



# COURT-ORDERED ARBITRATIONS AMID COVID-19

April 20, 2020

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## MEMORANDUM

TO: Arbitration Coordinators  
FROM: Office of General Counsel  
Court Programs Division  
CC: Clerks of Superior Court  
Trial Court Administrators  
SUBJECT: Court Ordered Arbitrations amid COVID-19 concerns

The following guidance to court managers related to district court ordered arbitration is based on [orders](#) issued by Chief Justice Beasley on March 13<sup>th</sup>, March 19<sup>th</sup>, April 2<sup>nd</sup>, and April 13<sup>th</sup>, 2020.

1. How should I handle a case that has an arbitration hearing scheduled before June 1<sup>st</sup>?

**On April 2<sup>nd</sup>, Chief Justice Beasley ordered that all superior and district court proceedings be rescheduled unless the proceeding fell into one of four specific exceptions, such as being conducted using remote technology. Emergency Directive 3 in the April 2<sup>nd</sup> order opens up the opportunity for nonbinding court ordered arbitration to proceed, as long as (i) the chief district court judge authorizes the arbitration to be conducted remotely and (ii) there is compliance with the provisions in this directive (e.g. consent of all parties, the ability for a party and attorney to communicate fully and confidentially). Directive 3 expires on May 1<sup>st</sup>, unless further extended by the Chief Justice.**





2. Should notice for case selection continue to be sent to the parties?

**Yes. Filings are still being accepted by the clerk. If a case is filed and it is eligible for arbitration, you may continue to send the parties the AOC-CV-800 (Notice of Case Selection).**

3. Should I schedule cases for an arbitration hearing if the case is ready to be scheduled?

**Yes, you may schedule the arbitration hearing for a date on or after June 1<sup>st</sup> as indicated in Chief Justice Beasley's April 2<sup>nd</sup> order if the arbitration hearing is to be held in person. If the hearing can be conducted remotely and comply with Emergency Directive 3, the hearing may be conducted using remote audio and visual technology before June 1<sup>st</sup>.**

4. Is there an AOC form to use to continue the arbitration hearings?

**The AOC-G-108 may be used to continue the hearing.**

5. Several cases were arbitrated prior to March 16<sup>th</sup>, so the time to file a demand for trial de novo (TDN) has expired. Can judgment be entered if demand for TDN has not been filed at this point in time?

**Per Chief Justice Beasley's April 13<sup>th</sup> order:**

**1. All pleadings, motions, notices, and other documents and papers that were or are due to be filed in any county on or after Monday, March 16<sup>th</sup> and by close of business on Friday, June 1<sup>st</sup> in civil actions, criminal actions, estates, and special proceedings shall be deemed timely filed if they are filed before the close of business on Friday, June 1<sup>st</sup>, and**

**2. All other acts that were or are due to be done in any county on or after March 16<sup>th</sup> and before close of business on June 1<sup>st</sup> in civil actions, criminal actions, estates, and special proceedings shall be deemed timely done if they are done before the close of business on June 1<sup>st</sup>.**

**The parties have 30 days from the date they are served with the arbitrator's award to file a demand for TDN. For example, an arbitration award issued from a March 12<sup>th</sup> arbitration hearing would be served on March 12<sup>th</sup> or sometime after that date. If so, the deadline to file a demand for TDN would expire on or about April 12<sup>th</sup>. This is during the time period listed in Chief Justice Beasley's April 13<sup>th</sup> order (on or after March 16<sup>th</sup> and by June 1<sup>st</sup>). If the demand for TDN is filed before the close of business on June 1<sup>st</sup>, it is considered timely filed and no judgment should be entered.**





**Therefore, if the time to file a demand for a TDN expires on or after March 16<sup>th</sup> and before June 1<sup>st</sup>, the judgment should not be entered until after June 1<sup>st</sup> in the event the demand is filed on June 1<sup>st</sup>. A demand for TDN in this instance would be deemed timely.**

6. The time to file an Answer in a case that is arbitration eligible expired on April 8<sup>th</sup> so normally I would proceed with sending a Notice of Hearing. Does the June 1<sup>st</sup> date apply to an extension to file responsive pleadings as well?

**Yes, Chief Justice Beasley's April 13<sup>th</sup> order applies to all pleadings, motions, notices, and other documents and papers that were or are due to be filed on or after March 16<sup>th</sup> and by June 1<sup>st</sup> in civil actions, criminal actions, estates, and special proceedings. Such filings including an answer due on or after March 16<sup>th</sup> and by June 1<sup>st</sup> would be timely if filed before the close of business on June 1<sup>st</sup>.**

