

20S-CB-177

BEFORE THE INDIANA SUPREME COURT

INDIANAPOLIS, INDIANA

CASE NO.

EMERGENCY PETITION FOR ADMINISTRATIVE ORDERS

The Elkhart Circuit Court, the Elkhart Superior Courts, Elkhart City Court, Goshen City Court and Nappanee City Court having conferred with local officials, petition the Supreme Court for relief under Ind. Administrative Rule 17. In support of this petition, the courts state as follows:

1. The World Health Organization (WHO) has determined the outbreak of COVID-19 a worldwide pandemic.
2. States of Emergency have been declared in over 20 states, including the State of Indiana, and Indiana has recorded its second death attributed to COVID-19.
3. The Center for Disease Control (CDC) has determined that “social distancing” is a necessary strategy for the prevention of the further spread of the virus.
4. The CDC has further determined that drastic steps are immediately required to halt the spread of the virus, prevent illness and death. The CDC is recommending that gatherings of 50 people or more in the US be canceled or postponed over the next eight weeks because of the coronavirus pandemic.
5. The “President’s Coronavirus Guidelines for America” indicate “People should avoid gathering in groups of more than 10.”

6. In the State of Indiana, the University of Notre Dame, Indiana University and Purdue University, among others, are utilizing social distancing by cancelling all in person classes for a substantial period of time up to and including the remainder of the 2019-2020 academic school year.
7. The most recent information available identifies those over the age of 60 as the population most susceptible to serious complications from the COVID-19 virus.
8. A review of jury summons to be issued this week reveals the over 60 population constituted 20% of the jury pool.
9. Ordering a susceptible population to appear for Jury Service in a pandemic would be irresponsible.
10. Elkhart County does not possess adequate hygiene stations or supplies for the dozens of jurors required for the selection of a jury in civil and criminal cases.
11. In addition, the ordering of individuals to convene in a group setting at this time, given the WHO, CDC and Federal government recommendation's would create an unnecessarily stressful situation for summoned jurors. Jurors should not have to weigh compliance with a juror summons against possible contraction of COVID-19.

Therefore, the judges of Elkhart County request that the Supreme Court declare an emergency exists in Elkhart County under the authority of Ind. Admin. R. 17 and that the Supreme Court Order the following:

Beginning March 18, 2020, and until May 11, 2020:

- A. Tolling all laws, rules, and procedures setting time limits for speedy trials in criminal and juvenile proceedings, public

health, mental health, and appellate matters; all judgments, support, and other orders; and in all other civil and criminal matters.

- B. Suspend or reschedule criminal and civil jury trials, subject in criminal cases to the Constitutional right to speedy trial and Constitutional protection against double jeopardy.
- C. Suspend new juror orientations, extend existing jury panels, or postponing jury service to a later date for jurors who are ill, caring for someone who is ill, or in a high-risk category.
- D. Continue or reschedule non-essential hearings in civil, domestic relations, juvenile and criminal cases, including, but not limited to: summary domestic relations hearings, routine criminal proceedings such as Initial Hearings; violation of supervision, financial compliance, status hearings and pre-trial conferences, as well as, small claims hearings, collection hearings and proceeding supplemental hearings, but excluding emergency matters such as essential domestic violence hearings for the protection of life or limb, and required evidentiary hearings in criminal cases.
- E. Using telephonic or video technology in lieu of in-person appearances, unless a litigant's due process rights would be violated.
- F. Allow Elkhart County Judges the flexibility to exercise general jurisdiction over cases in any court in the county.
- G. Issue summonses in lieu of bench warrants or notices of failure to appear.
- H. Consider (a) the existence of flu or flu-like symptoms in any attorney, self-represented litigant, spectators or witness expected to testify; (b) exposure of such individuals to anyone who has or may have COVID-19; or (c) status of such individuals in a high risk

category; to constitute “good cause” to either appear remotely or continue a court setting, to the extent possible without violating statutory or constitutional rights.

- I. Allow any attorney wishing to appear remotely; that is, through teleconference or video systems, for any status conference or non-evidentiary hearing without further leave of court upon filing a “Notice of Remote Appearance” in the court in which the matter will be heard.
- J. Balancing applicable Constitutional considerations and Public Safety to limit spectators in courtrooms to the extent necessary to provide adequate social distancing.
- K. Allow the Elkhart County Clerk to provide drop boxes for conventionally filed documents by self-represented litigants at the Clerk’s discretion.
- L. Allow bailiffs or court security personnel to inquire and consider the following when allowing entrance to court facilities or individual courtrooms, if the individual has:
 - 1. Visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC in the previous 14 days;
 - 2. Resided with or been in close contact with someone who has been in any of those countries within the previous 14 days;
 - 3. Traveled domestically within the United States where COVID-19 has sustained widespread community transmission;
 - 4. Been asked to self-quarantine by any doctor, hospital, or health agency;

5. Been diagnosed with or had contact with anyone who has been diagnosed with COVID-19; or

6. A fever, cough or shortness of breath.

A bailiff or court security personnel may deny entrance to individuals attempting to enter in violation of these protocols: 1 – 6 immediately above.

Signage to be posted at public entry points to judicial facilities and courtrooms advising individuals of these protocols: 1 -6 immediately above.

M. Allow individuals with legitimate court business to not attend court and request a continuance by phone to Court Staff if they are ill, caring for someone who is ill, or in a high-risk category.

N. Provide sanitation material, such as hand sanitizer or bleach wipes, as available, at all courtroom entrances and counsel tables.

O. Grant Elkhart County Judges discretion in all of these matters that serve the interest of justice and public safety.

Respectfully Submitted, March 18, 2020

/S/ Michael Christofeno

Judge Michael Christofeno
Elkhart Circuit Court

/S/ Kristi Osterday

Judge Kristi Osterday
Elkhart Superior Court 1

/S/ Stephen R. Bowers

Judge Stephen R. Bowers
Elkhart Superior Court 2

/S/ Theresa Cataldo

Judge Theresa Cataldo
Elkhart Superior Court 3

/S/ Gretchen Lund
Judge Gretchen Lund
Elkhart Superior Court 4

/S/ Charles Carter Wicks
Judge Charles Carter Wicks
Elkhart Superior Court 5

/S/ David C. Bonfiglio
Judge David C. Bonfiglio
Elkhart Superior Court 6

/S/ Richard L. Mehl
Judge Richard L. Mehl
Goshen City Court

/S/ Christopher G. Walter
Judge Christopher G. Walter
Judge Nappanee City Court

/S/ Charles H. Grodnik
Judge Charles H. Grodnik
Elkhart City Court