

COMPARISON OF SJC'S JUNE 1 AND MAY 4 COVID-19 ORDERS

The following compares some of the provisions in the Supreme Judicial Court's Second Updated Order Regarding Court Operations Under The Exigent Circumstances Created By The COVID-19 (Coronavirus) Pandemic, issued May 26, 2020, and effective June 1, 2020 (**June 1 Order**), and the Updated Order Regarding Court Operations Under The Exigent Circumstances Created By The COVID-19 (Coronavirus) Pandemic, issued April 27, 2020, and effective May 4, 2020 (**May 4 Order**). If there is a conflict between this document and either order, the provisions of the order prevail.

Courts conducting business virtually. Under the May 4 Order, courts are open for business, but courthouses are closed to the public and all business is being addressed virtually. Under the June 1 Order, that will continue to be true until at least July 1, 2020. Both orders create an exception for emergency matters that cannot be addressed virtually.

Matters being handled by Trial Court departments. Under the May 4 Order, each department will be addressing "emergency" and "non-emergency" matters that it has identified in standing orders. Under the June 1 Order, that will continue to be true until at least July 1, 2020. Information regarding the matters that each department is addressing can be found on the "Court System Response to COVID-19" webpage (<https://www.mass.gov/guides/court-system-response-to-covid-19>).

Clerks', Registers', and Recorder's Offices. Under both the May 4 Order and June 1 Order, all of these offices will be conducting court business in all emergency and non-emergency matters designated by their respective court department. All such business is conducted virtually, except when filing in an emergency matter cannot be accomplished virtually. Under the June 1 Order, each Trial Court department will provide departmental-wide guidance on how, in addition to mail and e-filing, court filings can be accomplished without coming to the courthouse .

Jury trials. Under the May 4 Order, no jury trials are being conducted. Under the June 1 Order, that will continue to be true until at least September 8, 2020.

Civil bench trials. Under the May 4 Order, a civil bench trial can only be conducted prior to June 1 if it is conducted virtually and by agreement of the parties and the court. Under the June 1 Order, that will continue to be true until at least July 1, except that it will be up to the trial judge alone whether to conduct such a virtual trial.

Criminal bench trials. Under the May 4 Order, a criminal bench trial can only be conducted if it is conducted virtually by agreement of the parties and the court. Under the June 1 Order, that will continue to be true until at least July 1, 2020.

Grand jury. Under the May 4 Order, no new grand jury can be empaneled before July 6. Under the June 1 Order, unless the SJC so orders, no new grand jury can be empaneled before September 8. Under both Orders, existing grand juries are extended until a new grand jury is empaneled. The June 1 Order also sets forth a procedure that must be followed to convene an existing grand jury.

Tolling of statutes of limitation. Under the May 4 Order, all statutes of limitation are tolled from March 17 through May 31. Under the June 1 Order, civil statutes of limitation will

continue to be tolled through June 30, and criminal statutes of limitation will continue to be tolled through August 31. Civil statutes of limitation will not be tolled any further (i.e., beyond June 30), unless there is a new surge in COVID-19 cases in the Commonwealth and the SJC determines that further tolling is needed.

Tolling of deadlines set forth in statutes, court rules, standing orders, tracking orders, or guidelines. Under the May 4 Order, all such deadlines that expire(d) between March 16 and June 1 are tolled until June 1. The June 1 Order further tolls all such deadlines through June 30,* except those concerning the commencement of trial. All such deadlines will not be further extended (i.e., beyond June 30), unless there is a new surge in COVID-19 cases in the Commonwealth and the SJC determines that further tolling is needed. The June 1 Order also continues to toll any such deadlines concerning the commencement of trial through September 7, unless a bench trial commences before that date. The June 1 Order also clarifies that, if a tolled deadline is one of a series of deadlines under a tracking order, all of the subsequent deadlines are extended by the same number of days, and that the tolling of deadlines applies unless otherwise ordered by the applicable appellate court, court department, or judge(s) presiding over the court case.

Court-ordered deadlines in particular cases. Under the May 4 Order, all deadlines established by a court in a particular case on or before March 16 that expire between March 16 and June 1,* are tolled until June 1. The June 1 Order further tolls all such deadlines through June 30,* when the tolling period shall end and not be further extended unless there is a new surge in COVID-19 cases in the Commonwealth and the SJC determines that a new or extended period of tolling is needed. Deadlines regarding the commencement of trial (jury and bench) are tolled through September 7, 2020, unless a bench trial commences before that date. The June 1 Order also clarifies that the tolling of deadlines applies unless otherwise ordered by the judge presiding over the court case.

Expiring injunctions and similar orders. Under the May 4 Order, all orders in a particular case that were issued prior to March 17, after an adversarial hearing (or the opportunity for an adversarial hearing), that enjoined or otherwise restrained or prohibited a party from taking some act or engaging in some conduct until a date between March 16 and June 1,* remain in effect until the matter is rescheduled and heard or unless otherwise ordered by the applicable court. The June 1 Order extends this to all such orders that enjoined or otherwise restrained or prohibited a party from taking some act or engaging in some conduct until a date at any time from March 17 through June 30.* Under the June 1 Order, Trial Court departments will begin to reschedule and hear these matters virtually where practicable, if they are not already doing so. The June 1 Order further clarifies that if such an order issued on or after March 17, it may issue for the full period allowed by the applicable statute.

* The May 4 Order referred to deadlines that expire(d) "between [X date] and [X date]," while the June 1 Order refers to deadlines that expire(d) "from [X date] through [X date]". The change of language was for purposes of consistency throughout the order and does not result in any change to either the applicable date range or resulting new deadline. For example, reference to a deadline that expire(d) from March 17 through June 30 is not intended to be any different in purpose or effect from reference to a deadline that expire(d) *between* March 16 and July 1.