

Massachusetts Construction Litigation Scheduled to Get Back on Track

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With the issuance of a revised order by the Massachusetts Supreme Judicial Court ("SJC") dated May 26, 2020, construction litigation in Massachusetts is poised to re-start in earnest after July 1, 2020. As the SJC stated in its Order, "unless there is a new surge in COVID-19 cases in the Commonwealth," the *de facto* pause in litigation that went into effect in mid-March 2020 with the tolling of all civil statutes of limitations and all deadlines set forth in statutes or court rules, standing orders, tracking orders, or guidelines, "shall end and not be further extended."

As some Massachusetts construction litigators have experienced, the SJC's prior orders, which extended the time to respond to or enforce crucial litigation mechanisms indefinitely, had the effect of stemming litigation activities on the whole by discouraging the filing of new matters, service of written discovery requests, and the conducting of motion practice. Now that the SJC has signaled to the litigation bar that the guardrails enacted in the wake of COVID-19 will come off as of July 1, 2020, members of the construction industry should expect to be served with third-party subpoenas for documents, direct payment claims, and mechanic's liens. Current litigants should also be prepared to attend remote depositions, which the SJC also blessed to begin immediately without the affirmative consent of the party being deposed, as had been required in the past.

The press release from the SJC highlighting these changes can be found [here](#).

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