

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE COVID-19 §
PRECAUTIONARY MEASURES §

ADMINISTRATIVE ORDER NO. 4
EXTENSION OF JUDICIAL EMERGENCY

On this 14th day of April 2020:

WHEREAS, under the Delaware Constitution, Article IV, § 13, the Chief Justice of the Delaware Supreme Court is the administrative head of all the courts in the State and has general administrative and supervisory powers over all the courts;

WHEREAS, under 10 *Del. C.* § 2004(a), the Chief Justice, in consultation with other members of the Supreme Court, has the authority to “declare a judicial emergency when the Chief Justice determines that there are emergency circumstances affecting 1 or more court facilities;”

WHEREAS, under 10 *Del. C.* § 2004(a), “emergency circumstances” includes but is not limited to “disease ... or other natural or manmade causes [affecting] the ability to access the courthouses, or the ability to staff courts;”

WHEREAS, under 10 *Del. C.* § 2004(c), an order declaring a judicial emergency is limited to an initial duration of not more than 30 days, but may be modified or extended for additional periods of 30 days each;

WHEREAS, under 10 *Del. C.* ch. 20, the Chief Justice has the authority in declaring a judicial emergency to permit court proceedings to take place in other venues, to permit the use of audiovisual devices for all civil and criminal proceedings (except trial by jury), to suspend, toll, extend, or otherwise grant relief from deadlines or other time schedules, and to take such other actions as are reasonably necessary to provide for the continued operation of the courts during a judicial emergency;

WHEREAS, the Centers for Disease Control and Prevention determined that a novel coronavirus (“COVID-19”) continues to present a serious public health threat, and this threat continues to affect the State of Delaware;

WHEREAS, the President of the United States of America declared a National State of Emergency due to the public health threat caused by COVID-19;

WHEREAS, under his authority set forth in 20 *Del. C.* ch. 31, Governor John C. Carney declared a State of Emergency for the State of Delaware due to the public health threat caused by COVID-19, and extended the State of Emergency on April 10, 2020;

WHEREAS, under 10 *Del. C.* § 2004, the Chief Justice, in consultation with other members of the Supreme Court, declared a judicial emergency that went into effect on March 16, 2020 at 8:00 a.m. and continued for 30 days, subject to further review;

WHEREAS, the escalation of the emergency required greater measures to protect the health and safety of litigants, practitioners, court staff, and the public;

WHEREAS, in an order dated March 22, 2020, all courthouses and their administrative offices in the State of Delaware were closed to the public from March 23, 2020 until April 15, 2020 and certain deadlines that expired between March 23, 2020 and April 15, 2020 were extended until April 21, 2020;

WHEREAS, on March 22, 2020, Governor Carney ordered Delawareans to stay at home whenever possible and the closure of all non-essential businesses in Delaware until May 15, 2020 or until the public health threat of COVID-19 was eliminated;

WHEREAS, COVID-19 continues to pose a serious threat to public health, including the jurors, parties, witnesses, lawyers, judges, and court staff who would typically enter the courthouses and facilities of the Supreme Court, the Court of Chancery, the Superior Court, the Family Court, the Court of Common Pleas, and the Justice of the Peace Court;

WHEREAS, the judicial emergency that went into effect on March 16, 2020 will be expiring;

WHEREAS, the Chief Justice, in consultation with the other members of the Supreme Court, has determined that extension of the judicial emergency is necessary and required by the Governor's April 10, 2020 extension of the State of Emergency in the State of Delaware;

NOW, THEREFORE, IT IS ORDERED that:

1. Under the authority of 10 *Del. C.* § 2004, the judicial emergency for all State courts and their facilities in Delaware is extended for another 30 days through May 14, 2020, subject to further review.
2. In light of the threat COVID-19 poses to public health, all courts in the State are authorized, to the greatest extent possible under 10 *Del. C.* § 2008, to continue to utilize audiovisual devices at their facilities and remotely to conduct all proceedings (except for jury trials) for the duration of this order.
3. During the period of judicial emergency, all time requirements under the Speedy Trial Guidelines are tolled.
4. All State courthouses and their administrative offices shall remain closed to the public through May 14, 2020, or further order of the Chief Justice of the Supreme Court of Delaware. Access to the State courthouses is restricted to identified personnel and emergency and essential hearings and operations.
5. Each State court shall continue to have sufficient judicial officers and staff to hear emergency and essential matters in person or remotely through video or teleconferencing during the pendency of this Order.
6. Judicial branch personnel identified by the Presiding Judges of each court and the State Court Administrator, or their designees, shall continue to report to work as required. If an identified employee is unable to serve due to illness or has been excused consistent with applicable leave policies, a substitute shall be determined. Other judicial branch personnel shall continue not to report to the courthouses until further notice. Instead, other judicial branch personnel shall work remotely as directed by the Presiding Judge of each court, the State Court Administrator, or their designee.
7. Each courthouse shall continue to provide a method, such as a dropbox or mailing address, for attorneys and the public to fill out and file paper documents if electronic filing is not available to them. For such cases, the courts shall continue to provide, when practical, an email address for attorneys and the public to email paper documents which will be considered filed with the court when received.

8. Non-emergency and non-essential telephonic arguments, telephonic hearings or videoconferences shall continue to proceed at the discretion of each of the State courts. For all court proceedings conducted through May 14, 2020, when practical, the courts shall post on their websites the date and time of the hearing or proceeding, and when requested and permitted, provide reasonable access to media organizations.
9. Except as set forth in 10 *Del. C.* § 2007(c), deadlines in court rules or state or local statutes and ordinances applicable to the judiciary that expire between March 23, 2020 and May 14, 2020 are extended through June 1, 2020. Statutes of limitations and statutes of repose that would otherwise expire during the period between March 23, 2020 and May 14, 2020 are extended through June 1, 2020. Deadlines, statutes of limitations, and statutes of repose that are not set to expire between March 23, 2020 and May 14, 2020 are not extended or tolled by this order. Deadlines imposed by court order continue to remain in place but may be extended, consistent with court practices, for good cause shown, including a COVID-19 related cause.
10. The time periods for bringing an arrested person before a magistrate pursuant to 11 *Del. C.* § 1909 and for bringing a prisoner before a judge pursuant to 10 *Del. C.* § 6907 are extended not more than 7 days under § 2007(c). The time for taking a juvenile charged with a delinquent act before a court is extended not more than 2 days under § 2007(c).
11. The Family Court shall continue to have the authority, in its discretion, to extend emergency ex parte protection from abuse orders beyond 30 days, but not to exceed 45 days. Temporary injunctions and interim guardianships that would expire between March 23, 2020 and May 14, 2020 are hereby extended until June 1, 2020.
12. The provisions of Administrative Order No. 3 regarding the suspension of any requirements for sworn declarations, verifications, certificates, statements, oaths, or affidavits in filings with the Supreme Court, the Court of Chancery, the Superior Court, the Family Court, the Court of Common Pleas, or the Justice of the Peace Court remain in effect.

13. The Clerk of the Court is directed to transmit forthwith a certified copy of this Order to the clerk of each trial court in each county.

BY THE CHIEF JUSTICE:

/s/ Collins J. Seitz, Jr.
Chief Justice