

COVID-19 Effects on NY Court Closures, Filings, and Statutes of Limitations

by Marshall Fishman, Molly L. Leiwant, Zoe Bellars, Douglas H. Flaum, Gabrielle Gould, Samuel Rubin

In response to the continuing outbreak of COVID-19 in New York and across the nation, access to courthouses and courts' availability to accept filings have been limited. This client alert summarizes the impact of COVID-19-related measures on court accessibility, filings, and statutes of limitations according to recent guidance issued by New York Governor Andrew Cuomo, federal courts sitting in New York, including the Southern and Eastern Districts of New York, and the Second Circuit Court of Appeals, and New York state courts, including the Commercial Division, New York County.

As a general matter, in addition to the changes highlighted in the jurisdiction-specific discussions below, Governor Cuomo issued an [Executive Order on March 20, 2020](#) that suspends all statutes of limitation and filing deadlines until April 19, 2020, stating that:

In accordance with the directive of the Chief Judge of the State to limit court operations to essential matters during the pendency of the COVID-19 health crisis, any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any other statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby tolled from the date of this executive order until April 19, 2020.

NEW YORK STATE COURTS

- According to a [memorandum available on the New York State Unified Court System's website](#), within New York City, most courthouses remain open; outside of New York city, all court operations have been localized to a single court in each county.
- A list of those locations is [linked here](#). Judges and staff in these courts are performing "essential functions," which the memorandum defines as "court functions that cannot be postponed without serious consequences to the parties involved[,] . . . includ[ing], but [] not limited to":
 - Supreme Court: mental hygiene applications, civil commitments and guardianships, and others as the court may allow.
 - Housing matters: essential applications such as landlord lockouts, serious coded violations, and repair orders, and others as the court may allow.
- Under the memorandum's guidance, all judges may determine that other individual matters are "essential."
- Chief Judge Janet DiFiore released a video message and [accompanying transcript](#) on March 23, 2020 announcing a temporary move to a "virtual court" model in the New York City Criminal Court, by March 25, 2020, and in the New York City Family Court, by March 26, 2020. All "essential" business in these two courts, including arraignments and emergency proceedings, will be conducted remotely by videoconference, telephone, and electronic filing. No judges, attorneys, litigants, or other personnel will be

present in the courthouses.

- An [Administrative Order of the Chief Administrative Judge of the \[New York\] Courts, issued on March 22, 2020](#), **prohibits all filings** in the NY state courts—electronic or paper—except for enumerated essential matters, including criminal, family court and housing. Effectively, **civil filings made electronically or in paper are prohibited** except for “emergency applications related to the coronavirus” or other matters the “court deems essential.” The duration of the suspension is unclear at the moment.

SOUTHERN DISTRICT OF NEW YORK

- Pursuant to a [memorandum from Edward A. Friedland, the District Court Executive, issued on March 20, 2020](#), as of Monday, March 23, 2020, the Daniel Patrick Moynihan Courthouse (“DPM”) and Thurgood Marshall Courthouse (Manhattan) and Charles L. Brieant Courthouse (White Plains, “WP”) are open and operating in limited capacity in designated courtrooms.
- New cases filed electronically will continue to be assigned to judges.
- Sealed filings in civil and criminal matters can be left in the drop box located in the lobbies of the DPM and WP courthouses.
- In-person criminal case operations are limited to new arrests, arraignments, bail appeals, and emergency matters.
- Criminal appeals will be accepted in person in the DPM courthouse, and criminal appeals may be submitted in WP through the drop box in that courthouse location.
- In-person civil case operations (Part I emergency civil part – staffed 8:30 AM – 4:00 PM, Monday - Friday) are limited to emergency matters, such as injunctions or temporary restraining orders. For emergency applications submitted in a case pending before the court, attorneys should file the application via ECF and call chambers and leave a voicemail alerting the Judge to the filing. If the emergency application is not associated with a pending case before the Court, attorneys should submit the application to the Court, along with contact information, through the drop box located in the lobbies of the DPM and WP courthouses, and to call the Clerk’s Office at (212) 805-0140 to alert the Clerk of Court to the filing.
- Operations and deadlines in civil cases are to proceed at the discretion of the individual judge.
- All civil and criminal jury trials scheduled to begin before April 27, 2020 have been continued pending further order from the Court.

EASTERN DISTRICT OF NEW YORK

- Pursuant to [an Administrative Order from Chief Judge Roslynn R. Mauskopf, issued on March 17, 2020](#), the United States Courthouses for the Eastern District in Brooklyn and Central Islip “remain open for business.”
- In-person courthouse access is limited to certain categories of individuals, including: those ordered to appear by an EDNY judge, debtors, creditors and their attorneys who have case-related business before the Bankruptcy Court, defendants who are required to report to Pretrial Service or the Probation Department when directed by an officer, law enforcement personnel, credentialed courthouse press, family members of criminal defendants who are attending scheduled proceedings, victims and their family members who are attending scheduled proceedings, jurors in ongoing trials and grand jurors; and, and individuals with an

interest in attending a scheduled criminal trial.

- Pursuant to a [March 16, 2020 Administrative Order issued by Judge Mauskopf](#), individual Judges “may continue to hold hearings, conferences, and bench trials in the exercise of their discretion, consistent with this order” though are “strongly encouraged to conduct court proceedings by telephone or video conferencing where practicable, and/or adjourn matters or deadlines, or stay litigation, where in-person meetings interviews, depositions, or travel would be necessary to prepare for any such proceedings.”
- Initial appearances and arraignments shall “continue to take place in the ordinary course, or where practicable or necessary, be conducted remotely pursuant to procedures established by the Court. Detention and bail review proceedings shall be scheduled with the approval of the assigned District Judge or Duty Magistrate Judge.”
- All civil and criminal jury trials scheduled to begin before April 27, 2020 have been continued pending further order from the Court.

SECOND CIRCUIT

- Pursuant to an [order from Chief Judge Robert A. Katzmann of the Second Circuit, issued on March 16, 2020](#) (“Order No. 1”), the Second Circuit remains “open to conduct the business for which the Court was established,” though individuals who do not have “business with the Court will not be admitted until further order of the Court.”
- Pursuant to a [separate order from Chief Judge Katzmann, also issued on March 16, 2020](#) (“Order No. 2”), **all filing dates and other deadlines** set out in the Federal Rules of Appellate Procedure, the Court’s Local Rules and the Court’s orders **are extended or tolled**, as may be appropriate, **by 21 days,” effective March 16, 2020 through May 17, 2020.**
- Other provisions of note in Order No. 2 include:
 - A judge or panel, by order issued after March 13, 2020, may direct a filing date that is not within the scope of Order No. 2.
 - “With regard to brief filing dates in counseled civil cases, the automatic dismissal provision in the order that set the original filing date remains in effect.”
 - The **due date for filing a notice of appeal, petition for review, or other document conferring jurisdiction on the Second Circuit is not affected by Order No. 2**; “[t]he filing dates for those papers remain as stated in the statute or rule that confers jurisdiction.”
- Per an [announcement on the Second Circuit’s website](#), effective March 23, 2020, and until the COVID-19 crisis passes, the Second Circuit will hear all oral arguments, as scheduled, using a teleconference platform. Those who are scheduled to argue, including all lawyers and pro se litigants, must do so by teleconference.

* * *

Please visit Goodwin’s [Coronavirus Knowledge Center](#), where firm lawyers from across the globe are issuing new guidance and insights to help clients fully understand and assess the ramifications of COVID-19 and navigate the potential effects of the outbreak on their businesses.

CONTACTS:

Marshall Fishman

Partner

+1 212 813 8851

mfishman@goodwinlaw.com

Molly L. Leiwant

Associate

+1 212 459 7473

mleiwant@goodwinlaw.com

Zoe Bellars

Law Clerk

+1 212 459 7361

zbellars@goodwinlaw.com

Douglas H. Flaum

Partner

+1 212 813 8884

dflaum@goodwinlaw.com

Gabrielle Gould

Partner

+1 212 813 8855

ggould@goodwinlaw.com

Samuel Rubin

Partner

+1 212 813 8852

srubin@goodwinlaw.com

© 2020 Goodwin Procter LLP. All rights reserved. This informational piece, which may be considered advertising under the ethical rules of certain jurisdictions, is provided with the understanding that it does not constitute the rendering of legal advice or other professional advice by Goodwin Procter LLP, Goodwin Procter (UK) LLP or their attorneys. Prior results do not guarantee similar outcome.

Goodwin Procter LLP is a limited liability partnership which operates in the United States and has a principal law office located at 100 Northern Avenue, Boston, MA 02210. Goodwin Procter (UK) LLP is a separate limited liability partnership registered in England and Wales with registered number OC362294. Its registered office is at 100 Cheapside, London EC2V 6DY. A list of the names of the members of Goodwin Procter (UK) LLP is available for inspection at the registered office. Goodwin Procter (UK) LLP is authorized and regulated by the Solicitors Regulation Authority.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this informational piece (including any attachments) is not intended or written to be used, and may not be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.