SUMMARY OF KEY PROVISIONS IN SJC'S SEPT. 17 COVID-19 ORDER

The following is a summary of key provisions in the Supreme Judicial Court's (SJC) Fourth Updated Order Regarding Court Operations Under The Exigent Circumstances Created By The COVID-19 (Coronavirus) Pandemic (September 17 Order), which, effective September 17, 2020, repealed and replaced the Third Updated Order Regarding Court Operations Under The Exigent Circumstances Created By The COVID-19 (Coronavirus) Pandemic, which became effective July 1, 2020 (July 1 Order). If there is a conflict between this document and either order, the provisions of the order prevail.

Massachusetts state courthouses will continue to be physically open to the public for limited purposes. Persons seeking to enter will continue to be subject to screening to prevent the spread of COVID-19 and entry will be limited to persons (1) attending in-person proceedings (see below), (2) conducting business with a clerk's, register's, or recorder's office, (3) reporting for jury service, (4) meeting with probation, or (5) conducting business at other offices that are open to the public in the courthouse.

Subject to certain exceptions as discussed below, courts will continue to address most matters virtually (i.e., by telephone, videoconference, email, or comparable means, or through the electronic filing system), in both civil and criminal cases.

Courts will continue to conduct in-person proceedings in matters that either can be handled more effectively or efficiently in person, or cannot be handled virtually because a virtual proceeding is not practicable or would be inconsistent with the protection of constitutional rights. Each Trial Court department will continue to post notices to the "Court System Response to COVID-19" webpage (https://www.mass.gov/guides/court-system-response-to-covid-19) (COVID-19 webpage) identifying how (virtually or in-person) it is addressing various categories of matters.

On or after October 23, 2020, courts will commence Phase 1 of the gradual resumption of jury trials, in general accordance with the recommendations in the recent report issued by the Jury Management Advisory Committee (JMAC). Phase 1 will consist of a limited number of six-person jury trials that will be conducted in person in a select number of locations, with no more than one trial at a time conducted in each location, and with specified limitations on the number of peremptory challenges available to each party. The cases that will be tried to juries during Phase 1, as well as the locations thereof, will be determined by the Chief Justice of the applicable Trial Court department, in consultation with the Chief Justice of the Trial Court. The SJC shall issue direction regarding Phase 2 of the resumption of jury trials after reviewing the JMAC's evaluation of Phase 1. It is anticipated that Phase 2 will begin in February 2021, although plans regarding the resumption of jury trials may be adjusted in response to significant changes in the rate of COVID-19 transmission in the Commonwealth.

Criminal bench trials will continue to be conducted in person unless the parties and trial judge agree to conduct the trial virtually.

Civil bench trials will continue to be conducted virtually in the discretion of the trial judge.

New grand juries may be empaneled subject to certain approvals and such conditions as may be necessary to minimize risk to members of the grand jury, court personnel, and witnesses.

Clerks', Registers', and Recorder's Offices will continue to be physically open to the public, while still endeavoring to conduct business virtually as much as possible. Drop-boxes may be provided at courthouses for the hand-delivery of pleadings or other documents for filing. Each Trial Court department, however, also will provide guidance on the COVID-19 webpage on how to file pleadings and other documents without coming to the courthouse.

Cell phones and other personal electronic devices are allowed in courthouses, as long as they are used in compliance with the rules set forth in Trial Court Emergency Administrative Order 20-10 (Order Concerning Trial Court Policy on Possession & Use of Cameras & Personal Electronic Devices), which was issued on June 24. The rules shall be posted on the COVID-19 webpage and at the entrance to each courthouse.

All criminal statutes of limitation are tolled from March 17, 2020, through October 23, 2020, because of the limited availability of grand juries. All civil statutes of limitations were tolled by prior SJC orders from March 17, 2020, through June 30, 2020, and have not been tolled any further by the September 17 Order.

Tolling of deadlines set forth in statutes, court rules, standing orders, tracking orders, or guidelines. Unless otherwise ordered by the applicable court, court department, or the presiding judge, all deadlines set forth in statutes or court rules, standing orders, tracking orders, or guidelines that expired at any time from March 17, 2020, through June 30, 2020, were tolled by prior SJC orders through June 30, 2020. Such deadlines have not been tolled any further by the September 17 Order.

Court-ordered deadlines in particular cases. Unless otherwise ordered by the judge presiding over the case, all deadlines established by a court in a particular case prior to March 17, 2020, that expired at any time from March 17, 2020, through June 30, 2020, were tolled by prior SJC orders until July 1, 2020. Such deadlines have not been tolled any further by the September 17 Order.

Expiring injunctions and similar orders. Unless otherwise ordered by the applicable court, all orders in a particular case that were issued prior to March 17, 2020, after an adversarial hearing (or the opportunity for an adversarial hearing), that enjoined or otherwise restrained or prohibited a party from taking some act or engaging in some conduct until a date at any time from March 17, 2020, through August 31, 2020, shall remain in effect until the matter is rescheduled and heard on a date on or before October 13, 2020. To the extent they are not already doing so, Trial Court departments shall reschedule and hear these matters virtually, whenever practicable, or in person.