

New York Courts Reopen Months Into Lockdown With Rush of Lawsuits

NICK RUMMELL May 28, 2020

The daily river of legal disputes in New York City was suddenly stopped when the gate for electronic filing closed in the early days of the Covid crisis. When the gate reopened this week, the dammed-up waters of litigation rushed forth.



New York County Supreme Courthouse as viewed from Foley Square in Manhattan. (By [wallyg](#) – [Flickr.com](#), [CC BY 2.0](#), [Link](#))

MANHATTAN (CN) — For two months, lawyers in New York City have been unable to file new complaints. When the floodgates opened on Memorial Day, a deluge of new cases flooded an already busy court system.

On March 22, the chief administrative judge of New York state courts [barred all new documents](#) in nonessential matters from being accepted for filing by county clerks and courts. The order, which extended the tolling for statute of limitations until June 6, also urged lawyers to seek other jurisdictions to file if possible.

“Courts statewide have never closed,” said Lucian Chalfen, a spokesman for the New York state court system, who noted that criminal and family courts were initially left open in March, and emergency orders to show cause were still allowed.

“By mid-April, we asked litigants with pending matters to conference cases — civilly to see if the case could be resolved and criminally to see if a disposition could be reached,” Chalfen added.

Since the order, more than 50,000 matters have been conferenced statewide, Chalfen noted.

When the state’s e-filing system [reopened on Memorial Day](#) for new filings, the typical load of cases tripled and quadrupled in some county courts.

Prior to the order, Manhattan Supreme Court — one of the busiest courts in the country — had seen the typical load of about 100 civil cases slow to a mere trickle. The handful of cases allowed through were habeas corpus petitions from inmates, who claimed they were at risk of contracting Covid-19 due to cramped conditions in various detention centers.

On Tuesday, however, that court posted 475 new cases, about half of which were motor vehicle or premises liability complaints.

For some law firms, the shutdown of e-filing system didn't pose much of a problem for filing new complaints but slowed down existing complaints.

"The biggest challenge for me has been not being able to meet with clients in-person to hear their stories and see their faces," Edward Steinberg, founding partner of Leav & Steinberg and president-elect of the New York State Trial Lawyers Association, said in an email.

Other firms were well-positioned to handle things virtually. "Remote practice was not problematic for us but has been for many," said Marie Napoli, co-founder of Napoli Shkolnik, a leading personal-injury firm where a surface scratch of their caseloads shows litigation on opioids, asbestos and the environment. "We are happy to have the courts reopened and able to make the many filings we have been preparing during the shutdown."

Napoli said she and fellow partners have been able to do hearings, depositions and conferences remotely for many cases, but that jury trials are still problematic. Only a small percentage of Napoli Shkolnik cases go to trial by jury, she noted, adding that her firm has been able to do bench trials, mediations and arbitrations remotely. "We have done many arbitrations and mediations remotely and they are just as effective as in-person ones," she said in an email.

"There has been no pandemic in our offices," said James Marsh, whose practice handles the recent influx of sexual abuse claims against the Roman Catholic Church, Boy Scouts of America and other institutions. "The pandemic of the CVA has continued sort of unabated for two years for us."

Short for the Child Victims Act, CVA cases have been filed for more than a year but only began including model discovery and liaison committees in January.

"As soon as those things got into place January, February, March, and we were gearing up for discovery and deposition and records requests and all that, the pandemic hit and closed everything down," Marsh said. "We're not even out of the starting gates yet."

Marsh said his firm has hired new staff and attorneys since the shutdown. "We have new associates who haven't even met each other, who haven't even been to the office," he said, adding that documents and other materials are shipped directly to employees' homes.

"We are fortunate in that our firm has always operated virtually," Marsh said. "The pace of the work has not really been affected at all by the pandemic."

Noting the potential for delays due to Covid-19, the New York state legislature overwhelmingly voted on Wednesday to extend the deadline for new legal claims under the CVA from August 14 of this year until the same date in 2021.

"The Covid-19 pandemic has impacted the ability of survivors of childhood sexual abuse to meet with their attorneys and gather evidence, and it's vitally important that they have enough time to pursue their rights," said Michael Polenberg, vice president of government affairs at victims advocacy group Safe Horizon.

Much of yeoman's work under the Child Victims Act will occur when hearings are held later this fall at the earliest, said March, who says he has upwards of 600 clients.

"Judge [Steven] Jaeger can be working hard out in Nassau County, but if a clerk's not there to enter the order and issue the order, take the new filings and process the new filings, then the reopening of the e-filing is going to be sort of ineffective," Marsh said.

The state continues to bar e-filing of some cases, such as evictions and foreclosures due to the impact of Covid-19, until later this summer.

Even when the normal case load flows through e-file and hearings are held again, however, many law firms may continue some of their lockdown measures.

"We think when life returns to normal, many of these remote practices can remain in place, especially for out-of-state witnesses," Napoli said.

Steinberg agreed. "We're dealing with individuals who've been hurt or families grieving loved ones," he wrote in an email. "In addition to physical injuries, being victimized in such personal ways really impacts a person, and it's important that they get their day in court. It's their right."

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