

# Supreme Court of Ohio Tolls Litigation Deadlines and Timelines

By Phillip Sarnowski

The Supreme Court of Ohio issued an order effectuating and expanding upon the emergency legislation Governor DeWine signed into law on March 27, 2020 in response to COVID-19, which tolled statutes of limitations, as well as litigation deadlines and timelines.<sup>1</sup> The Court's order reflects the judicial branch's reciprocation of H.B. 197 and orders that all "time requirements" that are set to expire between March 9, 2020 and July 30, 2020 are tolled.<sup>2</sup> In effect, the order tolls all litigation deadlines that are due March 9 through July 30.

## Time Requirements That Are Affected

As used in the order, "Time requirements" is defined as "the time for filing all pleadings, appeals, and all other filings; time limitations; deadlines; and other directives related to time, including non-constitutional jurisdictional deadlines." The order applies to the rules authorized and promulgated under the Ohio Constitution, Article IV, such as:

- a) The Ohio Code of Judicial Conduct;
- b) The Ohio Rules of Appellate Procedure;
- c) The Ohio Rules of Civil Procedure;
- d) The Ohio Rules of Criminal Procedure;
- e) The Ohio Rules of Evidence;
- f) The Ohio Rules of Juvenile Procedure;
- g) The Ohio Rules of Professional Conduct;
- h) The Ohio Traffic Rules;
- i) The Rules for Appointment of Counsel in Capital Cases;
- j) The Rules for the Government of the Bar of Ohio;
- k) The Rules for the Government of the Judiciary of Ohio;
- l) The Rules of Practice of the Supreme Court of Ohio;
- m) The Rules of Superintendence for the Courts of Ohio;
- n) The Supreme Court Rules for the Reporting of Opinions; and
- o) Mayor's Courts Forms, Instructions, and Education & Procedure Rules.

The order does allow for a court, hearing panel, board, or commission to supersede the tolling provision by issuing an order of its own on or after March 9, 2020 but the Supreme Court asks all courts to "strive

<sup>1</sup> Information regarding H.B. 197 regarding its effect on litigation can be found here:

[https://www.ralaw.com/media/insights/Business%20and%20Commercial%20Litigation%20Alert/new\\_ohio\\_law\\_tolls\\_statutes\\_of\\_limitations\\_and\\_deadlines\\_in\\_civil\\_lawsuits\\_due\\_to\\_covid-19](https://www.ralaw.com/media/insights/Business%20and%20Commercial%20Litigation%20Alert/new_ohio_law_tolls_statutes_of_limitations_and_deadlines_in_civil_lawsuits_due_to_covid-19).

<sup>2</sup> The Court Order can be found here: <http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-1166.pdf> and a published FAQ by the Supreme Court can be read here: <http://www.courtnewsOhio.gov/bench/2020/tollingOrderFAQs.pdf>.

to be in uniform conformance with the language and intention of this order, as well as complying with all directives from the Director of the Ohio Department of Health, until the specified expiration date.”

Similar to the time period of the tolling provisions found in H.B. 197, the Court’s order retroactively begins on March 9 and expires “on the date the period of emergency ends or July 30, 2020, whichever is sooner.”

### **Why the Judicial Order is Necessary**

The Supreme Court of Ohio is empowered to create rules of practice and procedure for the courts, upon which the Ohio legislature cannot infringe under constitutional separation of powers. Therefore, while H.B. 197 attempts to toll litigation deadlines and rules, only the judicial branch is capable of altering the above rules of court.

### **Proceeding Under the Court’s Order**

All parties to litigation with active or impending litigation deadlines should consult the Supreme Court’s Order and ensure their counsel exercises vigilance, both to the status of the emergency and to the litigation activities that need to be accomplished in a given case. Creative solutions like video depositions and electronic notarization are useful tools to advance strategic goals during this period of emergency, and those efforts will be required to continue for the foreseeable future.

If you would like more information on this or other issues relating to litigation, please contact any of the listed attorneys.

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