

THE TUTTLE LAW FIRM

James B. Tuttle, Esq.

www.tuttlelawoffice.com

Christina Wagar, Legal Assistant &
Office Manager

10 Century Hill Drive
Suite 4
Latham, New York 12110

Service by fax is not authorized

Phone: (518) 783-1001

Fax: (518) 783-1515

November 2, 2012

Richard Wells, President
Police Conference of New York, Inc.
112 State Street, Suite 1120
Albany, New York 12207

RE: Governor's Executive Order Number suspending statute of limitations

Dear President Wells:

This morning Gov. Cuomo issued Executive Order No. 52 entitled "Temporary Suspension and Modification of Statutory provisions Establishing Time Limitations on Actions and Time in Which to take An Appeal". In simplest terms, this Executive Order suspends all statutes of limitations and all time periods imposed by law, rule or regulation in the State of New York from October 26, 2012, which was the date he issued Executive Order No. 47 declaring all 62 counties of the State of New York to be in a state of emergency, until further notice.

In addition to specifically suspending various civil and criminal provisions of New York State Law establishing time periods, the Executive Order concludes with a very broad catch-all paragraph which states as follows:


"In addition, I hereby temporarily suspend and modify, for the period from the date of this Executive Order until further notice any other statute, local law, ordinance, order, rule or regulation or part thereof establishing limitations of time for the filing or service of any legal action, notice or other process or proceeding that the Courts lack authority to extend through the exercise of discretion where any limitation of time concludes during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47 issued on October 26, 2012 until further notice".

This is an Executive Order passed in haste and in response to an emergency situation. How the Courts will interpret it in the months and years to come is unknown, and it should not be relied on as the complete answer to any time-related problem. I provide it to your members as information they will need to consider with regard to their particular legal circumstances. I do note that the omnibus paragraph at the end is limited to those time periods that the Courts lack authority to extend through the exercise of discretion. Thus, if any of your members are facing a time period that the Courts do have authority to extend by discretion, those situations will not be affected by this order.

Please feel free to call with any questions you may have.

Very truly yours,

THE TUTTLE LAW FIRM



James B. Tuttle
jbtesq@nycap.rr.com

JBT:clw
Encs.

Temporary Suspension and Modification of Statutory Provisions Establishing Time Limitations on Actions and Time in Which to Take an Appeal

WHEREAS, on October 26, 2012, I issued Executive Order Number 47 declaring a disaster emergency in all 62 counties in the State of New York;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend specific provisions of any statute, local law, ordinance, orders, rules or regulations, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend, for the period from the date of this Executive Order until further notice, the following laws:

Section 201 of the Civil Practice Law and Rules, so far as it bars actions whose limitation period concludes during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice, and so far as it limits a court's authority to extend such time, whether or not the time to commence such an action is specified in Article 2 of the Civil Practice Law and Rules;

Section 5513 of the Civil Practice Law and Rules, so far as it relates to a limitation period that concludes during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice;

Section 25 of the Court of Claims Act, so far as it relates to a limitation of time to appeal in which a limitation period concludes during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice;

Sections 30.10 and 30.30 of the Criminal Procedure Law, so far as they may bar criminal prosecutions brought in Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk and Westchester Counties, in cases whose limitation periods conclude during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice;

Subdivision (2) of section 310.10 of the Criminal Procedure Law, so far as it may limit the duration of a recess of a deliberating jury in Bronx, Dutchess, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk and Westchester Counties, in cases where such a recess was declared during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice;

Sections 460.10, 460.30, 460.50 and Article 460 of the Criminal Procedure Law, so far as they relate to a limitation of time to appeal and such limitation period concludes during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice; and

Section 1113 of the Family Court Act, so far as it relates to a limitation of time to appeal and such limitation period concludes during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice;

In addition, I hereby temporarily suspend and modify, for the period from the date of this Executive Order until further notice, any other statute, local law, ordinance, order, rule or regulation or part thereof, establishing limitations of time for the filing or service of any legal action, notice or other process or proceeding that the courts lack authority to extend through the exercise of discretion, where any limitation of time concludes during the period commencing from the date that the disaster emergency was declared pursuant to Executive Order Number 47, issued on October 26, 2012, until further notice.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this thirty-first day of October in the year two thousand twelve.

BY THE GOVERNOR

Secretary to the Governor

Source URL: <https://www.governor.ny.gov/executiveorder/52>