



What does the Covid-19 Crisis mean for Victims of Fraud?

Country: The Bahamas

1. THE MOST CRITICAL PHASE OF THE CRISIS

As long as measures to prevent the spread of Covid-19 restrict freedom of movement: What are the effects of the Covid-19 crisis on civil justice?

- **Is there special legislation on the effects of the crisis on civil justice?** Yes. As a result of the Covid 19 Crisis the Government of The Bahamas has issued several Emergency Orders, in particular The Emergency Powers (Covid 19) Orders Nos. 1 and 2. Pursuant to these Emergency Orders, the Chief Justice issued Mitigation Protocols commencing on 23rd March 2020 which speak to the administration of Justice and the operation of the Courts on both the Criminal and Civil Side. The Mitigation Protocols issued by the Chief Justice on 31st March 2020 are still currently in effect and will remain so until the first working day after the expiration of the Government's Emergency Power Orders.
- **Does the crisis have an effect on court hearings?** Yes. The procedures have been adjusted to accommodate urgent hearings online.
 - Do court hearings take place during the crisis? Yes
 - Do court hearings take place in form of video conferences? Yes, combined with the electronic exchange of documents.
- **Does the crisis have an effect on deadlines (of procedural and substantive law)?**
 - Are deadlines of ongoing proceedings affected? Yes. Deadlines have generally been extended to run from the expiration of the government's lockdown.
 - Are deadlines for bringing actions affected (limitation periods)? Under the Emergency Powers (COVID 19) (Special Provisions Order) 2020 section 4 any limitation of time provided for under the Bahamian Limitation Act is suspended



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from the 17th March 2020 for the duration of the state of public emergency and extending 30 days thereafter.

- **Does the crisis have an effect on enforcement?**
 - Are enforcement orders issued? Yes.
 - Are there any effects on deadlines? Not necessarily, but possibly on a case by case basis in the discretion of the Judge.
 - Can enforcement acts be postponed due to the crisis? Ditto.
- **How do courts work during the crisis?**
 - Are courts closed? Not electronically, but physical, face-to-face transactions.
 - Can courts / judges be contacted? Yes.
 - Are documents served? Yes, electronically.
- **How are particularly urgent matters handled, in particular requests for interim measures such as injunctions and freeze orders?** Through a roster of urgent duty judges.
- **How do lawyers work during the crisis?** Remotely from our homes and through electronic platforms connecting the courts, judges, registrars and other lawyers and staff of our firm.
- **How do banks work during the crisis?** Electronically. Transactions continue through their apps and websites, by email and other electronic means.
- **Does the crisis have an effect on insolvency law?** Generally, no. Companies are designed for remote meetings and remote decision-making. Urgent interlocutory applications may be heard by Judges on the urgent duty roster.
- **Are there any further effects not addressed in the questions above?**



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The Courts of The Bahamas have adjusted their procedures, work processes and delivery mechanisms. The physical civil registry is closed until the first working day after the government's lockdown order has been lifted.

But, urgent interlocutory applications continue to be heard. For this purpose, an urgent interlocutory application is one which seeks an injunction, an order under an international treaty, and any other order deemed by the Judge to be fit for hearing on an urgent basis.

These applications are heard by the Urgent Duty Judge in accordance with the Urgent Duty Judge Roster posted on the Judiciary's website and in Grand Bahama they will be heard by Justice Adderley. Urgent interlocutory applications will be heard electronically whenever possible and when in-person hearings are necessary social distancing requirements will be followed. The lawyers of this firm have a close working relationship with all the Judges, notably those on the Urgent Duty Roster.

Other matters on the civil side – application for hearing dates under the Court Coronavirus Mitigation Protocols for other matters claimed to be urgent (i.e. not an interlocutory application as defined above) must be made (i) in New Providence to the Urgent Duty Judge; (ii) in Grand Bahama to Justice Adderley. Any application for a hearing date under this paragraph will be disposed of on written representations submitted by email to the judge by or on behalf of the applicant.

The Courts also have an online Covid-19 help desk that is open 24 hours, from which prompt responses can be obtained at any time. We also have contact information for all of the Judges of the Supreme Court and of the Court of Appeal. The final court for the Bahamas is the Privy Council in London; the firm can make appropriate arrangements there as necessary.

For the matters that are not urgent or that can at least wait for a time until the Covid 19 restrictions are eased somewhat, the firm utilizes this time to prepare the pleadings,



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research and skeleton arguments. As a result, those actions are ready for initiation and execution. This holding pattern is particularly useful for new clients. We can also combine this approach with applications for freezing orders or injunctions where appropriate.

2. FORECAST: AFTER THE CRISIS AND LONG-TERM EFFECTS

What are the consequences of the Covid 19 pandemic once the pandemic has abated, in the gradual return to a new normality and what are the long-term effects?

- **Which measures introduced during the crisis will be withdrawn immediately?** None. Of course, physical registries will reopen, applying social distancing.
- **Which measures will remain in place?**

The Judiciary has significantly upgraded its technology platform and is continuing to do so, to provide an increasing volume of remote services, under the new normal after the curve of new infections has flattened or declined.

- **Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources?** No
- **Do you expect a rise of new anti-corruption prosecutions after the crisis?** No.
- **Will the ratio of third party funded matters rise?** Quite possibly. But the increased ratio would have little or no relation to Covid 19, but to the wider acceptance of access to justice concerns and the decline of maintenance and champerty.

Therefore, Bahamian courts have adjusted their procedures, work processes and delivery mechanisms. To be available 24/7 to assist the victims of fraud, the attorneys and staff of our firm have also adjusted our procedures, work processes and delivery mechanisms to respond in a prompt, effective, and agile manner.



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