

ADDENDUM TO THE GENERAL ORDER CONCERNING CIVIL CASES
Amended January 21, 2021

In a series of orders, the Chief Judge of the Superior Court of the District of Columbia suspended, tolled, and extended certain deadlines during the period of the current emergency. On January 13, 2021, the Chief Judge issued the most recent order. *See* http://www.dccourts.gov/sites/default/files/matters-docs/General%20Order%20pdf/Amended-Order-1-13-21_FINAL.PDF.

The primary changes in the January 13 order from the prior order by the Chief Judge issued on November 5, 2020 involve the termination of tolling of deadlines for (1) service of process and (2) responsive pleadings.

The January 14 order provides with respect to the tolling of deadlines in civil cases:

Unless otherwise ordered by the Court, all deadlines and time limits in statutes (including statute of limitations), court rules, and standing and other orders issued by the Court that would otherwise expire during the period of emergency are suspended, tolled and extended during the period of emergency, with the following exceptions: (1) deadlines applicable to parties represented by counsel in pending cases; (2) discovery-related deadlines applicable to all parties, including parties not represented by counsel; (3) effective January 29, 2021, deadlines for service of process applicable to all parties, including parties not represented by counsel; (4) deadlines for responsive pleadings applicable to all parties, including parties not represented by counsel; (5) motions-related deadlines applicable to all parties, including parties not represented by counsel; and (6) deadlines in orders issued after March 18, 2020. Notwithstanding any other provision of this order, the time limits concerning the validity and issuance of writs of restitution in Rules 16(a)(4) and 16(c) of the Superior Court Rules of Procedure for the Landlord and Tenant Branch that would otherwise expire during the period of emergency are suspended, tolled and extended during the period of emergency.

The judicial emergency. The emergency referred to in the January 13 order is the emergency originally declared by the Joint Committee on Judicial Administration for the District of Columbia Courts on March 18, 2020. *See* <https://www.dccourts.gov/sites/default/files/divisionspdfs/committee%20on%20admissions%20pdf/Joint-Committee-on-Judicial-Administration-for-the-District-of-Columbia-Courts-March-18-2020-Order.pdf>. Pursuant to authority granted by the Joint Committee, the Chief Judge extended the judicial emergency through at least March 31, 2021. More specifically, the January 13 order provides that suspension, tolling, and extension will continue to the extent specified in the order until at least March 31, 2021.

Scope. With the exceptions specified in the January 13 order, the deadlines suspended, tolled, and extended under the January 13 order include, but are not limited to, (1) statutes of limitations, (2) rule-based deadlines such as time limits for events leading to a pretrial conference, and (3) case-specific orders issued before March 18, 2020 such as scheduling orders and briefing orders.

The new deadline will be determined by the date on which the period of tolling ends. If no exception in the January 13 order or in the Chief Judge's prior orders applies, the date on which the period of tolling ends is currently March 31, 2021 under the January 13 order; if one of these exceptions applies, the date is earlier. The new deadline depends in part on whether the event that triggers the deadline occurred before or after March 18, when the tolling period began under the chief judge's initial order. If an event before the start of the tolling period triggered a deadline that falls within the tolling period, the number of days remaining before the original deadline on March 18 are added to the end of the tolling period.

If the extended deadline that would apply under the January 13 order as a result of the tolling is appropriate in the circumstances of a particular case, a party should *not* file a motion seeking to extend the deadline. If a party wants a deadline different from the deadline that would apply under the January 13 order, the party must file a motion to shorten or extend this deadline.

The January 13 order does not preclude any party from taking an action even though the deadline for the action is suspended, tolled, and extended because of the current judicial emergency.

Exceptions. The January 13 order makes six exceptions to the general principle of suspension, tolling, and extension of deadlines. The third and fourth exceptions are new in the January 13 order.

Represented parties. The first exception concerns deadlines established by statute, rule, or order applicable to parties represented by counsel in pending cases. If a party represented by counsel needs additional time to complete a task due to pandemic-related reasons, the party must file a motion (after attempting to obtain other parties' consent).

This exception for any party represented by counsel applies regardless of whether or not other parties in the cases are represented by counsel. If a party represented by counsel wants an unrepresented party to comply with a deadline not covered by another exception, the party must file a motion if the unrepresented party is not willing to comply voluntarily.

This exception, and the second exception for discovery-related deadlines, do not affect the requirement in Rules 16(h)(1) and 37(a)(1)(A) that parties meet for a reasonable period of time to resolve a discovery dispute before anyone can file a discovery-related motion, or the requirement in Rule 16(c)(1) that lawyers and unrepresented parties meet "in person" before a pretrial conference. During the public health emergency, one or all parties may have good reasons not to meet in person, and conferring by telephone or videoconference may be a reasonable alternative in the circumstances. Judges have discretion to waive or modify the "in person" meeting requirements in Rules 16(c)(1), 37(a)(1)(A), and 26(h)(1). This discretion exists even if the parties do not ask for advance approval to attempt to resolve an issue without an in-person meeting, and the parties instead inform the court in a motion or joint pretrial statement that they conferred without an in-person meeting for specified pandemic-related reasons. Parties can expect judges to rule on discovery motions and conduct pretrial conferences, if the parties have not met but one or both parties had a reasonable basis related to

the pandemic not to meet in person and the parties conferred, or offered to confer, through reasonable alternative methods.

This exception applies only to pending cases. Accordingly, statutes of limitations remain suspended, tolled, and extended, even if the potential plaintiff is represented by counsel.

Discovery deadlines. The second exception, which was initially adopted in the Chief Judge's August 13 order, concerns discovery-related deadlines applicable to all parties, including parties not represented by counsel, and unlike the fourth exception, it applies to deadlines in orders issued before March 18. For parties represented by counsel, this second exception duplicates the first exception, which also applies to discovery-related deadlines. If any party needs additional time to complete a discovery-related task, the party must file a motion (after attempting to obtain other parties' consent).

The following examples are illustrative for any case subject to a scheduling order issued before March 18; they also apply under the first exception to parties represented by counsel. If a party was served with interrogatories 14 days before March 18, 16 of the 30 days provided by Rule 33(b)(2) to respond to interrogatories remained when the discovery deadline was suspended, tolled, and extended by the March 18 order, so the party had 16 days from August 13 to serve its response. If a party was served with interrogatories after March 18 and before August 13, the party had 30 days from August 13 to respond. If the party was served with interrogatories after August 13, the party had 30 days from the date of service to respond.

Unrepresented litigants may not be aware that the suspension, tolling, and extension of discovery-related deadlines ended on August 13. Rule 37(a) requires that before a party files a motion, the party, whether represented or unrepresented by counsel, must try to resolve any dispute about when the other party will provide discovery, and Rule 37(a) provides that the court may order the party from whom discovery is requested to provide the discovery. The court will consider all relevant factors in deciding whether to order an unrepresented party to provide discovery and what deadline is reasonable for discovery.

Service of process. The third exception, which was added by the January 13 order, concerns deadlines for service of process. The prior suspension, tolling, and extension of these deadlines now ends on January 29, 2021. The delayed effective date gives parties more time to make arrangements for service after a long period of tolling.

These deadlines were previously suspended, tolled, and extended (unless otherwise ordered by the court on a case-by-case basis) because public health concerns may make service difficult. The exclusion of service-related deadlines did not prevent a plaintiff from attempting service during the period of the judicial emergency, and the court's experience was that many, if not most, plaintiffs made arrangements for service. Service can be effected consistent with current public health guidelines. Accordingly, this suspension, tolling, and extension will end on January 29, 2021.

This termination of suspension, tolling, and extension has the following effect. For example, in a case where Rule 4(m)(1)(A) gives a plaintiff 60 days to serve, the 60-day period would begin on January 29, 2021 if the case was filed during the period when this deadline was

suspended, tolled, and extended (that is, if it was filed on or after March 18, 2020 and before January 29, 2021). If the case was filed, for example, 30 days before the tolling period began on March 18, the new deadline would be 30 days after January 29, 2021.

Responsive pleadings. The fourth exception, which was added by the January 13 order, concerns deadlines for responsive pleadings. The suspension, tolling, and extension of these deadlines ended on January 13, 2021, unless it ended earlier because another exception applied. For example, if a defendant has 21 days under Rule 12(a)(1)(A) to serve an answer after service of the complaint, and the defendant was served while this deadline was suspended, tolled, and extended (that is, between March 18, 2020 and January 13, 2021), the defendant has 21 days from January 13 to file the answer. If the defendant was served seven days before the tolling period began on March 18, 2020, the defendant has 14 days after January 13, 2021 to file its answer.

Motions deadlines. The fifth exception involves motions-related deadlines applicable to all parties. Orders by the Chief Judge ended the suspension, tolling, and extension of motions-related deadlines applicable to parties represented by counsel, and the November 5 order ended the suspension, tolling, and extension of these motions-related deadlines to parties not represented by counsel.

If a represented or unrepresented party does not file a motion by the applicable deadline, the party may not thereafter file the motion until the party satisfies the requirements in Rule 6(b) concerning extensions of time. If a represented or unrepresented party does not timely file a response to a motion, the court may treat the motion as conceded under Rule 12-I(e).

This exception does not affect the requirement in Rule 12-I(a) that a party attempt to get the other parties' consent before filing a motion.

Post-March 18 Orders. The sixth exception makes explicit that there is no suspension, tolling, or extension of any deadline in any order issued after March 18, 2020. This exception applies even if the post-March 18 order does not explicitly state that the judge was exercising the authority under one of the Chief Judge's orders to make case-specific exceptions to the general principle of suspension, tolling, and extension. This exception applies to any order containing a schedule, even if the order is not denominated as a "scheduling order." If a party wants any deadline in a post-March 18 order suspended, tolled, or extended, the party must file a motion (after attempting to obtain other parties' consent).

This exception for post-March 18 orders includes any discovery-related deadline, such as a deadline for the close of discovery. Even if the post-March 18 order does not explicitly require the parties to respond to a discovery request by a date specified in the order, any discovery-related deadline necessarily obligates parties to respond to any discovery request in sufficient time to comply with the deadline. Otherwise, discovery-related deadlines in the order, such as a deadline for completion of discovery, would effectively be rendered meaningless.

If a party cannot comply with a deadline in a post-March 18 order, the party must file (after attempting to obtain the other parties' consent) a motion to extend any such deadline.

Conversely, as discussed above, deadlines in any order issued before March 18 are suspended, tolled, and extended unless the court ordered otherwise in an order issued on or after March 18 or unless an exception in the January 13 order applies.

Writs of restitution. Like the November 5 order, the January 13 order provides, “Notwithstanding any other provision of this order, the time limits concerning the validity and issuance of writs of restitution in Rules 16(a)(4) and 16(c) of the Superior Court Rules of Procedure for the Landlord and Tenant Branch that would otherwise expire during the period of emergency are suspended, tolled and extended during the period of emergency.”

Under Rule 16(a)(4), a writ of restitution is valid for a period of 75 days, and this 75-day period is suspended, tolled, and extended during the period of the judicial emergency. For example, if a writ was issued 25 days before the judicial emergency began on March 18, it will remain valid for 50 days after the judicial emergency ends, which will be on March 31, 2021 unless it is further extended.

Under Rule 16(c), either a writ of restitution must be issued within 90 days after entering a judgment or default or after vacating a stay of execution, or the plaintiff may file a request for issuance of the writ. This 90-day period for issuance of writs is suspended, tolled, and extended during the period of the judicial emergency. For example, if a judgment was entered 30 days before the judicial emergency began on March 18, the court may issue a writ within 60 days after the judicial emergency ends, and the plaintiff need not request issuance of a writ unless the court does not issue the writ during that 60-day period.

Notice of evictions. Like the November 5 order, the January 13 order contains the following provision concerning notice of evictions:

Because (1) the Court has inherent authority to ensure that judgments for possession and writs of restitution are executed in a fair and orderly way, (2) the fair and orderly execution of writs of restitution requires landlords to provide reasonable notice of the rescheduled date when an eviction was postponed for a substantial period due to a public health emergency and not for a short period due to temperature or precipitation, and (3) it would not impose an unreasonable or undue burden on landlords to provide notice of the rescheduled date consistent with the terms of D.C. Code § 42-3505.01a, any landlord shall, when an eviction that had been scheduled on or after March 16, 2020 is rescheduled after the statutory stay on evictions ends, send a notice that complies with the requirements of D.C. Code § 42-3505.01a at least 21 days before the date on which the eviction is rescheduled

This provision affects landlords and tenants in cases where a landlord provided the notice required by D.C. Code § 42-3505.01a at least 21 days before an eviction that was scheduled on or after March 16, 2020 and that was postponed due to the public health emergency. This provision requires landlords in these cases to provide a second notice that complies with § 42-3505.01a if the landlord reschedules the eviction after the period of the public health emergency ends.

Section 42-3505.01a requires landlords to deliver notice of scheduled evictions on a specified timetable and in a specified manner. More specifically, § 42-3505.01a(b)(2)(F) requires that the notice delivered by a landlord informing tenants of the scheduled date of an eviction shall state that it is the final notice from the housing provider before the time of eviction, even if the eviction date is postponed by the court or marshals. When § 42-3505.01a was adopted, D.C. Code § 42-3505.01(k) provided for postponement of evictions only due to temperature or precipitation. However, in March 2020, the COVID-19 Response Emergency Amendment Act of 2020 amended § 42-3505.01(k) to prohibit evictions during the period of time for which the Mayor has declared a public health emergency. Although § 42-3505.01a does not require a landlord to provide a second notice if an eviction is postponed for a relatively brief period due to weather-related factors, it does not preclude the court from requiring a second notice if an eviction is postponed for a lengthy and indefinite period due a public health emergency. The court has inherent authority to manage its docket to achieve the fair and orderly disposition of cases and to issue orders insuring that judgments for possession and writs of restitution are carried out in a fair and orderly way consonant with justice, and no statute or rule limits the authority of the court to issue orders concerning the fair and orderly execution of writs of restitution.

For a prolonged pandemic-related postponement, a second notice that provides at least 21 days' notice before the rescheduled date of the eviction gives the tenant a reasonable opportunity to move out or to exercise any legal rights that the tenant may have, and it enables the court to address any legal issue in a fair and orderly way. Moreover, the requirement of a second notice does not impose an unreasonable or undue burden on landlords, and it benefits landlords when the second notice results in the tenant moving out before the rescheduled date of the eviction. Accordingly, the court exercised its inherent authority over the execution of its judgments and writs to require a second notice in these limited circumstances.

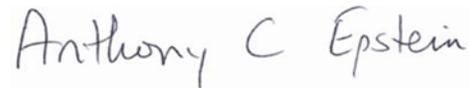
Debt collection cases. The General Order Regarding Debt Collection Cases issued on May 7, 2020 specifically addresses deadlines in administratively-designated collection cases that are filed or pending during the period of the public health emergency declared by the Mayor and for 60 days after its conclusion. See <https://www.dccourts.gov/sites/default/files/matters-docs/General%20Order%20pdf/Collection-Case-General-Order.pdf>. This order provides that, unless otherwise ordered by the Court, all deadlines and time limits in statutes, court rules, and standing and other orders, including statutes of limitation and service of process deadlines, that would otherwise expire during this period are tolled during this period. The General Order implements statutory restrictions on debt collection activities until 60 days after the end of the public health emergency declared by the Mayor; the Mayor has extended the public health emergency to at least December 30, 2020.

The cases on the calendar commonly referred to as the debt collection calendar includes cases that are subject to statutory restrictions on debt collection activities and cases that are not subject to these restrictions. The Civil Division is not scheduling hearings in any case on the debt collection calendar unless a party files a motion explaining why the statutory restrictions do not apply. The Civil Division is scheduling hearings in cases involving insurance subrogation, which are not subject to these statutory restrictions.

Mortgage foreclosure cases. The General Order Regarding Residential Mortgage Foreclosure Cases issued on July 2, 2020 addresses the administration of mortgage foreclosure cases during the period of the public health emergency declared by the Mayor and for 60 days after its conclusion. See <https://www.dccourts.gov/sites/default/files/matters-docs/General%20Order%20pdf/General-Order-for-Foreclosure-Cases-7-2-20.pdf>.

Duration. This Addendum to the General Order shall remain in effect unless and until it is modified or rescinded as circumstances change.

Issued on January 21, 2021 by order of the Presiding Judge of the Civil Division.



Anthony C. Epstein
Presiding Judge, Civil Division