

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE COVID-19 §  
PRECAUTIONARY MEASURES §

**ADMINISTRATIVE ORDER NO. 6**  
**EXTENSION OF JUDICIAL EMERGENCY**

On this 14<sup>th</sup> day of May 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 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 and May 8, 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, 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, on April 14, 2020 the Chief Justice, in consultation with the other members of the Supreme Court, extended the judicial emergency through May 14, 2020, continued the closure of State courthouses and their administrative offices to the public through May 14, 2020, and extended certain deadlines that expired between March 23, 2020 and May 14, 2020 until June 1, 2020;

WHEREAS, on April 30, 2020, after Governor Carney modified his order declaring a State of Emergency to require that Delawareans wear a mask or face covering in public areas, the Chief Justice ordered Court staff, lawyers, litigants, jurors, contractors, vendors, and any other visitors to any court facility to wear a mask or face covering when in the common or public areas of court facilities if they could not maintain a 6-foot separation from other individuals;

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 and was extended on April 14, 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 May 8, 2020 extension of the State of Emergency in the State of Delaware; and

WHEREAS, the Chief Justice, in consultation with the Liaison Justice, other members of the Supreme Court, the Executive Director, Chair, and Vice Chair of the Board of Bar Examiners, has determined that the Delaware Bar Examination, presently scheduled to take place on July 27-July 29, 2020, must be rescheduled in light of the public health threat currently posed by COVID-19;

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 June 13, 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 June 13, 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 June 13, 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 June 13, 2020 are extended through July 1, 2020. Statutes of limitations and statutes of repose that would otherwise expire during the period between March 23, 2020 and June 13, 2020 are extended through July 1, 2020. Deadlines, statutes of limitations, and statutes of repose that are not set to expire between March 23, 2020 and June 13, 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. Notwithstanding the foregoing, each State court shall retain the discretion to require the prompt filing of public versions of documents initially filed under seal and, for good cause shown, to expedite proceedings.
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 June 13, 2020 are hereby extended until July 1, 2020.
12. 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 remains in effect.

13. Administrative Order No. 5 regarding the use of face masks/coverings in court facilities remains in effect.
14. The Delaware Bar Examination, originally scheduled to take place on July 27-July 29, 2020, is rescheduled to take place on September 9-September 11, 2020. Board of Bar Examiner Rule 5(b), which provides that the application fee is non-refundable, is modified to allow any applicant who chooses not to sit for the Delaware Bar Examination in September 2020 to receive a refund of their application fee.
15. 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