IN THE COURT OF APPEALS OF MARYLAND

FIFTH REVISED ADMINISTRATIVE ORDER ON THE EMERGENCY TOLLING OR SUSPENSION OF STATUTES OF LIMITATIONS AND STATUTORY AND RULES DEADLINES RELATED TO THE INITIATION OF MATTERS AND CERTAIN STATUTORY AND RULES DEADLINES IN PENDING MATTERS

WHEREAS, Pursuant to the Maryland Constitution, Article IV, § 18, the Chief Judge of the Court of Appeals is granted authority as the administrative head of the Judicial Branch of the State; and

WHEREAS, The Court of Appeals has approved Chapter 1000 of Title 16 of the Maryland Rules of Practice and Procedure setting forth the emergency powers of the Chief Judge of the Court of Appeals; and

WHEREAS, In instances of emergency conditions, whether natural or otherwise, that significantly disrupt access to or the operations of one or more courts or other judicial facilities of the State or the ability of the Judiciary to operate effectively, the Chief Judge of the Court of Appeals may be required to determine the extent to which court operations or judicial functions shall continue; and

WHEREAS, Due to the outbreak of the novel coronavirus, COVID-19, and consistent with guidance issued by the Centers for Disease Control and Prevention (CDC) and the Maryland Department of Health (MDH), an emergency exists for which measures continue to be required to mitigate potential for exposure for individuals visiting a court or judicial facility and for judicial personnel; and

WHEREAS, The impact of the restrictions required to respond to the COVID-19 pandemic has had a widespread detrimental impact upon the administration of justice,

impeding the ability of parties and potential litigants to meet with counsel, conduct research, gather evidence, and prepare complaints, pleadings, and responses, with the impact falling hardest upon those who are impoverished; and

WHEREAS, The detrimental impact of the COVID-19 pandemic is so widespread as to have created a general and pervasive practical inability for certain deadlines to be met; and

WHEREAS, Pursuant to the *Amended Administrative Order on the Progressive Resumption of Full Function of Judiciary Operations Previously Restricted Due to the COVID-19 Emergency*, filed June 3, 2020, offices of the clerks of court reopened to the public on July 20, 2020; and

WHEREAS, the *Sixth Administrative Order Restricting Statewide Judiciary Operations Due to the COVID-19 Emergency*, having been filed on November 24, 2020, requiring the courts to return to Phase II operations in light of surging COVID-19 infection rates throughout Maryland, substantive and technical amendments to the cross-references are necessary in related administrative orders,

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 24th day of November 2020, that:

(a) By previous Order, pursuant to Maryland Rule 16-1003(a)(7), all statutory and rules deadlines related to the initiation of matters required to be filed in a Maryland state trial or appellate court, including statutes of limitations, were tolled or suspended, as applicable, effective March 16, 2020, by the number of days that the courts were closed to the public due to the COVID-19 emergency; and

(b) By this Order, those same deadlines remain tolled or suspended, as applicable, effective March 16, 2020, by the number of days that the courts were closed to the public due to the COVID-19 emergency; and

(c) Justice requires that the ordering of the suspension of such deadlines during an emergency as sweeping as a pandemic be applied consistently and equitably throughout Maryland, and no party or parties shall be compelled to prove his, her, its, or their practical inability to comply with such a deadline if it occurred during the COVID-19 emergency to obtain the relief that this Order provides; and

(d) For the purposes of tolling of statutes of limitations and other deadlines related to the initiation of matters, in this Order, "tolled or suspended by the number of days that the courts were closed" means that the days that the offices of the clerks of court were closed to the public (from March 16, 2020 through July 20, 2020) do not count against the time remaining for the initiation of that matter; and

(e) For the purposes of tolling of statutes of limitations and other deadlines related to the initiation of matters, in this Order, "matters" are, *nunc pro tunc* to March 16, 2020, those matters for which the statute of limitations and other deadlines related to initiation would have expired between March 16, 2020, through the termination date of COVID-19 emergency operations in the Judiciary as determined by the Chief Judge of the Court of Appeals; and

(f) With the offices of the clerks of courts having been reopened to the public on July 20, 2020, the filing deadlines to initiate matters having been extended by previous Order, by an additional 15 days;[1] and

[1] For example, if two days remained for the filing of a new matter on March 15, 2020, then two days would have remained upon the reopening of the offices of the clerks of court to the public on July 20, 2020. With the additional fifteen days, seventeen days would be left for a timely filing, beginning July 20, 2020.

(g) Any such filings made within the period described in (d) and (e) shall relate back to the day before the deadline would have expired had it not been tolled or suspended; and

(h) By previous Order, pursuant to Maryland Rule 16-1003(a)(7), all statutes and rules deadlines to conduct pending judicial proceedings shall be tolled or suspended, as applicable, effective March 16, 2020, by the number of days that the courts are closed to the public due to the COVID-19 emergency by order of the Chief Judge of the Court of Appeals; and

(i) For the purposes of tolling of all statutes and rules deadlines to conduct pending judicial proceedings, in this Order, "tolled or suspended by the number of days that the courts were closed" means that the days that the offices of the clerks of court were closed to the public (from March 16, 2020 through July 20, 2020) do not count against the time remaining to conduct judicial proceedings; and

(j) With the offices of the clerks of courts having reopened to the public on July 20, 2020, the deadlines to conduct proceedings pending on March 16, 2020, having been extended, by previous Order, by an additional 60 days in order for the courts to reschedule and hold the same; and

(k) For purposes of Maryland Rules 2-507 and 3-507, extensions shall be calculated consistent with sections (h) and (i) of this Order; and

(l) To the extent that this Administrative Order conflicts with extant Administrative Orders or local administrative orders, this Administrative Order shall prevail, except as provided in Section (ii) of the *Sixth Administrative Order Restricting Statewide Judiciary Operations Due to the COVID-19 Emergency*, filed November 24, 2020, and the *Fourth Amended Administrative Order Re-Imposing the Statewide Suspension of Jury Trials and Maintaining Grand Juries*, filed November 24, 2020; and

(m) The *Fourth Revised Administrative Order on the Emergency Tolling or Suspension of Statutes of Limitations and Statutory and Rules Deadlines Related to the Initiation of Matters and Certain Statutory and Rules Deadlines in Pending Matters*, filed November 12, 2020, shall be and hereby is rescinded; and

(n) This Administrative Order will be revised as circumstances warrant.

/s/ Mary Ellen Barbera
Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland

Filed: November 24, 2020

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

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Suzanne Johnson
2020-11-24 17:06-05:00

Suzanne C. Johnson, Clerk