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LEGAL BRIEFING: LITIGATION
COURT CASES DURING THE CORONAVIRUS PANDEMIC

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March 19, 2020

What Happens to My Court Case During the Coronavirus Pandemic?

Over the course of the last few weeks, it has become clear that the consequences of the COVID-19 (“Coronavirus”) pandemic are far reaching. In order to protect the health and safety of individuals, certain precautionary measures must be implemented.

On March 15, 2020, Chief Administrative Judge Lawrence K. Marks issued a Memorandum outlining updated operational protocols for the trial courts of the New York State Unified Court System. The Memorandum provides that, effective 5:00 p.m. on March 16, 2020, all non-essential functions of the trial courts are postponed until further notice. The Memorandum, in its entirety, can be found at <http://nycourts.gov/whatsnew/pdf/Updated-Protocol-AttachmentA3.pdf>.

But what does this mean for your civil court case? The answer to this question depends on the particular stage of litigation that your case is in.

For those courts that permit electronic filing, lawsuits may still be commenced by such electronic filing. However, you should discuss with your attorney whether filing a complaint at this time is prudent. For instance, a complaint must be served on the opposing party within 120 days of filing the complaint. Due to the implementation of such precautionary measures as social distancing, serving such pleadings may be difficult or dangerous.

If your case is in the discovery stage, document production and responding to demands can continue. However, delays should be expected as many attorneys have been forced to work remotely without the assistance of a fully staffed law firm. Depositions may also take place, but social distancing protocol should be observed.

Any motions, court conferences, and mediations will be postponed until at least May 2020. All civil trials (not commenced before March 13, 2020) have also been stayed indefinitely.

If your case has been appealed to the Appellate Division of the Supreme Court Fourth Judicial Department, all matters calendared for the March/April 2020 term will be considered on submission only, without oral argument. All matters currently scheduled for the May 2020 term are adjourned and will be re-calendared for a later term. The Court will, however, entertain emergency matters.

An unintended consequence of the foregoing changes will be the creation of an overwhelming backlog of cases for the Courts to deal with. It appears that litigants and the Courts will continue to feel the effects of this pandemic long after the crisis has passed.

Certain types of cases are exempted from the updated protocol, including, but not limited to, mental hygiene, guardianship, and civil commitment matters. In addition, certain specific types of matters are subject to a separate set of updated protocols, including, but not limited, evictions and foreclosures. For more information about these exemptions/exceptions, please consult our Litigation Department or your legal counsel.

If you have a case in the United States District Court of New York or Bankruptcy Court, operational protocols have also been updated. Such Orders can be found on each District's website.

If you have any questions about this Legal Briefing, please contact any attorney in our Litigation Department at (585) 730-4773.

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