

WELLS CIRCUIT AND SUPERIOR COURTS
Bluffton, Indiana

**IN RE: THE MATTER OF REQUESTING
RELIEF UNDER INDIANA**

ADMINISTRATIVE RULE 17

Cause 90C01-2003-CB-000024

**PETITION FOR RELIEF UNDER INDIANA
ADMINISTRATIVE RULE 17**

The Courts of Wells County petition the Indiana Supreme Court for relief under Indiana Administrative Rule 17. In support of this petition, the Wells Circuit and Superior Courts inform the Indiana Supreme Court as follows:

1. The Judges of the Wells Circuit and Superior Courts have conferred with the Clerk of the Wells Circuit and Superior Court; President of the Wells County Bar Association; Representative of the Wells County Health Department; Wells County Public Defenders; Wells County Prosecuting Attorney; Wells County Sheriff; and Commissioners of Wells County.
2. The Judges have reviewed various media outlets and the websites of the Indiana State Department of Health (ISDH) and Center for Disease Control (CDC).
3. After conferring with one another, the Judges of the Wells Circuit and Superior Courts have determined the following emergency exists:
 - A. Coronavirus disease 2019 (COVID-19) is a respiratory illness that was first identified in an outbreak in Wuhan, China.
 - B. COVID-19 can be spread from person to person. It is thought to spread mainly between people who are in close contact with one

another (within about 6 feet) through respiratory droplets produced when an infected person coughs or sneezes. It may also be possible that persons can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes.

- C. Patients with COVID-19 have had mild to severe respiratory illness with symptoms of fever, cough, and shortness of breath. Some patients also have pneumonia in both lungs, multi-organ failure, and in some cases, death.
- D. The first case of COVID-19 in the United States was reported on January 21, 2020.
- E. On March 6, 2020, the first case of a Hoosier infected with the COVID-19 was confirmed by the ISDH.
- F. As of March 15, 2020, the ISDH has confirmed twenty-four (24) cases of persons infected by the COVID-19 virus and one (1) death.
- G. The Wells County Health Department has advised that one of the confirmed cases is an adult person who resides in Wells County; however, that person does have limited exposure to Wells County.
- H. Wells County borders Adams County to the east and Allen County to the North. Residents of all three counties frequently commute back and forth for work and shopping. Adams County has also had one (1) person who has tested positive for the COVID-19 virus.
- I. Wells County has three different school corporations. Each was previously scheduled to close for spring break the week of March 23, 2020, and have closed and scheduled eLearning the week of March 16, 2020. One of those school corporations closed the schools through Friday, April 10, 2020. The other two are waiting to determine if they will reopen the schools on March 30, 2020.
- J. Adams County schools have closed from March 16, 2020 through April 10, 2020.

- K. Following the recommendation of the Allen County Department of Health, all Allen County schools have also closed from March 16, 2020 through April 10, 2020.
 - L. The Governor of the State of Indiana has declared a public health emergency.
 - M. The Governor of the State of Indiana has directed Indiana adhere to the recommendations of the CDC that for the next eight weeks, all non-essential gatherings must be limited to no more than fifty (50) people.
 - N. The President of the United States has issued a national emergency regarding the spread and prevention of the COVID-19 virus.
 - O. The CDC is encouraging "social distancing" as a means of limiting the spread of COVID-19 and other potentially fatal viruses.
 - P. Consequently, the Governor of the State of Indiana has closed bars, nightclubs, and restaurants to in-person patrons.
4. The Judges of the Wells Circuit and Superior Courts have determined the emergency will have an effect on the local administration of justice as follows:
- A. The Wells Circuit and Superior Courts hold hearings and proceedings which result in large numbers of people entering the Wells County Courthouse. Large numbers of people congregate in the hallways, jury rooms, and courtrooms of the Wells County Courthouse.
 - B. That mitigation of the spread of contagions is of utmost importance to protect the citizens of Wells County and the State of Indiana.
 - C. In addition, minimizing the exposure and spread of contagions to court personnel is critical to ensure the uninterrupted operation of the courts of Wells County.

- D. The closure of schools and childcare centers will result in the necessity of court personnel, including clerks, attorneys, litigants, and witnesses to assist with childcare.
- E. At the end of the week of March 9, 2020, the Judges had conferred several times regarding the effect of the COVID-19 outbreak and the desire to maintain the operation of the courts with voluntary common sense measures, such as allowing litigants to continue a hearing if they were ill.
- F. On March 16, 2020, an out-of-town attorney appeared in court for an attorney status hearing. The attorney was visibly ill and told other attorneys he had recently return to the country from South America, where he believed he picked up his current illness.
- G. It appears to the Judges of the Courts of Wells County, a formal plan to address the emergency is necessary to provide guidance and to enforce efforts to minimize exposure.

5. Based upon the above sources of information, the Judges of the Courts of Wells County believe an emergency will exist for at least the next thirty (30) days, but potentially may be of longer duration.

6. Wells Circuit Court is a general jurisdiction court that handles a wide variety of case types, including criminal felonies, juvenile, probate, domestic relations, mental health, and plenary. Wells Superior Court is also a general jurisdiction court handling a variety of case types, including criminal misdemeanors and felonies, domestic relations, small claims and plenary.

7. The Judges of the Courts of Wells County submit the following plan of emergency measures:

- A. Continue to operate for the filing of pleadings and new cases, both civil and criminal.

- B. Proceed with essential hearings utilizing measures to limit the number of people who come to the court for the hearing, such as telephone and video conferencing.
- C. Limit entrance into the courthouse of non-essential persons, such as friends, family members, and other spectators.
- D. Prohibit access to the courthouse by individuals, including attorneys, who are demonstrating flu-like symptoms.
- E. Expedite motions to continue when the attorneys, parties, or witnesses are unavailable because they are voluntarily quarantined or at high-risk to suffer from exposure to COVID-19 because of an existing health condition.
- F. Facilitate non-essential hearings by permitting access to the court by utilizing telephonic and video technology.

8. The Judges of Wells County request that the Indiana Supreme Court, under the authority of Ind. Admin. R. 17, declare that an emergency exists in Wells County, and enter emergency orders for Wells County directing and allowing the Courts and Clerk of Wells County to alter, modify, and suspend necessary procedures affecting time limits and statutory deadlines; limit access of the public to the court; and ensure the orderly and fair administration of justice while protecting the public and court personal from exposure and transmission of a dangerous virus.

9. As such, we request the Indiana Supreme Court:

- A. Beginning March 17, 2020 and until April 13, 2020, authorize the tolling of all laws, rules, and procedures setting time limits in all criminal, juvenile, CHINS, domestic relations, mental health, and all civil matters before the courts of Wells County;
- B. Beginning March 17, 2020 and until April 13, 2020, authorize the Wells County Courts, in their discretion, to continue all hearings they deem non-essential;

- C. Authorize the use of telephonic or video technology in lieu of in-person appearances, unless a litigant's due process rights would be violated;
- D. Authorize the consideration of (a) the existence of flu or flu-like symptoms in an attorney, self-represented litigant, or witness expected to testify; (b) exposure of such individuals to anyone who has or may have COVID-19; (c) status of such individuals in a high-risk category; or (d) status of such individuals who have quarantined, voluntarily or involuntarily; and/or (e) status of such individuals who may need to provide childcare to their children to constitute "good cause" to either appear remotely or continue a court setting to the extent possible without violating statutory or constitutional rights;
- E. Authorize allowing any attorney wishing to appear remotely (e.g. through teleconference systems, etc.) for any status conference or non-evidentiary hearing without further leave of court up filing a "Notice of Remote Appearance" in the court which the matter will be heard;
- F. Subject to applicable Constitutional limitations, authorize limiting spectators (other than parties to the litigation, their attorneys, and any necessary witnesses) in courtrooms to the extent necessary to provide adequate social distancing;
- G. Authorize the posting of signage at all public entry points to judicial facilities advising individuals not to enter the building if they have:
 - i. visited China, Iran, South Korea, any European countries, or any other high-risk countries identified by the CDC in the previous fourteen (14) days;
 - ii. resided with or been in close contact with someone who has been in any of those countries within the previous fourteen (14) days;
 - iii. traveled domestically within the United States where COVID-19 has sustained widespread community transmission;

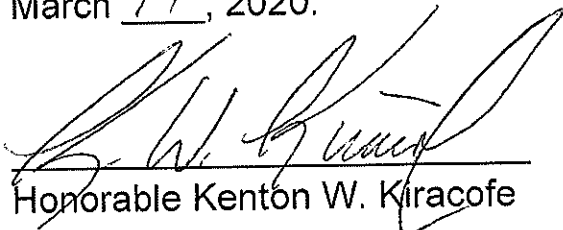
- iv. been asked to self-quarantine by any doctor, hospital, or health agency;
- v. been diagnosed with or had contact with anyone who has been diagnosed with COVID-19; or
- vi. A fever, cough, or shortness of breath;

and authorize the directing of bailiffs or court security officers to deny entrance to individuals attempting to enter in violation of these protocols; and

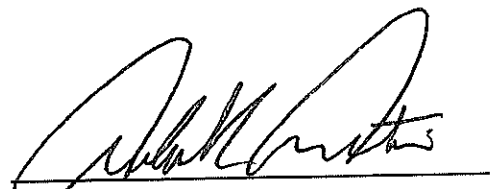
- H. Authorize allowing individuals with legitimate court business to stay home and request a continuance by phone if they are ill, caring for someone who is ill, or in a high-risk category.

Respectfully submitted

March 17, 2020.



Honorable Kenton W. Kiracofe
Judge, Wells Circuit Court



Honorable Andrew K. Antrim
Judge, Wells Superior Court