

## Courts Are to Remain Open Under Michigan's Shelter In Place Order

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March 24, 2020

On March 23, 2020, Michigan joined the growing ranks of states issuing shelter in place orders, designed to slow the spread of COVID-19. Michigan, like other states, recognizes exceptions to this mandate for essential services, and the Governor's order expressly acknowledges that the Courts have the power to discharge their duties and may remain open. Courts have, however, limited in-person access and changed many of their procedures.

In Michigan, federal courts have postponed all in-court appearances pending further order of the Court. This is a pattern that holds for federal courts throughout the nation. For example, the Northern District of Texas continued all trials beginning before May 1, 2020; while the Southern District of Illinois continued all civil matters scheduled for in-person appearances. Limited exceptions are available in most jurisdictions for certain non-jury matters, including for criminal matters. Conferences and select motion hearings may continue telephonically in certain courts, though.

Most state courts remain open, although in-court appearances are limited to certain criminal matters and to emergency civil matters. Jury trials will not commence for the time being. Like federal courts, some state courts will likely start handling certain matters telephonically.

Bankruptcy courts have migrated to virtual hearings, with 341 hearings and most motion hearings being handled telephonically.

Federal courts (including bankruptcy courts) and many state courts previously migrated to a paperless, e-filing system. In those courts, parties can still commence litigation, commence bankruptcy proceedings, and file pleadings, motions and other papers electronically.

Shelter in place mandates and the restrictions on the size of gatherings have other practical implications for litigation. Although depositions can be undertaken by video, the witness must still be in the same room as the court reporter. This puts both the witness and the court reporter at risk of cross-contamination. As a result, some businesses are refusing to make witnesses available for video conferencing, citing safety concerns.

We expect that litigation, particularly bankruptcy matters, will continue during this crisis. We also expect such matters to take longer, however, and for scheduling dates in existing litigation matters to be extended. We have prepared and will have on our COVID-19 Resource Center page **a tracking chart** of how various courts have responded to this crisis.

This is part of a series of our **COVID-19 alerts** providing clients with practical advice on measures they can take to navigate through these challenging times. Please contact the authors or your Miller Canfield attorney with further questions.

*This information is based on the facts and guidance available at the time of publication, and may be subject to change.*