



# **STATE OF WEST VIRGINIA STATUTE OF LIMITATIONS**

**(during COVID-19 pandemic)**

**Prepared by**

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## **EXTENDED STATUTES OF LIMITATIONS DURING THIS TIME OF COVID-19**

As of May 18, 2020, the tolling period for deadlines set forth in the court rules, statutes, ordinances, administrative rules and scheduling orders expired and were not further extended. The following information explains West Virginia's tolling period.

On March 16, 2020, the Supreme Court of Appeals of West Virginia entered an Administrative Order postponing all hearings scheduled between March 16, 2020, through April 10, 2020, unless they could be held remote, telephonic, other video technology. This Order did not apply to criminal trials in which a defendant's speedy trial rights would be violated by not having the trial.

On March 22, 2020, the Supreme Court declared a Judicial Emergency. The Court postponed all deadlines set forth in court rules, statutes, ordinances, administrative rules, or scheduling orders which would expire between March 23, 2020 to April 10, 2020, and those were extended to April 11, 2020. This Order did not toll the statute of limitations or statutes of repose that were set to expire after the expiration of the Order.

On April 3, 2020, entered an Amended Order to their March 22, 2020 Order. This Amended Order stayed all jury trials during the time period and all deadlines set to expire between March 23, 2020 and May 1, 2020 were extended to May 4, 2020. However, deadlines set to expire after May 1, 2020, were not tolled by the Amended Order.

On April 22, 2020, entered a Second Amended Order to their April 3, 2020 Amended Order. This Second Amended Order stayed all jury trials during the time period and all deadlines set to expire between March 23, 2020 and May 15, 2020 were extended to May 18, 2020. However, deadlines set to expire after May 15, 2020, were not tolled by the Second Amended Order.

On May 6, 2020, the Supreme Court of Appeals entered its final Administrative Order regarding the resumption of operations. The Court extended the following deadlines:

- Statute of limitations or statutes or repose that would have expired between March 23, 2020 and May 15, 2020 shall expire on May 18, 2020;
- Deadlines that were created by the April 24, 2020 Temporary Order, *see below*, remain unchanged;
- Deadlines set forth by court rules, statutes, ordinances, administrative rules, or scheduling orders that would have expired between March 23, 2020 and April 17, 2020, are extended until May 29, 2020;
- Deadlines set forth by court rules, statutes, ordinances, administrative rules, or scheduling orders that would have expired between April 18, 2020 and May 15, 2020, are extended until June 12, 2020; and,
- Any Statute of Limitations or State or Repose that expired after May 15, 2020 were not tolled.

Following the expiration of the final Administrative Order, the Supreme Court has not created any special rules regarding or extended any further deadlines.

#### **TEMPORARY RULES EXTENDING TIME LIMITS TO SERVE COMPLAINTS AND/OR SPECIAL RULES RELATING TO METHODS OF SERVICE**

Under West Virginia Rules of Civil Procedure, service of a summons must be made within 120 days after issuance.

In the Supreme Court's Administrative Order dated April 24, 2020, the Court entered an Order outlining the effects of COVID-19 related issues on litigation and

specifically outlined the changes to the *West Virginia Rules of Civil Procedure* and the *Trial Court Rules*. The Court specifically stated that:

Unless expressly suspended or amended in this Temporary Order or the Second Amended Order, the *West Virginia Rules of Civil Procedure* and *West Virginia Trial Court Rules* remain in full effect.

Neither the April 24, 2020 Temporary Order nor the Second Amended Order changed, altered, modified the rules of service or methods of service as required under Rule 4 of the *West Virginia Rules of Civil Procedure*. However, the modified deadlines for service of a complaint are outlined in the Section above.

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