

## New Jersey Litigation Continues Due to Courts' Proactive Response to COVID-19

State courthouses may be closed to the public, but civil litigation in New Jersey continues. The judiciary's response to the COVID-19 pandemic, which includes swiftly implementing new technology, expanding filing procedures, and relaxing several court rules, has allowed the courts to carry on despite the closures. Indeed, the New Jersey state courts have kept most facets of civil litigation functioning at as close to normal capacity as possible without the physical presence of litigants, witnesses, jurors, and lawyers. Likewise, the U.S. District Court for the District of New Jersey continues to conduct certain proceedings, manage cases, and generally enable litigation to proceed to the extent it can, again without litigants and lawyers present in the courthouse.

With the significant exception of jury trials, New Jersey courts have remained open for official business during the COVID-19 crisis. The inability to bring cases to trial may ultimately result in a backlog, since without the immediacy and certainty of a trial, fewer cases will settle, and those that cannot be settled will have to await the day when the courts are fully functioning. Cases that will require lengthy trials are likely to see the most significant delays. When courts set out to clear a backlog of cases, it is often the cases that are more quickly tried and resolved that receive priority.

The following is a summary of the judiciary's efforts.

### **New Jersey State Courts**

#### ***In-Person Proceedings***

Pursuant to the March 27, 2020 Omnibus Order signed by Chief Justice Stuart Rabner, all court hearings, conferences, and arguments must be conducted through video or telephone conferencing. Accordingly, motions in the trial court and arguments in the appellate courts are routinely being heard via teleconference.

Virtual bench trials have also commenced, where the judge and their court clerk sit in technologically equipped courtrooms while attorneys and witnesses appear by real-time video conference. On the other hand, since jury trials cannot reasonably proceed under the current social distancing guidelines, they are suspended until further notice. Likewise, trials in Special Civil Part (DC dockets), Small Claims (SC dockets), and Landlord Tenant (LT dockets) are currently suspended through April 26, 2020. We expect the judiciary will extend the suspension of these trials as necessary to comply with the State's stay at home orders.

Civil Arbitration sessions are currently postponed but, beginning on April 27, 2020, they will be conducted via video and/or teleconference. Court rules were also relaxed to permit arbitration proceedings outside the courthouse.

#### ***Court Filings***

Perhaps the most significant technological advancement by the state courts is the implementation of the Judiciary Electronic Document Submission (JEDS) system, which enables attorneys and pro se litigants to upload documents in most areas of the Special Civil as well as General Equity matters. JEDS can be used to

submit complaints, answers, and motions for civil, special civil, the law division, general equity, foreclosure, and certain family part matters.

In addition, asbestos litigation, a notable exception from mandatory eCourts filing, was fast-tracked to the eCourts platform on March 26, 2020. Each vicinage has also created a dedicated emergent application mailbox for attorneys and parties to file applications for emergent relief.

### ***Relaxed Court Rules***

Recognizing the practical hardships that social distancing and office closures have had on the discovery phase of civil litigation (including communicating with clients, collecting client documents, interviewing witnesses, serving expert reports, conducting inspections, and obtaining testimony), the Chief Justice relaxed the court rules pertaining to discovery deadlines and even "excluded" the time period of March 16 through April 26, 2020 in computing discovery end dates.

The practical result is a 41-day extension of all discovery deadlines in civil cases. In addition, the time periods for serving Notices of Tort Claims, filing affidavits of merit in malpractice cases, automatic dismissal for lack of prosecution, and the issuance of summonses have been extended or tolled through April 26, 2020. Timetables for adjourning initial hearings in civil commitment proceedings have also been established. In addition, the time period of March 17 through April 26, 2020, shall be deemed a legal holiday for purposes of computing time periods under the Rules of Court and under any statute of limitations.

### **New Jersey Federal Court**

Presently, the federal court houses in all three vicinages of the U.S. District Court for the District of New Jersey - Newark, Trenton and Camden - remain open for official business subject to certain restrictions. Chief Judge Freda L. Wolfson ordered that all filing and discovery deadlines in civil matters falling between March 25, 2020 and April 30, 2020, are extended by forty-five days. Judicial officers are encouraged to conduct proceedings by telephone or videoconferencing and to take reasonable measures to avoid the necessity of out-of-town travel of any litigant, witness, counsel, or the public. The court also authorized participation in all ADR proceedings via video and/or telephone conference. Finally, all jury trials are continued until April 30, 2020.

Please contact the author of this Alert, **Kersten Kortbawi** [kkortbawi@greenbaumlaw.com](mailto:kkortbawi@greenbaumlaw.com) | 732.476.2648, for additional information. Ms. Kortbawi is a member of the firm's **Litigation Department**.

### **Related Attorneys**

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