

CLIENT ALERT

COVID and the Courts: Reopenings Delayed and Challenged

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As COVID-19 cases surge across much of the country, many courts are altering or postponing their [reopening plans](#). Additionally, some courts that are reopening now face challenges from attorneys, staff, and litigants concerned about in-person court proceedings.

Postponed Reopenings

The [recent surge](#) in COVID-19 cases is causing some courts to reevaluate their plans to reopen. Recent developments in federal courts include:

- **District of Arizona:** [General Order 20-30](#) extends the authorization to conduct various proceedings by video and audio until September 22, 2020.
- **Northern District of California:** [General Order No. 72-5](#) postpones new civil or criminal jury trials until September 30, 2020. The order also requires that all civil matters be decided on the papers, or if a hearing is necessary, by audio or video hearing. A limited number of in-person criminal proceedings are allowed, with a maximum of ten people allowed in the courtroom at one time.
- **Northern District of Georgia:** [General Order 20-09](#) closes the Gainesville division courthouse until further notice, after a court employee tested positive for COVID-19.
- **Southern District of Mississippi:** [Special Order #7](#) encourages parties to use remote conferencing but allows for in-court proceedings at the discretion of the presiding judge. The order also mandates mask-wearing and screening measures at courthouses.
- **Western District of Virginia:** [Amended Standing Orders Nos. 2020-10 and 2020-14](#) postpones the resumption of criminal trials until August 31, 2020, the same day that civil trials are set to resume. The order cautions that whether trials will resume on August 31, 2020 depends on containment of COVID-19 at that time.

Challenges to Reopening

Two recent lawsuits filed in New York show how court plans to re-open may be challenged.

On July 1, 2020, the New York State Court Officers Association, which represents approximately 1,500 court officers, filed a [complaint](#) in the Southern District of New York against Chief Judge Janet DiFiore and the Office of Court Administration (OCA). The complaint seeks at least \$2 million in punitive damages, alleging that the OCA endangered officers by failing to provide sufficient personal protective equipment and properly sterilize courthouses. The complaint alleges that because of these failures, three union members have died of COVID-19.

On July 14, 2020, multiple public defender groups filed a complaint and subsequent motion for a temporary restraining order (TRO) in the Southern District of New York against the OCA, alleging that the OCA's July 15 re-opening of New York City criminal courts violates the Americans with Disabilities Act by putting vulnerable clients and staff members at risk of serious illness and death from COVID-19, and seeking to halt the reopening. On July 17, 2020, the court denied the TRO, but ordered the OCA to show cause as to why it should not issue a preliminary injunction halting in-person proceedings pending the outcome of the case.

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Court reopening plans are not proceeding seamlessly everywhere; some courts in "hotspots" are postponing their planned reopenings through the fall. Litigants should be sure to check the court's specific orders, and plan to recheck them regularly.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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