

Don't Let the Signs Fool You, The Courts Are Open and Rendering Justice

September 10, 2020

Many of the state and federal courthouses in Michigan, Illinois, Indiana and Ohio are not open to attorneys or to other members of the public, with some exceptions. While the signs may say "Closed, Do Not Enter;" the courts are anything but closed. Rather, the courts are providing the judicial relief needed by creditors and others.

In Michigan, the state courts have implemented a phased approach to the reopening of the courthouses. Courts in the more populous counties remain closed to in-person civil hearings, but are conducting hearings and status conferences virtually, using Zoom. Some courts are permitting in-person evidentiary hearings if the parties so request. The Michigan state courts are granting motions, appointing receivers, and providing other judicial relief to assist creditors to enforce their rights.

The Illinois, Indiana and Ohio state courts are similar to Michigan, although we have noticed that the Ohio courts are not moving as quickly as before COVID-19, and Cook County also has slowed. We have participated in Zoom hearings and have obtained judicial relief for our secured lender clients in all three states.

The U.S. District Courts also are rendering justice for our clients. Indeed, Miller Canfield litigators recently prevailed in a class action that was filed against one of our clients in the Eastern District of Michigan during the time of COVID-19. In the Western District of Michigan, the courts are open, but also are conducting Zoom hearings and conferences. Our experience is that the U.S. District Courts are moving matters along, and providing relief for secured lenders.

While some bankruptcy courts are conducting in-person hearings, most are conducting hearings virtually in the ordinary course, and with the same speed as if in-person. The bankruptcy courts are hearing and resolving motions for cash collateral, debtor in possession financing and sales of assets; and are quickly entering orders on these motions. The bankruptcy courts adapted to the COVID logistics without interruption and despite the continuing increase in cases across the country.

If you have questions regarding the current ability to obtain judicial relief, please do not hesitate to contact one of the authors or your Miller Canfield attorney.