

In the Matter of Administrative  
Rule 17 Emergency Relief for  
Indiana Trial Courts, specifically  
Clay Circuit and Clay Superior Court,  
related to the 2019 Novel Coronavirus  
(COVID-19).

SUPREME COURT CASE NO.  
20S-CB-176  
CAUSE NO. 11C01-2003-CB-000173

**AMENDED EMERGENCY PETITION**  
**FOR RELIEF UNDER ADMINISTRATIVE RULE 17**

On the 17<sup>th</sup> day of March, 2020, the Clay County Circuit and Superior Courts met together and with Clay County Commissioners, Clay County Council, all Clay County office holders, Clay County Emergency Management, and Clay County Health Department on an emergency basis to discuss concerns and developing issues with the Coronavirus and its implications for Clay County, the Clay County Courthouse and the Clay County Courts. Further, having received the Indiana Supreme Court's Order dated March 16,2020, directing all trial courts to take necessary action in regard to a plan for the courts in conjunction with the other relevant county officials identified above to protect the health of Court personnel, court users and the public now petitions the Supreme Court for relief under Ind. Administrative Rule 1.7. In support of this petition, the Courts inform the Supreme Court as follows:

1. The World Health Organization (WHO) has determined the outbreak of COVID-19 a worldwide pandemic. States of emergency have been declared in 20 states including the State of Indiana, and COVID-19 cases have been reported in 49 states. 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. The CDC has further determined that drastic steps are immediately required to halt the spread of the virus and to protect public health care systems from being inundated.
2. On March 15,2020, the "CDC" urged people to postpone events with 50 or more attendees for the next 8 weeks to try and contain this fast moving Coronavirus pandemic. This number went down to events with 10 attendees as of March 16,2020. 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.
3. The most recent information available in consultation with the Clay County Jury Pool Administrator would indicate an estimation that approximately 35% of jurors called in Clay County, Indiana to be in the quarterly jury pool are over the age of 60. The Court finds that ordering a susceptible population to appear for jury service in this pandemic climate represents a failure of the judiciary to halt the spread of COVID-19. According to the Indiana State Lieutenant Governor, as of March 14, 2020 there were no test kits available in Clay County, Indiana.

4. In the Clay Circuit and Superior Courts following Spring Break, which is the week of March 23, 2020, the Circuit Court has 6 jury trials scheduled for March 30, 2020 and Clay Superior has 3 jury trials scheduled for March 30, 2020, the Circuit Court has 5 jury trials scheduled for April 6, 2020 and Clay Superior has 3 jury trials scheduled for April 6, 2020, the Circuit Court has 7 jury trials scheduled for April 13, 2020 including 2 fast and speedy trials and the Clay Superior Court has 5 jury trials scheduled for April 13, 2020, the Circuit Court has 9 jury trials scheduled for April 20, 2020 with a trial involving criminal rule 4 and Clay Superior has 5 jury trials scheduled for April 20, 2020, the Circuit Court has 5 jury trials scheduled for April 27, 2020 and the Clay Superior Court has 5 jury trials scheduled for April 27, 2020, the Circuit Court has 6 jury trials scheduled for May 4, 2020 including a fast and speedy trial and the Clay Superior Court has 6 jury trials scheduled for May 4, 2020, and the Circuit Court has 6 jury trials scheduled for May 11, 2020 including a fast and speedy trial and Superior Court has 3 jury trials scheduled.
5. The Court further finds that Clay County, Indiana does not possess adequate hygiene stations or supplies for the selection of a jury in a civil and criminal case as well as the general public entering in to and out of the courthouse. Although there are some hygiene stations, what has been requested of Clay County, is cost prohibited or not available for several weeks.
6. In addition, the ordering of individuals to convene in a group setting at this time, giving the WHO, CDC, and federal government recommendations would create an unnecessary stress situation for summonsed jurors. Jurors should not have to weigh the compliance between a jury summons and possible contraction of COVID-19.
7. The Courts of Clay County have been in communication with members of the Clay County Bar and they have indicated that they will comply with whatever the Supreme Court of Indiana directs.
8. The Courts of Clay County submits the following emergency plan for the period beginning March 18, 2020 to be reviewed again on April 17, 2020:
  - a. The immediate suspension of all jury trials with the tolling of time limits pertaining to Criminal Rule 4. If it is determined by the Supreme Court that the COVID-19 crisis has subsided, jury trials may begin no earlier than May 11, 2020, thus allowing for adequate notification of the jury pool. It is further requested that the summoning of the second quarter jury pool be delayed until Monday, March 23, 2020, so as to potentially avoid the numerous requests for deferral and questionnaires not returned.
  - b. The Court will hold pre-trial and discovery status hearings by counsel only. Counsel may appear remotely via Court call or Conference call. Counsel may submit a simple "notice of remote appearance" at least 24 hours prior to a scheduled hearing to inform the Court that they wish

to appear remotely.

Defendants will appear in Court via teleconference from the jail for any other hearing excepting contested sentencing hearings or jury trials.

The Court will continue non-essential criminal hearings until April 24, 2020, or as further directed by the Indiana Supreme Court.

- c. The Court will allow the parties to appear remotely via Court call or Conference call in all civil matters. The Court will continue civil pretrial conferences until April 24, 2020, or as directed by the Indiana Supreme Court. The Court will continue civil non-essential hearings that will not result in the resolution of the case until April 24, 2020, or as directed by the Indiana Supreme Court. The Court will exercise flexibility on requests for continuances.
- d. The Court will continue all civil bench trials until April 24, 2020, with jury trials to commence no sooner than May 11, 2020, or as directed by the Indiana Supreme Court. The Court will continue all bench trials for non-incarcerated individuals until a determination is made at the review hearing on April 17, 2020, or as directed by the Indiana Supreme Court. The Court will suspend issuing all civil body attachments and Title IV-D attachments at least until April 24, 2020, or as directed by the Indiana Supreme Court.
- e. The juvenile court will be clearing its docket and only hearing JD and JC detention hearings and other essential hearings beginning March 18, 2020 through April 24, 2020, or as directed by the Indiana Supreme Court as a result of the review.
- f. Only essential staff will be required to work effective March 18, 2020 and extending through April 24, 2020.
- g. The Court will continue periodic review hearings in JC cases. The Court will hold permanency hearings and any party or attorney wishing to appear telephonically may do so. Any attorney and/or his client wishing to appear remotely as a result of this motion shall file a simple "notice of remote appearance" so that the Court staff and Court are informed.
- h. In regard to JT cases, the Court will hold an initial hearing; however, any JC and JT fact-finding hearings scheduled to be held between the dates of 3/18/2020 and 4/24/2020, shall be continued with the time limits for said juvenile proceedings being tolled.
- i. Ever cognizant of the transparency of the Court, the Court will take steps to limit spectators in the court room to provide adequate social distancing where necessary. All essential parties, witnesses, and victims will be permitted to attend hearings if they do not pose a risk pursuant due to the criteria outlined below:
  1. Anyone experiencing symptoms of fever, cough, or shortness of breath;

2. Anyone having been in close contact with someone confirmed or has been evaluated for COVID-19;
  3. Or anyone that has recently visited areas that are subject to quarantine or result of COVID-19;
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9. If any of those criteria are present courthouse security may deny persons access to the court rooms or courthouse. Such persons may be allowed to participate remotely and telephonically.
  10. Unless otherwise ordered, all other essential civil court, protective orders, and domestic relations matters will proceed as scheduled with non-essential matters to be continued. Each judge will determine what they deem to be essential and non-essential matters while balancing the public health risk with the urgency of the matter in dispute. Conversion of in person proceedings to telephonic proceedings will be at the discretion of the judge.
  11. The Clay County Courts shall remain open. The Clerk's Office as well as Court staff will be available by telephone with electronic and regular mail being processed.
  12. That when appropriate and when available, certain staff members of the Clay Circuit and Clay Superior Courts may fulfill their work duties remotely at the discretion of the judge.
  13. The Clay Circuit Court/Clay Superior Court has appointed Joseph D. Trout of the Clay Circuit Court as presiding judge of this emergency.
  14. Therefore the judges of Clay County request that the Supreme Court declare an emergency exists in Clay County, Indiana under the authority of Indiana Administrative Rule 17 and to make appropriate emergency orders for Clay County directing and allowing the Courts and Clerk of Clay County to modify, and suspend necessary procedures as provided in the emergency plan submitted herewith so as to appropriately address this emergency.

RESPECTFULLY SUBMITTED THIS 12TH DAY OF MARCH, 2020.

  
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JOSEPH D. TROUT, JUDGE  
CLAY CIRCUIT COURT

  
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ROBERT A. PELL, JUDGE  
CLAY SUPERIOR COURT