversion
56.6	The trial court's power to grant a complete or partial summary judgment
56.7	Motions by both parties
56.8	The designation of evidence
56.9	Burdens of producing evidence on summary judgment issues of material fact(s), and the controlling legal standard in the case
56.10	Supporting materials
56.11	Supporting materials—Affidavits
56.12	Supporting materials—Testimony
56.13	A partial summary judgment—The denial of the motion
56.14	Appellate review

Table of Laws and Rules

Table of Cases

Index