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April 10, 2020

Guidance on Activity of Courts and Governmental Agencies that Enforce Employment Laws During Coronavirus Pandemic

We hope you are well and safe. We are getting questions about the status of courts and governmental agencies that enforce employment laws and impact the employer-employee relationship. In order to seek to answer those questions and clear up some confusion, this is a list of the current operational status of Illinois state and federal courts and key governmental agencies based on where things stand at present.

1. Federal Courts in Chicago. The United States District Court for the Northern District of Illinois, with its primary location in downtown Chicago, remains open and accessible including for the filing of new lawsuits, subject to several key limitations and procedures. The physical clerk's office is closed, so all filings, including motions, briefs and new civil cases and complaints, are filed electronically. Because new cases may still be brought and filed electronically, there is no tolling of the applicable statutes of limitation for bringing an action. Judges are continuing to work remotely and issue rulings and decisions.

Scheduled appearances in federal court have been impacted. Any civil case hearing, bench trial or settlement conference that was originally scheduled for on or before May 1, 2020 is stricken and will be re-set by the court to a date on or after May 4, 2020. Civil jury trials scheduled for on or before May 29, 2020 are stricken and will be re-set by the court to a date on or after June 1, 2020. The federal court has issued two prior extensions of all deadlines in civil cases. The above dates reflect the most recent and current status of scheduling and apply to all deadlines pending in a civil case whether set by the court, the Federal Rules of Civil Procedure or local rules, with the limited exceptions of the deadlines for appealing any court decision and other post-trial motions. Otherwise, as stated in a General Order of the court, parties in existing cases are expected to proceed and litigate civil cases including the taking of discovery. Oral discovery if necessary, such as depositions, are proceeding by telephone and video conferencing.

Importantly, the federal court remains open and available to hear emergency motions and to provide emergency relief to parties in any civil case. This is significant for employers and includes applicable motions for a TRO or for preliminary injunction if there is a threat to their businesses that is deemed an emergency.

2. Illinois State Courts in Chicago. The Circuit Court of Cook County, the largest state court system in Illinois, remains physically closed for court proceedings except to hear emergency matters. Matters deemed to be an emergency by the presiding judge will be heard and conducted either in-person or by video or telephone conference. By no later than April 16, 2020, all emergency hearings will be conducted by video or telephone conferencing. All presently scheduled court hearings and appearances through May 18 have been stricken and rescheduled for a period of 30 days from the originally scheduled court date. Discovery is continuing as scheduled in civil cases with the exception of oral depositions. Parties are expected to postpone oral depositions for a period of up to 60 days, or make other arrangements to conduct depositions by remote methods. Parties will not be penalized if discovery compliance is delayed

for reasons related to the coronavirus pandemic. Otherwise, there is no general extension of case deadlines. Significantly, new civil cases can be brought and filed electronically – so all existing statutes of limitation continue to apply.

3. Equal Employment Opportunity Commission. While the EEOC has closed all of its physical offices to the public, it is continuing to work remotely and to enforce the federal employment non-discrimination laws. The EEOC continues to accept charges of discrimination and to schedule charge intake appointments with the charging party by telephone. As of March 12, 2020, the EEOC is not accepting any walk-ins or in-person intake appointments. At present, there has been no change to the strict legal deadlines that apply to an employee’s ability to file a charge of discrimination following alleged discriminatory conduct or to file a federal court lawsuit after being issued a notice of the right to sue by the EEOC. Because these strict deadlines have not been altered, the EEOC recently announced that is not issuing right-to-sue notices to charging parties because of its concern that employees will not be able to file a federal court lawsuit within the requisite 90 days of receiving such right-to-sue notice. In sum, aggrieved employees still need to file charges electronically within the requisite time period, the EEOC is working remotely, processing charges and investigating such charges, but the EEOC has ceased, for the time being, closing out investigations and issuing right-to-sue notices.

4. Illinois Human Rights Department. Similar to the EEOC, the IDHR is working remotely and is accepting charges of discrimination from complainants only by e-mail, fax or U.S. Mail, although it encourages filings by e-mail. The IDHR is continuing to schedule and conduct interviews and fact-finding conferences with employees and employers via telephone or videoconference. The IDHR also continues to hold remote mediations by telephone or videoconference. The deadlines for employees to file a charge of discrimination with the IDHR remain the same. However, with respect to internal deadlines for responding to a charge of discrimination or for providing the IDHR with requested or specified information, the IDHR is willing to adjust deadlines to accommodate parties given the coronavirus pandemic. Parties submit a request for an extension of a deadline to the assigned investigator. In addition, the IDHR has stated that there is no adjustment, at present, to the December 31, 2020 deadline for employers to conduct required sexual harassment prevention training – a new requirement for all Illinois employers that went into effect at the beginning of the year.

5. Illinois Human Rights Commission. All motions, status conferences and settlement conferences are being conducted by telephone. Effective April 3, 2020, all post-hearing briefing deadlines and motion deadlines will be extended by 30 days. Required filings with the IHRC can be accomplished either by U.S. Mail or by filing electronically through the IHRC’s website. Finally, the IHRC rules and procedures now permit service of any motion, order, notice or other pleading to be made by e-mail.

6. Illinois Department of Labor. The IDOL continues to intake and process complaints. In response to the coronavirus pandemic, the IDOL cancelled all wage and other claim hearings starting on March 17, 2020, regardless of whether the hearings were scheduled to be in-person or to be held by telephone. IDOL recently announced that it is resuming hearings by telephone on April 13, 2020. Parties to such resumed hearings will be notified by the IDOL.

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