

The Federal Circuit Modifies Its Operations in View of Public Health Emergencies

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In light of the declared public health emergencies relating to COVID-19, the U.S. Court of Appeals for the Federal Circuit issued a series of administrative orders and announcements that are meant to facilitate the continuation of court operations while minimizing public health and safety risks. Although the Federal Circuit has taken steps to minimize the need for parties and counsel to be present at the courthouse, its latest actions suggest that it will continue to work toward resolving appeals. Consequently, parties involved in or who anticipate becoming involved in appeals before the Federal Circuit should continue to press forward with their appellate strategies.

On March 16, 2020, the Federal Circuit issued an administrative order restricting public access to the Howard T. Markey National Courts Building, where the Federal Circuit conducts the bulk of its operations and holds the majority of its hearings. That order contemplates permitting counsel and parties to enter the courthouse for in-person hearings. However, two days later, on March 18, 2020, the Federal Circuit announced that all oral arguments scheduled for April 2020 would be conducted by telephonic conference. As such, the Federal Circuit has shown that it is willing to preclude access to the courthouse when warranted.

On March 20, 2020, the Federal Circuit issued an additional administrative order that, among other things, suspends the requirements to provide paper copies of documents submitted electronically. Additionally, the order grants the Clerk's Office authority to suspend or reduce public assistance by telephone and implement an alternative method for responding to public inquiries, as needed. The March 20 order also indicates that the Clerk's Office will continue to attempt to schedule arguments and solicit input about availability from counsel, but notes that travel restrictions due to the COVID-19 virus are an insufficient basis for a scheduling conflict because telephonic conferences for oral argument are available.

Importantly, both the March 16 order and the March 20 order do not alter any existing deadlines in cases, and it seems that the Federal Circuit seeks to continue to work toward resolving appeals while minimizing the need for in-person interactions. Although additional administrative orders relating to Federal Circuit operations may be forthcoming, at the present time, those

involved in or who contemplate becoming involved in appellate proceedings before the court should proceed as though they are moving forward.