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The Enhanced Role of Mediation as Courts, Counsel and Litigants Confront Delayed Trial Listings



Beginning in March 2020, trial courts nationwide were impacted by COVID-19 shutdowns and scheduling delays which continue to affect the pace of civil litigation in Pennsylvania and throughout the United States. Recognizing a “virtual shutdown of the court system”, one commentator observed “civil trials have been suspended, court appearances are not taking place. In essence, cases have been left in limbo.” Kaplan, *“Thoughts on ADR in the Face of the COVID-19 Pandemic – A Neutral’s Perspective.”*

Philadelphia County’s experience was no less severe. Civil Trial Division Supervising Judge, Honorable Daniel J. Anders, assessed the initial impact of COVID on the business of the Court and the practice of law:

(i) During the pandemic, the Court relaxed case management protocols in recognition that both the business of the Court and the practice of law were “upended by the pandemic”;

(ii) Jury trials were suspended, thereby eliminating a “primary driver of settlements”;

(iii) Discovery motions were decided on the papers, resulting in lengthy delays before decisions were rendered;

(iv) Case management deadlines were routinely extended either by agreement of the parties or team leadership orders, a practice which became so extensive that a “culture of continuances routinely being granted” took place;

(v) Lawyers did not return to offices for months and were challenged with the demands of litigation by remote technology; and

(vi) Clients and experts who also served as front-line medical professionals and first responders were unavailable for litigation needs, resulting in additional postponements and continuances.

As trials resumed, courtroom protocols were adjusted in compliance with CDC guidelines. Social distancing, modifications in courtroom furnishings, enhanced ventilation, strict enforcement of courtroom capacity limits and adherence to masking guidelines affected [READ MORE..](#)

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