

Publications

Access to Courts Will Be More Limited in the Coming Weeks

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As part of the government's response to the coronavirus (COVID-19) pandemic, state and federal courts around the country are adjusting their operations. Starting last week, most courts have asked attorneys, parties and other visitors to stay away from the court if they have a fever or symptoms of respiratory illness or if they have been exposed to anyone diagnosed with COVID-19. Moreover, courts are issuing general orders delaying pending matters and asking litigants to appear by videoconference or telephone.

Ohio State Courts

Supreme Court of Ohio

Chief Justice Maureen O'Connor spoke at Governor DeWine's March 19, 2020 briefing and provided an update on the status of the Ohio state courts. The Chief Justice has asked local courts to remain open to address emergency and time-sensitive matters and to do what is necessary to continue their essential court functions.

Justice O'Connor's communication urged the courts and clerks offices to keep their doors open. She asked the local courts to maximize the use of technology to reduce face-to-face interaction by, for example, conducting hearings by video conference. The Chief Justice announced that the Supreme Court of Ohio will be establishing fund that will allow local courts to purchase videoconferencing equipment. The Ohio Supreme Court will remain open and will be accepting case filings.

Cuyahoga County (Cleveland)

Effective March 22, 2020, the Cuyahoga County Court of Common Pleas-General Division will "reduce dockets" until at least Friday, April 10. The court stated that while it remained open, it would focus "only on essential Court functions," including incarcerated individuals and all emergency matters. While it is not clear what is meant by the phrase "reduce dockets," it does appear that the court will not be moving civil matters forward for the time being.

Franklin County (Columbus)

In a March 20, 2020 order, the court emphasized that it would be temporarily modifying its local rules to allow court flexibility within constitutional limits in response to the public health emergency. The court explicitly authorized the use of audiovisual devices and technologies for all actions and proceedings and continued all civil juries, hearings, or other matters previously scheduled between March 16, 2020 and April 13, 2020.

Hamilton County (Cincinnati)

Pursuant to a March 13, 2020 joint administrative order, all jury trials in civil and criminal matters were suspended for thirty days. The order stated that video and telephonic hearings shall be utilized to the extent possible and the courthouse will remain open.

Ohio Federal Courts***U.S. Court of Appeals – Sixth Circuit***

On March 16, 2020, the Sixth Circuit issued an order postponing all oral arguments scheduled to take place between March 17 and 20, 2020. The court indicated that it would continue to otherwise operate in the normal course of business with clerk's office staff available in the office and via telework.

U.S. District Court for the Northern District of Ohio

A March 23, 2020 general order (2020-05-1) held that no civil or criminal jury trials would occur before May 1, 2020. The court noted that civil pretrial proceedings would be conducted by telephone or video where practicable. The order also closed all courthouses until May 1, 2020 except for those individuals "having official business authorized by [the] general order."

U.S. District Court for the Southern District of Ohio

A March 20, 2020 general order closed the Columbus, Cincinnati, and Dayton courthouses to the public, with limited exceptions involving criminal proceedings, for a period of fourteen days beginning on March 23, 2020. The court noted that judges may have video and telephonic conferences as the judges deem appropriate. Staff will be available in each of the clerk's offices, but the intake window for in-person filings is closed.

Texas State Courts***Harris County (Houston)***

As of March 18, 2020 the Harris County clerk's office closed its office to the public. There will be no jury trials through April 30.

Dallas County (Dallas)

The court has cancelled all jury trials through May 8, 2020. Additionally, the clerk's office has closed any face-to-face services effective March 23, 2020 through May 1, 2020.

Tarrant County (Fort Worth)

Effective March 16, 2020, the Tarrant County Judges determined there would be no new jury trials and "reduced dockets" until April 20, 2020. The court has also restricted operations to "essential functions" until April 1, 2020. The court and clerk's office remain open.

Dallas 5th Court of Appeals

The court has mandated in a series of orders that both civil and criminal matters may modify or suspend any and all deadlines and procedures, as well as allow or require any party to participate remotely. There will be no oral arguments until May 1, 2020, and cases set before then will be submitted without oral argument.

Texas Federal Courts

U.S. District Court for the Southern District of Texas

All civil and criminal jury trials are deferred through May 1, 2020. Other deadlines and settings remain in place pending further order by each judge in specific cases or by standing order. The clerk's office remains open. Bankruptcy courts are to set their own schedule.

Practical Effects

In light of the increasing limitations articulated above, parties to litigation should prepare for adjournments of in-person proceedings such as oral arguments, trials, and hearings. Numerous courts are emphasizing the use of technology, where possible, in order to limit the need for in-person contact at the court.

We expect that many courts that adjudicate commercial cases will continue to issue decisions on pending matters, but it is likely that many of those decisions will be delayed as court staff are encouraged to stay home. Private arbitrators and mediators are also expected to continue to try to move proceedings forward, although depositions and other in-person proceedings are likely to be conducted via video or postponed. Parties to litigation should consult counsel concerning scheduling matters for individual cases and work with counsel to understand strategic and tactical considerations associated with the current scope of court operations.

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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.