

COVID-19 FAQs FOR SUPREME COURT APPEALS

Over the last few weeks, the Supreme Court has issued multiple orders and announcements regarding court operations while COVID-19 poses a serious threat to public health. Those orders and announcements are available [here](#).

For guidance on Supreme Court proceedings while the current judicial emergency remains in effect, please review the following FAQs. These FAQs will be updated as the situation evolves and new questions arise.

Additional information for self-represented litigants appears starting on [Page 6](#).

Questions About Appeals Filed Before March 23, 2020

1. What happens if transcripts were designated in the notice of appeal and the trial court has not yet filed the record with this Court?

Under the Court's [March 22, 2020 Order](#), deadlines (like the ones for the filing of transcripts and records) that expire between March 23, 2020 and April 15, 2020 are extended through April 21, 2020. Once the trial court transmits the record with the designated transcripts, this Court will issue a briefing schedule.

2. What happens if the notice of appeal stated that no transcription (or no further transcription) was necessary and the trial court has not yet filed the record with this Court?

Under the Court's [March 22, 2020 Order](#), deadlines (like the ones for the filing of records) that expire between March 23, 2020 and April 15, 2020, are extended through April 21, 2020.

3. My opening brief/answering brief/reply brief in a non-expedited appeal is currently due sometime between March 23, 2020 and April 15, 2020, do I still have to file the brief at that time?

No, under the Court's [March 22, 2020 Order](#), deadlines that expire between March 23, 2020 and April 15, 2020, are extended through April 21, 2020. You will need to file your brief by April 21, 2020.

4. My opening brief/answering brief/reply brief in an expedited appeal is currently due sometime between March 23, 2020 and April 15, 2020, do I still have to file the brief at that time?

Yes, under this Court's [March 22, 2020 Order](#), deadlines imposed by court order, such as briefing schedules in expedited appeals, continue to remain in place. But those deadlines may be extended for good cause shown, including a COVID-19 related cause. If you are unable to file your brief by the deadline, file a request for an extension under Rule 15(b).

5. What about a Rule 26(c) or 26.1 brief or response to a Rule 26(c) or 26.1 brief that is currently due between March 23, 2020 and April 15, 2020?

The deadline is extended until April 21, 2020.

6. What about a Rule 25 motion to affirm that is due between March 23, 2020 and April 15, 2020?

Under this Court's [March 22, 2020 Order](#), the time to file a motion to affirm that is currently due between March 23, 2020 and April 15, 2020 is extended until April 21, 2020.

7. What if my response to another type of motion, writ, or notice to show cause is due between March 23, 2020 and April 15, 2020?

Under this Court's [March 22, 2020 Order](#), your time to respond is extended until April 21, 2020.

8. Are the Rule 42 deadlines for interlocutory appeals also extended until April 21, 2020?

Yes.

9. Can I file a motion between March 23, 2020 and April 15, 2020?

Yes, but the other side will not have to respond until April 21, 2020 at the earliest, unless the Court directs the other side to respond sooner. If the parties can agree on the requested relief, you can file an unopposed motion that the Court will act upon without waiting for the other side's response.

10. I understand that the deadlines are extended, but can I go ahead and file something that is due between March 23, 2020 and April 15, 2020 on the day that it is due (or earlier)?

Yes. Parties who are in a position to file their briefs or responses on the original due date are welcome to do so.

11. With the courthouses closed to the public, how do I deliver paper copies of my brief and appendix?

You don't. Under this Court's [March 16, 2020 Order](#), Supreme Court Rule 10(d), which requires the filing of paper copies of briefs and appendices with the Court, was suspended.

12. What will happen in appeals in which the briefing is already complete?

The Court will schedule those matters for decision.

13. What will happen in appeals where a motion, response, and reply were filed (or the time to file a response or reply has expired) by March 23, 2020?

Those matters have been submitted to the Court for decision.

14. Will the Court be holding oral arguments?

No, on March 18, 2020, the Court announced the cancellation of oral arguments through May. As set forth in the Court's [March 18, 2020 announcement](#), the parties in appeals scheduled for oral argument in March, April, or May can, by March 27, 2020, file a motion requesting oral argument that the Court will consider.

15. What if you think an appeal or motion should be decided on an expedited basis and that deadlines should not be extended?

If you think an appeal should be expedited, file a motion to expedite with a proposed schedule for resolution of the appeal. The Court may choose to direct the other side to respond to the motion to expedite sooner than April 21, 2020.

If you think a motion requires expedited consideration, include the word "expedited" in the title of your motion, state why expedition is necessary, and state the position

of the other side. The Court may direct the other side to respond to your motion sooner than April 21, 2020.

16. Have notarization requirements been modified?

Yes, the Court’s March 22, 2020 Order allows any person or party to file an unsworn declaration, verification, certificate, or statement under penalty of perjury in place of a sworn declaration, verification, certificate, statement, oath, or affidavit (except as provided in 10 *Del. C.* § 5354(b)). The unsworn declaration, verification, certificate, or statement must, as required by 10 *Del. C.* § 3927, be in substantially the following form:

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed _____ on _____ the _____ day _____ of _____ (month) _____ (year).

_____ (Printed Name)

_____ (Signature)

Questions About Appeals Filed Between March 23, 2020 and April 15, 2020

1. What happens if my appeal is due between March 23, 2020 and April 15, 2020, but I can’t file it then?

Under this Court’s [March 22, 2020 Order](#), deadlines that expire between March 23, 2020 and April 15, 2020, are extended through April 21, 2020. So you will have until April 21, 2020 to file your notice of appeal.

2. What will happen to an appeal filed between March 23, 2020 and April 15, 2020 in which transcripts are designated?

The Clerk will direct the court reporter to prepare the transcripts and the trial court to transmit the record. Once the transcripts are prepared and the trial court transmits the record, the Clerk will issue a briefing schedule.

3. What will happen to an appeal filed between March 23, 2020 and April 15, 2020 that states no transcription (or no further transcription) is required?

The Clerk will issue a briefing schedule and direct the trial court to transmit the record.

4. What if you think an appeal or motion should be decided on an expedited basis and deadlines should not be extended?

If you think an appeal should be expedited, file a motion to expedite with a proposed schedule for resolution of the appeal. The Court may direct the other side to respond to the motion to expedite sooner than April 21, 2020.

If you think a motion requires expedited consideration, include the word “expedited” in the title of your motion, state why expedition is necessary, and state the position of the other side. The Court may direct the other side to respond to your motion sooner than April 21, 2020.

**ADDITIONAL COVID-19 FAQs
FOR SELF-REPRESENTED LITIGANTS IN THE SUPREME COURT**

The Citizen’s Guide, available [online](#) or by mail, offers general guidance on how to file an appeal in the Supreme Court.

Some of the Court’s Rules and information in the Citizen’s Guide have been temporarily modified in light of the ongoing COVID-19 crisis.

For guidance on Supreme Court proceedings while the current judicial emergency remains in effect, please review the following FAQs. These FAQs will be updated as events require and new questions arise.

1. How can I file a document if the courthouses are closed and I don’t have access to electronic filing?

Mail the document for filing to:

Clerk of Court
Supreme Court of Delaware
55 The Green
Dover, DE 19901

or

Drop off the document for filing at one of the addresses below.

Supreme Court of Delaware
c/o Leonard L. Williams Justice Center
500 North King Street
Wilmington, DE 19801

Supreme Court of Delaware
c/o Kent County Courthouse
414 Federal Street
Dover, DE 19901

Supreme Court of Delaware
Court of Chancery Courthouse
34 The Circle
Georgetown, DE 19947

2. What if my notice of appeal is due between March 23, 2020 and April 15, 2020, but I can't file it then?

Under this Court's [March 22, 2020 Order](#), deadlines that expire between March 23, 2020 and April 15, 2020 are extended through April 21, 2020. So you will have until April 21, 2020 to file your notice of appeal if it is currently due between March 23, 2020 and April 15, 2020.

3. How can I get forms to file a notice of appeal or other document in the Supreme Court?

Court forms are available online [here](#).

You can also:

Call 302-651-3960 or 302-739-4155 to request a form.

or

Mail a request to Supreme Court of Delaware, 55 The Green, Dover, DE 19901.

**Please be patient—court staffing has been reduced
in light of the current emergency.**

4. What should I do if I need to file a motion to proceed *in forma pauperis* because I can't pay the filing fee, but I can't get the form notarized at this time?

You can submit the *in forma pauperis* form without notarization while there's a judicial emergency. This Court's [March 22, 2020 Order](#) allows any person or party to file an unsworn declaration, verification, certificate, or statement under penalty of perjury in place of a sworn declaration, verification, certificate, statement, oath, or affidavit (except as provided in 10 *Del. C.* § 5354(b)).

Please include and complete the following language with your motion.

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed _____ on _____ the _____ day _____ of
_____ (month) _____ (year).

_____ (Printed Name)

_____ (Signature)

5. My opening brief/answering brief/reply brief is currently due sometime between March 23, 2020 and April 15, 2020, do I still have to file the brief at that time?

No, under the Court's [March 22, 2020 Order](#), deadlines that expire between March 23, 2020 and April 15, 2020 are extended through April 21, 2020. You will need to file your brief by April 21, 2020.

6. What if my response to a notice to show cause is due between March 23, 2020 and April 15, 2020?

Under this Court's [March 22, 2020 Order](#), your time to respond is extended until April 21, 2020.

7. Can I file a motion between March 23, 2020 and April 15, 2020?

Yes, but the other side will not have to respond until April 21, 2020 at the earliest unless the Court directs the other side to respond sooner. If the parties can agree on the requested relief, you can file an unopposed motion that the Court will act upon without waiting for the other side's response.

8. Can I file a petition for a writ between March 23, 2020 and April 15, 2020?

Yes, but the other side will not have to respond until April 21, 2020 at the earliest unless the Court directs the other side to respond sooner.