

The Courts and COVID-19 (04/08/20)

While most counties have been ordered to shut down businesses, the question many citizens and lawyers have alike is, what happens to the court system? Most laypeople know that claims have to be brought within a certain period of time, referred to as the statute of limitations. Has the statute of limitations been extended in Pennsylvania?

Statutes of limitations have **not** been extended in Pennsylvania. As always, it is important to contact a lawyer as soon as possible to make certain your rights are protected.

It is important to appreciate the distinction between legislation passed by the General Assembly, which ordinarily cannot be suspended absent further legislation, and court rules. In an Amended Order filed April 1, 2020, the Pennsylvania Supreme Court directed that court filing dates would be extended through April 30, 2020.

Not all dates were extended by the Pennsylvania Supreme Court, and there are some specialized matters that are not subject to an extension. It must be remembered that very few items, from the point of view of the average citizen, have anything to do with the Pennsylvania Supreme Court.

All Pennsylvania courts have generally been closed to the public, beginning at the close of business on March 19, 2020, and lasting through at least April 30, 2020, subject to general and specific directives and exceptions.

In a letter dated March 18, 2020, Rachel L. Levine, MD, Secretary of Health, wrote to Chief Justice Thomas Saylor, of the Pennsylvania Supreme Court, and urged the court system to consider statewide closure of the courts for a period of 14 days. As indicated, the courts took that action.

The Court has issued an Order with respect to the Pennsylvania Rules for Continuing Legal Education. The April 30, 2020 continuing legal education compliance deadline was extended to August 31, 2020.

On March 22, 2020, the Pennsylvania Supreme Court mostly denied an application from a number of lawyers challenging the Governor's authority to close businesses as non-life-sustaining. In a unique exercise of jurisdiction, the Emergency Petition was filed to the Court's Kings Bench Jurisdiction.

The application was denied as "moot" since the Governor added a provision allowing lawyers to participate in court functions deemed essential by a President Judge of a county, according to the Pennsylvania Supreme Court's Order of March 18, 2020, or a

similar federal court directive. For such purposes, lawyers may access their offices to effectuate functions and directives of the Court. Law firms also have the right to ask for an exemption from the no work order.

Our own law firm has shut down the physical plant, but **all** staff are working remotely. Fortunately, we have the resources and hardware in place to continue working remotely, to conference with one another, to serve clients and to deal directly with the courts. Not all lawyers are so lucky or were adequately prepared for the current disastrous situation.

In terms of county-specific information, the website of the Pennsylvania Bar Association provides for orders entered by the President Judge of various counties.

For example, in Lycoming County on March 16, 2020, President Judge Nancy Butts declared a judicial emergency and suspended Rule of Criminal Procedure 600, pertaining to requirement for speedy trials.

On March 27, 2020, Judge Butts rescheduled court events and meetings via telephone conference. Jury selection for March 30 through April 3 was canceled, and all jury trials from April through May have been continued.

Perhaps most importantly to lawyers and their clients, pursuant to the most Supreme Court Order, all time calculations and deadlines relevant to court cases or other judicial business are suspended through April 30, 2020.

It must be kept in mind, as we stated at the onset, that these delays do not affect legislative enactment such as the statute of limitations. Statutes of limitations **are not** suspended. The court shall be open for receiving praecipes utilized to keep statutes of limitations from running. Not addressed is the question of how sheriff's service will be effectuated.

When April 30th rolls around, the courts will once again have to consider whether to extend their orders, expand or restrict them. Magisterial District Courts, according to the Lycoming County President Judge, will be continued to a date after April 14, 2020.

We now have information from the federal government that so-called "quarantine" and "no social contact" requests by the federal government will be extended until the end of April. How that impacts the state and counties remains to be seen.

The question of Force Majeure, or act of God, provisions and contracts will certainly be debated. Contract requirements often have language in them that they do not apply where there is either an act of God or some other major disaster prohibiting compliance with a contract such as described by the Latin force majeure. Force majeure means "*unforeseeable circumstances that prevent someone from fulfilling a contract*", also described often as an "*irresistible compulsion or greater force*".

The consequences of COVID-19 closures, extension of deadlines and the inability to perform legal work is still unfolding. Lawyers and their clients still have an obligation to follow legislative enactments in terms of their cases and filing dates. While courts will be flexible for the next month or two, no one can be guaranteed as to how this will play out in an individual case.

Lawyers and their clients must remain diligent, must have a method to communicate, and should continue to stay in touch in terms of how cases will be affected, what can be done to move them along, and what steps may be legally and safely taken in the current environment.

In our office, we continue to work on demands, discovery, complaints, and all the other nuts and bolts of moving cases along. We will hit the ground running, just as soon as the law permits.

Hopefully, we will all survive in good health and emotionally intact from the current trauma which affects the lives of everyone.

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