

CLIENT ALERT

COVID & the Courts: The D.D.C. Extends COVID-Related Changes Into the Fall

August 12, 2020

Since courts first postponed proceedings last spring, the novel coronavirus has continued to rage, ending over 150,000 lives and utterly upending the best laid plans of governments, businesses, and organizations of all kinds. The federal courts are not exempt and, as the spread of the virus is again accelerating, the courts are extending changes made to their standard operating procedures over the past few months into the fall.

On August 10, 2020, the United States District Court for the District of Columbia, noting an increase in COVID-19 cases in the District, issued its fourth extension of postponed court proceedings. The order, which notes that the court does not expect to enter Phase 2 of its reopening plan until September 14, 2020 at the earliest, builds on the court's prior COVID-related standing orders, but extends and supersedes them as follows.

First, all civil and criminal petit jury selections and jury trials scheduled to commence before November 9, 2020 are postponed and continued pending further order of the court. Criminal trials will be given scheduling precedence when the court begins scheduling trials to take place on or after November 9, 2020. The order also provides that the period from September 8, 2020 through November 9, 2020 is excluded for postponed criminal trials under the Speedy Trial Act, 18 U.S.C. § 3161 *et seq.*, due to the COVID-19 pandemic. (The court previously excluded the time period from March 17, 2020 through September 8, 2020.) For postponed non-trial criminal proceedings, the court has now extended the exclusion period through September 14, 2020. Presiding judges remain empowered to exclude additional time as necessary and appropriate.

Next, all in-person proceedings other than jury trials scheduled to occur before September 14, 2020 are postponed absent an order from the presiding judge in an individual case directing that a particular proceeding will be held via teleconference or videoconference. This includes all in-person civil, criminal, and bankruptcy proceedings before the D.D.C., including court appearances, non-jury trials, hearings, settlement conferences, and misdemeanor traffic and petty offense dockets. However, litigants should be aware that many D.D.C. judges have been regularly holding arguments in civil matters using telephonic or video technology over the past few months, and we expect that they will continue to do so into the fall.

The court's latest COVID-related order also affects non-litigation proceedings before the court. Regular naturalization ceremonies at the Courthouse are postponed; the court plans to start administering the oath of citizenship to small groups beginning on August 17, 2020, and has also empowered the United States Citizenship and Immigration Services to administer the oath. Similarly, in-person attorney admission ceremonies are cancelled. However, petitions for admission to the bar will continue to be accepted via PACER and will be processed without any in-person hearing, and applicants are now permitted to swear in to the court's bar in writing.

The D.D.C. is not the only federal court extending alterations to normal court proceedings. For example, on August 3, 2020, the United States Court of Appeals for the Seventh Circuit announced that it will continue to operate under its March 18, 2020 Continuity of Operations Plan. Cases scheduled for oral argument through December 31, 2020 will be argued telephonically or by video communications, with audio livestreamed to YouTube.

As the coronavirus pandemic shows no signs of slowing, we expect that more courts will soon extend the duration of procedural changes made over the past few months to address COVID, or in some cases revert to more stringent measures after having attempted to shift back to normal operating procedures prior to the recent uptick in COVID cases. Lawyers appearing before the federal courts this fall should monitor changing procedures in the courts they appear in—and prepare for unconventional trial and argument experiences.

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