

LITIGATION INFORMATION MEMO

NOVEMBER 8, 2023

The COVID Tolling Window for Personal Injury Cases Has Closed

We have reached the end of the COVID tolling window for personal injury cases. Any personal injury complaints that accrued during the 228-day tolling period from March 20, 2020, through Nov. 3, 2020, that have not yet been filed cannot take advantage of COVID tolling.

The time limits to file a legal action are dictated by statute and are commonly referred to as “statutes of limitations.” The statute of limitations in New York for actions seeking to recover for personal injuries caused by the negligence of others is three years. Normally, this type of action must be filed within three years from the date of injury.

However, on March 20, 2020, Gov. Andrew Cuomo signed Executive Order No. 202.8 (9 NYCRR 8.202.8) in response to the public health crisis caused by the COVID-19 pandemic. That executive Order “tolled” the time limits for the commencement, filing, and service of any legal action. Through subsequent executive orders, Gov. Cuomo extended the toll through Nov. 3, 2020.

New York courts have uniformly confirmed that Gov. Cuomo’s orders “tolled” the applicable statute of limitations. See *Murphy v. Harris*, 210 A.D.3d 410 (1st Dep’t 2022); *Roach v. Cornell University*, 207 A.D.3d 931 (3d Dep’t 2022); *McLaughlin v. Snowlift, Inc.*, 214 A.D.3d 720 (2d Dep’t 2023); *Santiago v. State*, 218 A.D.3d 1268 (4th Dep’t 2023). In other words, the clock counting statute of limitations periods stopped running for 228 days between March 20, 2020, through Nov. 3, 2020. Therefore, the last day to commence an action seeking to recover for an injury sustained during the tolling window was three years after the end of the tolling period, and that three-year deadline has now passed.

If an individual suffered an injury in June of 2020, for example, the three-year limit to start a lawsuit did not begin to run until the end of the tolling period on Nov. 3, 2020. Now that more than three years have passed since Nov. 3, 2020, personal injury lawsuits to recover for injuries suffered during the tolling period will likely be deemed untimely.

To be clear, not all legal claims carry with them the same statute of limitations. Breach of contract actions, for example, have longer time limits to bring suit, and those actions can still benefit from the COVID toll. However, businesses concerned about the late filing of stale claims for personal injuries can rest assured that if a more-than-three-year-old claim has not been filed, it is likely time barred.

If you have any questions, please contact [Karl Deuble](#), [Curtis Johnson](#), any attorney in Bond’s [litigation practice](#) or the attorney at the firm with whom you are regularly in contact.

