Updated IP Alert | Litigating IP Cases During the COVID-19 Pandemic

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MAY 20, 2020 UPDATE:

Since this article's publication, federal courts around the country have continued to address the COVID-19 pandemic and to modify their procedures, including in intellectual property cases.

For example, as previously explained, the U.S. Supreme Court made the unprecedented move to hold May 2020 oral arguments by telephone.[i] The Court has now heard 10 cases over two weeks of telephonic oral arguments, including arguments in a trademark case.[ii] The Federal Circuit is also holding telephonic oral arguments and recently announced that telephonic oral arguments will continue "until further notice."[iii]

Even trials are starting to take place remotely. For example, after the parties waived the jury in Centripetal Networks, Inc. v. Cisco Systems, Inc., the bench trial began via Zoom with the first day involving a remote technical tutorial.[iv] The judge stated that while he regularly limits parties' time during patent trials, he would not in this case based on the novelty of the trial forum.[v] Relatedly, in IPA Technologies Inc. v. Amazon.com, Inc., the judge denied a request to postpone a Markman hearing and ordered that it be held via Skype for Business.[vi] In a non-IP dispute, a bench trial in Liquid Metal LLC v. Business Aircraft Leasing Inc. was broadcast on YouTube.[vii] The videos included various views of home offices (a bed, shelves, etc.), a barking dog, and technical issues such as participants trying to talk while being on mute, highlighting some of the challenges litigants face and need to be aware of when remotely participating.[viii]

Other courts have provided trial continuances but are simultaneously preparing for remote trials to begin soon. For example, despite initially denying a request for a continuation, the judge in MV3 Partners LLC v. Roku, Inc. granted a continuation of the jury trial until June 29 but described that new date as "unavoidable."[ix] In another example, a judge agreed to a continuation of a bench trial date to July 6 but stated that "we should prepare for the possibility that some or all of the testimony at our trial will have to be taken remotely."[x]

Since the article's publication below, various courts have extended the ongoing procedural modifications, such as extending courthouse closures or access restrictions, or trials, hearings, and deadlines.[xi] One court—the District of Rhode Island—issued a letter "looking to the future" about how the court will operate "in the next year to 18 months" and previewing that many procedural changes are likely to remain.[xii] The Court explained that "some time and creative thinking" is necessary, and that "we cannot return the Court to what we will think of as fully 'normal' operations until it is completely safe to do so."[xiii] The Court also provided some "preliminary decisions," including keeping the courthouses closed "for at least the next several months, and likely until September," suspending jury trials "until further notice," and conducting most of the other "usual functions" of the Court "using either telephone or more likely Zoom video."[xiv]

Similarly, individual judges are looking to the future and establishing new procedures for other litigation procedures. In a matter to watch, a judge in the Northern District of California rejected Roku's motion for a protective order after Canon subpoenaed third-party Roku's source code and wanted remote access of the source code.[xv] The judge denied the motion because the parties had failed to meet and confer in good faith, and reprimanded the parties: "At a time when the country and the world is facing a health crisis, the court expects counsel and the parties to make extra efforts to resolve discovery issues amicably."[xvi] How this discovery dispute is resolved could create guidance for certain kinds of remote discovery, and others have been watching. For example, on May 13, Hulu filed an amicus brief arguing that remote viewing of source code is "inherently and incurably insecure" and if source code were to become public, it's value would "irreparably be destroyed."[xvii]

Once again, the COVID-19 crisis remains ongoing and the patchwork of various orders and guidance from federal courts continues to change rapidly. For additional information about the content in this alert or update, or if you have questions about the business and legal implications of the COVID-19 situation, please contact a Banner Witcoff attorney.

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[i] United States Supreme Court Apr, 13, 2020 Press Release, available at

https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_04-13-20 (hearing May 2020 oral arguments by telephone for "a limited number of previously postponed cases").

[ii] See, e.g., United States Supreme Court Argument Audio (Term Year 2019, Argument Session May 4 – May 13, 2020), https://www.supremecourt.gov/oral_arguments/argument_audio/2019.

[iii] Notice Concerning the Conducting and Scheduling of Oral Argument (Fed. Cir. May 18, 2020), available at http://www.cafc.uscourts.gov/announcements/notice-concerning-conducting-and-scheduling-oral-argument; Administrative Order No. 20-02 (Fed. Cir. May 18, 2020), available at http://www.cafc.uscourts.gov/sites/default/files/rules-of-practice/Administrative-Orders/AdministrativeOrder-2020-02-05182020.pdf.

[iv] See "Cisco Patent Trial Kicks Off Over Zoom Without A Hitch," available at https://www.law360.com/articles/1269331; see also Centripetal Networks, Inc. v. Cisco Sys., Inc., No. 2:18-cv-00094, Dkt. No. 294 (E.D. Va. Mar. 12, 2020) (parties agreeing to waive jury trial).

[v] Id.

[vi] IPA Techs. Inc. v. Amazon.com, Inc., No. 16-cv-01266, Dkt. No. 122 (D. Del. May 4, 2020).

[vii] See "18-726 – Liquid Metal LLC v. Business Aircraft Leasing, Inc. – Bench Trial," available at https://www.youtube.com/watch?v=B2S7NtJA_xE (dated Apr. 28, 2020).

[viii] Id.

[ix] MV3 Partners LLC v. Roku, Inc., No. 18-cv-00308, Dkt. No. 271 (W.D. Tex. May 13, 2020).

[x] Ferring Pharm. Inc. v. Serenity Pharm., LLC, No. 17-cv-09922, Dkt. No. 684 (S.D.N.Y. May 14, 2020).

[xi] See, e.g., In re: Second Extension of Modified Court Opreations Under the Exigent Circumstances Created by COVID-19 and Related Coronavirus, Gen. Order No. 08-20 (W.D. Wash. May 13, 2020), available at http://www.laed.uscourts.gov/sites/default/files/pdfs/EDLA-GeneralOrder20-6ContinuingJuryTrialsuntilAug2020FINAL.pdf (entering a general order, e.g., continuing prior COVID-19 procedures until July 31, 2020, continuing civil hearings and trial dates before August 3, 2020 until further notice, requiring all persons over two years old to wear a face covering or mask inside courthouses).

[xii] April 29, 2020 Letter from District of Rhode Island, available at https://www.rid.uscourts.gov/sites/rid/files/Letter%20to%20the%20Bar%20%28003%29.pdf.

[xiii] Id.

[xiv] Id.

[xv] Canon Inc. v. TCL Elecs. Holdings Ltd., No. 20-MC-80079, Dkt. No. 12 (N.D. Cal. May 8, 2020).

[xvi] Id.

[xvii] Canon Inc. v. TCL Elecs. Holdings Ltd., No. 20-MC-80079, Dkt. No. 19 (N.D. Cal. May 8, 2020).

APRIL 29, 2020 ORIGINAL POST:

Over the past several weeks, courts, judges, and parties have been modifying the way intellectual property litigations move forward amid the COVID-19 / coronavirus pandemic. While cases are proceeding, flexibility remains key. Below we highlight a few examples of the current impact of the COVID-19 pandemic on intellectual property litigation. However, these are only exemplary, and because the situation is changing rapidly, it is important to consult the full orders, procedures, and opinions in your court and from your judge.

Court Orders and Procedures Related to COVID-19

U.S. federal courts have been modifying the way they operate in response to the pandemic, public health guidance, and various shelter-in-place orders. So far, each federal court has set its own operating procedures, often through standing or general orders. These orders can be found on each court's individual website, and also are collected on the United States Courts' website.[i]

Modifications impacting civil intellectual property cases have included one or more of the following: restricting access to courthouses and clerk's offices; continuing trials; cancelling or postponing hearings or other events; permitting telephonic or videoconference attendance; and extending some or all deadlines for a period of time. However, each court's approach has been unique.

For example, the U.S. Supreme Court closed to the public, postponed March and April oral arguments, and announced that it will hold May 2020 oral arguments remotely.[ii] Similarly, the Federal Circuit held April 2020 arguments by telephone and will do the same for May 2020 oral arguments.[iii] The Federal Circuit also adopted a variety of other temporary modifications to rules and procedures, such as suspending the filing of certain paper copies.[iv]

In fact, access to nearly every federal district and appellate courthouse has been restricted in some manner, but the approaches and time periods for restrictions are varied. For example, federal court buildings in the Western District of Michigan are "open to the public on an 'appointment only' basis until April 30, 2020."[v] Other district courts are restricting access based on travel or health history.[vi] And, despite the pandemic, some courthouses appear to remain open without restrictions on building access. For example, as of this writing, the Southern District of Iowa does not appear to have any COVID-19 related restrictions on who can enter the courthouse buildings, although it has issued other orders related to the pandemic.[vii] So before traveling to a federal courthouse building, be sure to check with that individual courthouse on any new or additional restrictions in place due to the COVID-19 pandemic.

Most federal district courts also postponed jury trials, and in some cases, bench trials. But once again, the approaches differ. Some courts, like the Northern District of Alabama, continued both civil jury and bench trials until further notice or court order.[viii] Others, like the Northern District of Illinois, are treating bench and jury trials differently.[ix] Approaches can even vary amid district courts in the same state. For example, each federal district court in California postponed civil jury trials, but through different points in time in May and June 2020.[x]

Similarly, many federal district courts are approaching hearings and other in-person events in a variety of ways, including deciding on the papers[xi] or holding hearings by telephone or videoconference.[xii]

Filing, discovery, and other civil deadlines have largely remained intact in many courts.[xiii] However, a handful of courts have broadly extended or stayed those deadlines.[xiv] Others, like the District of Maryland, take a mixed approach, extending filing deadlines but allowing discovery activities to proceed.[xv] In most cases, however, the orders leave flexibility for individual judges to make exceptions.[xvi]

Although most states have some form of a statewide stay-at-home order, federal courts in states without such an order are still taking precautionary measures. For example, the District of North Dakota is closing federal courthouses to the public "except for scheduled appointments," continuing jury trials for a period of time, and taking other actions in response to the pandemic.[xvii]

The above is merely advisory, and most courts allow judges to modify the standing order procedures or parties to request additional relief. In addition, courts are issuing new and amended orders and guidance often. It is therefore important to consult the specific procedures, orders, and guidance from the court and judge in your particular case.

Decisions from IP Cases that Reference COVID-19

Judges in intellectual property cases are also adapting in real time and providing a range of responses to parties' requests to extend deadlines. For example, in Saint Lawrence Communications v. Amazon.com, the court initially denied a joint motion for a 30-day continuance of all deadlines in a patent infringement case. No. 2:19-CV-00027, Dkt. No. 79 (E.D. Tex. Mar. 12, 2019). A week later, the court reversed course and granted the 30-day continuance of all deadlines after the parties renewed their joint motion. Saint Lawrence Communications v. Amazon.com, No. 2:19-CV-00027, Dkt. No. 81 (E.D. Tex. Mar. 19, 2019). In another example, a court granted a joint motion to extend all deadlines by 60 days in a patent infringement case. Tippmann Engineering, LLC v. Innovative Refrigeration Systems, Inc., No. 5:19-CV-00087, Dkt. No. 51 (W.D. Va. Apr. 2, 2020).

Alternatively, some courts have ordered parties to take certain actions telephonically. For example, rather than extend the deadline for a mediation in a patent infringement case, one court ordered the mediation to happen via videoconference within a week. Eidos Display, LLC v. Chi Mei Innolux Corp., No. 6:11-CV-00201, Dkt. No. 968 (E.D. Tex. Mar. 20, 2020). In another example, a court held that the deposition of an individual in a patent infringement case could be taken telephonically if the parties agreed, but held that any Rule 30(b)(6) depositions would be postponed indefinitely because properly preparing a Rule 30(b)(6) witness is impossible while the parties' offices are closed and documents cannot be accessed. British Telecommunications PLC v. IAC/InterActiveCorp, No. 18-CV-366, Dkt. No. 188 (D. Del. Mar. 20, 2020).

Finally, when deciding whether to move the court, a party should keep in perspective the importance of its motion in the context of the COVID-19 pandemic. In Art Ask Agency v. The Individuals, the judge scolded the plaintiff for filing an emergency motion to reconsider the postponement of a hearing regarding a temporary restraining order in a trademark and copyright infringement case. Art Ask Agency v. The Individuals, No. 1:20-cv-01666, Dkt. No. 27 (N.D. Ill. Mar. 18, 2020). After pointing out that the plaintiff had failed to show any irreparable injury from waiting a few weeks, the judge stated, "[t]he world is facing a real emergency. Plaintiff is not." Id.

Looking Forward

The COVID-19 crisis is ongoing and circumstances are changing rapidly. As are the orders and guidance issued by courts. For now, the following are some tips to keep in mind:

- Continue to monitor your court's orders, guidelines, and protocols. The guidelines are constantly changing as courts work to quickly adapt to new guidance. Check back often.
- Monitor your judge's decisions from other cases that relate to COVID-19 and its impact. As discussed above, many parties are filing papers related to scheduling and other impacts of the pandemic. Decisions from your specific judge may shed light on additional potential impacts in your own case.

- E-file where possible. Given the number of stay-at-home orders and the restricted access to many courthouses, e-filing remains a great option. In addition, many courts are changing procedures for filing or eliminating the need for physical courtesy copies in the wake of the pandemic, so check your specific court's or judge's policy.
- Be prepared to participate remotely, whether through telephonic or video means. Test your technology in advance, and have a back-up option in case your preferred method fails or cuts out. Also, consider how to handle client attendance or sidebars with your client while remote.
- Be flexible and consider how to adapt arguments, presentations, and filings given the current circumstances and potential remote means. Presenting in person versus over the phone or even via video can require different types of presentations and formats.

The above information is advisory only, and the situation is rapidly changing. For additional information about the content in this alert or if you have questions about the business and legal implications of the COVID-19 situation, please contact a Banner Witcoff attorney.

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[i] See "Court Orders and Updates During COVID-19 Pandemic," available at https://www.uscourts.gov/about-federal-courts/court-website-links/court-orders-and-updates-during-covid19-pandemic (collection of court orders, protocols, and guidance from federal appellate and district courts).

[ii] United States Supreme Court Mar. 16, 2020 Press Release, available at https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_03-16-20 (postponing March 2020 oral arguments); United States Supreme Court Apr. 3, 2020 Press Release, available at https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_04-03-20 (postponing April 2020 oral arguments); United States Supreme Court Apr, 13, 2020 Press Release, available at

https://www.supremecourt.gov/publicinfo/press/pressreleases/pr_04-13-20 (hearing May 2020 oral arguments by telephone for "a limited number of previously postponed cases").

[iii] Updated Public Advisory Concerning the Federal Circuit's April 2020 Sitting (Fed. Cir. Mar. 18, 2020), available at

http://www.cafc.uscourts.gov/announcements/updated-public-advisory-concerning-federal-circuits-april-2020-sitting-march-18-2020 (holding April 2020 arguments by telephonic conference); Public Advisory Concerning the May 2020 Court Session (Fed. Cir. Apr. 21, 2020), available at http://www.cafc.uscourts.gov/sites/default/files/announcements/2020/Notice-May2020CourtSession-04212020.pdf (holding May 2020 arguments telephonically).

[iv] Administrative Order No. 20-01, (Fed. Cir. Mar. 20, 2020), available at http://www.cafc.uscourts.gov/sites/default/files/rules-of-practice/Administrative-Orders/AdministrativeOrder-ModifiedOperations-03202020.pdf.

[v] Notice of Revised Access to Facilities Overseen by the United States District Court for the Western District of Michigan, available at https://www.miwd.uscourts.gov/news/covid-19-restrictions-federal-building-access-appointment-or-court-order-only-march-24-april-30.

[vi] See, e.g., In re: Restrictions on Visitors to Courthouses, No. 3-20-MC-21 (Dkt. No. 1) (N.D. W.Va. Mar. 10, 2020), available at https://www.wvnd.uscourts.gov/sites/wvnd/files/3%2020%20mc%2021%20Order%20re%20Restrictions%20on%20Visitors%20to%20Courthouses.pdf (prohibiting entry to any courthouse of certain individuals, e.g., persons who have traveled to, or reside with or have close contact with someone who has traveled to, China, South Korea, Japan, Italy, and Iran within the last 14 days; persons who have been asked to self-quarantine by a doctor, hospital, or health agency; persons who have been diagnosed with or have had contact with someone diagnosed with COVID-19; and persons with "fever, cough or shortness of breath"); In re: Visitor Restrictions, Order of the Chief Judge No. 17-A (S.D. Cal. Mar. 17, 2020), available at https://www.casd.uscourts.gov/_assets/pdf/rules/Order%20of%20the%20Chief%20Judge%2017-A.pdf (barring from entering federal court houses, e.g., persons "who have traveled to any countries within the last fourteen days for which the CDC has issued Level Three travel health notices," or who reside with or have close contact with somebody who traveled to those countries within the last 14 days; persons "who have travelled to a quarantined area in the United States within the last fourteen days;" persons who have been asked to self-quarantine, who have been diagnosed with or have had contact with somebody diagnosed with COVID-19, or who have "apparent symptoms of COVID-19, such as fever, severe cough, or shortness of breath").

[vii] See generally https://www.iasd.uscourts.gov/.

[viii] In re: Court Operations During the Public Health Emergency Caused by the COVID-19 Virus, Gen. Order (N.D. Ala. Mar. 17, 2020), available at https://www.alnd.uscourts.gov/sites/alnd/files/General%20Order%20-%20Court%20Operations%20During%20the%20Public%20Health%20Emergency%20Caused%20By%20the%20COVID-19%20Virus%20effective%20March%2017%2C%202020.pdf ("All civil and criminal jury trials … are hereby continued pending further court order."; "All non-jury trials scheduled to commence before any district or magistrate judge are hereby continued pending further Court order.").

[ix] In re: Coronavirus COVID-19 Public Emergency, Third Amended Gen. Order 20-0012 (N.D. Ill. Apr. 24, 2020), available at https://www.ilnd.uscourts.gov/_assets/_documents/AMENDED%20GENERAL%20ORDER%2020-0012.pdf ("Civil … bench trials … scheduled for on or before May 29, 2020 are stricken, to be re-set by the presiding judge to a date on or after June 1, 2020"; "Civil jury trials scheduled for on or before June 26, 2020 are stricken, to be re-set by the presiding judge to a date on or after June 29, 2020.").

[x] In re: Coronavirus Disease Public Health Emergency, Gen. Order No. 72 (N.D. Cal. Mar. 16, 2020), available at https://cand.uscourts.gov/wp-content/uploads/general-orders/GO_72_3-16-2020.pdf ("No jury trial will be commenced before May 1, 2020."); In re: Extending Suspension of Jury Trials and Other Proceedings During the COVID-19 Publc [SIC] Emergency, Order of the Chief Judge No. 24 (S.D. Cal. Apr. 15, 2020), available at https://www.casd.uscourts.gov/_assets/pdf/rules/Order%20of%20the%20Chief%20Judge%2024.pdf (extending jury proceedings until mid-May 2020); In re: Coronavirus Public Emergency Further Order Concerning Jury Trials and Other Proceedings, Gen. Order No. 20-05 (C.D. Cal. Apr. 13, 2020), available at https://www.cacd.uscourts.gov/sites/default/files/general-orders/GO%2020-05_0.pdf ("The Court will not call in jurors for service in civil or criminal jury trials until after June 1, 2020."); In re: Extending Temporary Restrictions on Courthouse Access and In Court Hearings, Gen. Order No. 617 (E.D. Cal. Apr. 17, 2020), available at http://www.caed.uscourts.gov/caednew/assets/File/GO%20617.pdf ("The Court will not call in jurors for service in civil or criminal jury trials until June 15, 2020, at the earliest, if courthouses reopen to the public on June 1, 2020.").

[xi] See, e.g., In re: Additional Temporary Restrictions on Courthouse Access and In Court Hearings,Gen. Order No. 612 (E.D. Cal. Mar. 18, 2020), available at http://www.caed.uscourts.gov/caednew/assets/File/GO%20612.pdf ("All of the court's civil matters will be decided on the papers" unless the assigned Judge believes a hearing is necessary); In re: Coronavirus Disease Public Health Emergency, Gen. Order No. 72 (N.D. Cal. Mar. 16, 2020), available at https://cand.uscourts.gov/wp-content/uploads/general-orders/GO_72_3-16-2020.pdf ("All civil matters will be decided on the papers" unless the assigned Judge believes a hearing is necessary).

[xii] See, e.g., Standing Order Regarding Scheduled Hearings in Civil Cases in Light of Chief Judge Garcia's March 24 Amended Order (W.D. Tex. Mar. 24, 2020), available at https://www.txwd.uscourts.gov/wp-content/uploads/2020/03/032420StandingOrderWacoCivCasesADA.pdf ("All hearings for civil cases on the Waco division's docket will continue as scheduled, but will occur telephonically."); In re: Court Operations During the Public Health Emergency Caused by the COVID-19 Virus, Gen. Order (N.D. Ala. Mar. 17, 2020), available at https://www.alnd.uscourts.gov/sites/alnd/files/General%20Order%20-%20Court%20Operations%20During%20the%20Public%20Health%20Emergency%20Caused%20By%20the%20COVID-19%20Virus%20effective%20March%2017%2C%202020.pdf ("All other civil proceedings scheduled to be conducted in court (e.g., motion hearings and status conferences) shall be conducted as scheduled by phone, video conferencing, or other electronic means.").

[xiii] See, e.g., In re: Coronavirus Public Emergency Further Order Concerning Jury Trials and Other Proceedings, Gen. Order No. 20-05 (C.D. Cal. Apr. 13, 2020), available at https://www.cacd.uscourts.gov/sites/default/files/general-orders/GO%2020-05_0.pdf ("All filing deadlines will remain in place unless otherwise ordered by the presiding Judge."); Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 Pandemic (W.D. Tex. Mar. 13, 2020), available at https://www.txwd.uscourts.gov/wp-content/uploads/2020/03/Order-Re-COVID-19.pdf (continuing civil bench and jury trials, but noting that "[t]hose continuances do not continue any pending deadlines other than the trial dates.").

[xiv] See, e.g., In re: Court Operations During the Public Health Emergency Caused by the COVID-19 Virus, Gen. Order No. 2020-04 (N.D. Ala. Apr. 13, 2020), available at https://www.alnd.uscourts.gov/sites/alnd/files/General%20Order%202020-04%20effective%20April%2013%2C%202020.pdf ("Discovery Deadlines and Depositions in Civil Cases: All currently unexpired deadlines and briefing schedules in civil cases are hereby stayed through April 30, 2020"); In re: Court Operations Under the Exigent Circumstances Created by the Covid-19 Coronavirus and Related Pandemic Precautions, No. 2:20-mc-0080, Gen. Order 2020-2 (D. Me. Mar. 18, 2020), available at https://www.med.uscourts.gov/opt/sites/default/files/General_Order_2020-2.pdf ("All deadlines in criminal and civil cases between the date of this order and May 1, 2020, are extended thirty days"); In re: Coronavirus COVID-19 Public Emergency, Third Amended Gen. Order 20-0012 (N.D. Ill. Apr. 24, 2020), available at https://www.ilnd.uscourts.gov/_assets/_documents/AMENDED%20GENERAL%20ORDER%2020-0012.pdf ("Amended General Order 20-0012 extended by 21 days all deadlines, in all civil cases and Executive Committee matters … Second Amended General Order 20-0012 extended all deadlines in civil cases and Executive Committee matters by an additional 28 days. … This Third Amended General Order extends all deadlines in civil cases and Executive Committee matters by an additional 28 days.").

[xv] In re: Court Operations Under the Exigent Circumstances Created by COVID-19, 1:00-mc-00308, Standing Order 2020-07 (ECF 99) (D. Md. Apr. 10, 2020), available at https://www.mdd.uscourts.gov/sites/mdd/files/2020-07.pdf ("ORDERED that all filing deadlines, in all cases, originally set to fall between March 16, 2020, and June 5, 2020, are EXTENDED by eighty-four (84) days"); In re: COVID-19 Pandemic Procedures, 1:20-mc-00146, Order (ECF 13) (D. Md. Apr. 10, 2020), available at https://www.mdd.uscourts.gov/sites/mdd/files/COVID-19-Order13-Discovery_0.pdf (noting that although "the Court has issued its Standing Order 2020-07," "the Court has nonetheless determined that certain discovery in civil cases may proceed as scheduled" and specifically ordering that "unless otherwise ordered by the presiding judge, the suspension of filing deadlines set forth in Standing Order 2020-07 does not include the conduct of discovery in civil cases, provided that all parties agree to continue with discovery, and that the conduct of discovery does not involve conduct by counsel or the parties that would contravene public health orders or directives issued in response to the COVID-19 pandemic").

[xvi] See, e.g., In re: Court Operations During the Public Health Emergency Caused by the COVID-19 Virus, Gen. Order No. 2020-04 (N.D. Ala. Apr. 13, 2020), available at https://www.alnd.uscourts.gov/sites/alnd/files/General%20Order%202020-04%20effective%20April%2013%2C%202020.pdf ("Regardless, the district and magistrate judges are free to make exceptions to this stay in extraordinary circumstances.").

[xvii] In re: Court Operations Under the Exigent Circumstances Created by COVID-19 (D. N.D. Apr. 20, 2020), available at https://www.ndd.uscourts.gov/announce/4-20%20COVID-19%20Order.pdf.

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