

In the Indiana Supreme Court

In the Matter of Administrative Rule 17
Emergency Relief for Indiana Trial Courts
Relating to the 2019 Novel Coronavirus
(COVID-19).

Supreme Court Case No.
20S-CB-123



Order

On March 6, 2020, Governor Holcomb declared a public health emergency in Indiana relating to the 2019 novel coronavirus (COVID-19); and on March 13, President Trump declared a national emergency relating to the virus. Since then, Governor Holcomb has issued Executive Orders 20-08, 20-17, 20-18, and 20-22, extending the declaration of a public health emergency through May 4 and ordering Hoosiers to remain in their homes except for certain permitted activities through May 1.

Due to the ongoing public health emergency, all circuit, superior, and probate courts, some small claims courts, and several city and town courts (“trial courts”) petitioned for and were granted emergency relief pursuant to Administrative Rule 17—including authorization, subject to Constitutional limitations, to use telephonic or video technology in lieu of in-person appearances and to limit non-necessary parties’ attendance at judicial proceedings. These steps, though necessary for public health, impede the public’s interest in transparency of judicial proceedings.

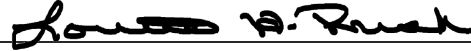
Rule 2.17 of the Indiana Code of Judicial Conduct generally prohibits “broadcasting” of court proceedings without this Court’s authorization. That Rule reflects this Court’s balance, under ordinary circumstances, between the public’s transparency interest and the judiciary’s obligation to maintain order and dignity of proceedings and protect litigants’ due process and fair trial rights. *See generally* Indiana Commission on Judicial Qualifications Advisory Opinion 1-17. The same balancing is also required during the current public health emergency.

Being duly advised, the Court ORDERS as follows, effective **until further order of the Court:**

1. All Indiana trial courts are authorized to live-stream court proceedings (except hearings that are confidential by law) on a public platform, including but not limited to YouTube, to accommodate the public’s access to court proceedings. Such a live stream shall be viewable only during the proceeding and shall not be made available for later playback; and no confidential proceedings shall be broadcast on any public platform.
2. Courts shall admonish “virtual courtroom” participants not to record the proceedings; and courts should reinforce this prohibition by utilizing a “DO NOT RECORD” watermark on each live-streamed proceeding.

3. Courts shall adhere to the provisions of Administrative Rule 14 (governing use of telephone and audiovisual communication) and guidance issued by the Indiana Office of Court Services regarding best practices for implementing and operating “virtual courtrooms” and preserving the court record.
4. All other provisions of Rule 2.17 not inconsistent with this authorization, including but not limited to the prohibition on recording proceedings, remain in effect.

Done at Indianapolis, Indiana, on 4/22/2020.



Loretta H. Rush
Chief Justice of Indiana