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ADR in the Wake of COVID-19: The Use of a Private, Retired Judge to Move your Case Forward

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While we are all familiar with the way in which lawsuits are typically resolved, there is one method that is often underutilized: the use of a private, retired judge. Due to the COVID-19 pandemic, most civil trials have been put on hold until the courts can safely open to the public. Once they are, the courts' dockets likely will be backlogged with criminal cases and with civil cases that were scheduled for trial during the stay at home order. It could be months before a litigant's civil case can be heard by a judge.

Use of a Private Retired Judge is Statutorily Approved

Under Ohio Revised Code Section 2701.10, parties to any civil action or proceeding pending in any court of common pleas, municipal court, or county court unanimously may choose to have the action or proceeding in its entirety referred for adjudication to a retired judge, or to have any specific issue or question of fact or law in the action or proceeding submitted for determination from a retired judge.

The Statutory Requirements

The use of a private, retired judge is a viable option if the following requirements are met:

- there is a written agreement which both parties agree to use a retired judge;
- the agreement designates which retired judge to use;
- the agreement lays out if the case as a whole will be adjudicated or just a specific issue/fact;
- the agreement identifies the amount of compensation to be paid by the parties to the retired judge for his/her services; and
- both parties agree to cover the cost of the facility, equipment and personnel for the retired judge.

The retired judge has full authority of the court and his/her decision is enforceable and appealable. At the conclusion of the case, the retired judge will enter a judgment in the action or proceeding in the same manner as if he/she were an active judge of the court.

An Important Tool for Faster Resolution

The proceedings with a retired judge will alleviate a congested docket, can be efficient, provide tailored expertise, and preserve appellate review. For example, litigants to a civil case awaiting a decision on a motion for summary judgement could all unanimously choose to have the motion decided by a retired judge to speed up the proceeding.

At its essence, this statute is convenient and provides an additional option to the traditional and crowded court docket while still preserving a litigant's right to appeal. If you have a civil case and have questions regarding the use of a retired judge for your proceeding, please contact Vorys retired judges Jim McMonagle, Eve Stratton, or your regular Vorys attorney.

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Vorys COVID-19 Task Force

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive COVID-19 Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at vorys.com/coronavirus.