

## CASE UPDATES



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# STATUTE OF LIMITATIONS TOLLED BROADLY IN EMERGENCY ORDER

11.5.21

The Massachusetts Supreme Judicial Court ruled that the COVID-19 emergency order which tolls the filing deadline for civil suits should apply to all civil cases and not be limited to those with a deadline within 3/17/20-6/30/20. This case is important to practitioners and those doing business in Massachusetts because it clarifies the applicability and timing of several court orders that tolled statutes of limitations and court deadlines due to the COVID-19 pandemic impacting normal business and court operations in Massachusetts.

### FACTS

The Plaintiff, Margarita Melendez, was injured on September 3, 2017, at Shaw's Supermarket when an employee pushed a cart of groceries into her and caused her fall to the ground sustaining a concussion and other injuries. Melendez filed suit against Shaw's requesting damages for her injuries. The lawsuit was filed on September 24, 2020, which was outside the normal statute of limitations time period under Massachusetts law. However, the statute of limitations was modified by order of the Supreme Judicial Court in June 2020 in response to the COVID-19 pandemic. The order declared that "all civil statutes of limitations" are tolled from 3/17/20-6/30/20. Shaw's Supermarkets argued that the emergency order should only apply to actions that were set to expire within the three month period stated in the order. Melendez asserted that in practice the tolling provision added 100 days to the normal statute of limitations deadline for her case. The Suffolk County Court denied Shaw's motion to dismiss and found that Melendez's case could proceed and was protected from the normal expiration of the statute of limitations by the emergency order in place.

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### **THE EMERGENCY ORDER APPLIES TO ALL CIVIL CASES AND IS NOT LIMITED TO THOSE WITHIN THE THREE MONTH WINDOW IDENTIFIED IN THE ORDER**

The issue before the court was whether or not the Plaintiff's complaint was barred by the three year statute of limitations for tort actions under Massachusetts law, or if her case could proceed pursuant to the emergency order tolling the filing deadline due to the COVID-19 pandemic. The court found that the plain language of the order included "all civil cases." The court also noted that tort cases often require extensive preparation and information gathering such as client interviews, witness interviews, compilation of medical records, etc. and all of these processes became delayed and more difficult to complete during the pandemic. Specifically, the court stated, "[m]any of the restrictions imposed in light of the COVID-19 pandemic, specifically those limiting activity and in-person meetings, substantially impact these activities." The order was designed to apply broadly in the hopes of providing litigants, attorneys and defendants adequate time to prepare and file their claims. It is for this reason, that the court declined to narrow the order as the defendant requested in their appeal. Instead, the court found that a broad application was more appropriate and in line with the spirit of the order as to the tolling provisions. Massachusetts is not the only state to issue statute of limitation tolling orders in response to the COVID-19 pandemic, but it is the first state to address this issue in its highest court.

The highly skilled attorneys in the Boston office of WSHB stand ready to assist clients as they navigate and defend their claims amongst the ever-changing regulations and procedures in play during the COVID-19 pandemic. Please do not hesitate to contact the author of this article or any member of our Massachusetts team should you have any questions.