

## MASSACHUSETTS APPEALS COURT

### Guidelines Regarding Extension of Due Dates and Other COVID-19 Internal Operating Procedures

The Appeals Court provides this statement of guidelines and internal operating procedures to assist the public in understanding the Appeals Court's administrative response to the evolving COVID-19 pandemic and related orders of the Supreme Judicial Court.

I. **Clerk's Office.** As provided in the Supreme Judicial Court's March 17, 2020 Order in S.J.C. No. OE-144, the Clerk's Office of the Appeals Court "shall remain open, but shall accept filings in person only in emergency matters that cannot be filed electronically." The Clerk and Assistant Clerks have discretion to determine what qualifies as an emergency matter. Information about electronic filing at the Appeals Court is available at [mass.gov/guides/electronic-filing-at-the-appeals-court](https://www.mass.gov/guides/electronic-filing-at-the-appeals-court).

As of March 18, 2020, all Appeals Court Clerk's Office personnel are working remotely. Limited personnel are present at the John Adams Courthouse for emergency matters only. With this workforce, the Clerk's Office expects to continue to perform regular case management functions while experiencing minimal delays in the processing of filings or issuance of notices.

For answers to general questions, please consult the Appeals Court's website at <https://www.mass.gov/orgs/appeals-court>, in particular the education help pages at [mass.gov/appeals-court-help-center](https://www.mass.gov/appeals-court-help-center), the information about electronic filing at [mass.gov/guides/electronic-filing-at-the-appeals-court](https://www.mass.gov/guides/electronic-filing-at-the-appeals-court), the status of filings at the court's docket (updated hourly) at [ma-appellatecourts.org/](https://ma-appellatecourts.org/), and the court's hearing calendar at [ma-appellatecourts.org/calendar](https://ma-appellatecourts.org/calendar).

II. **Deadlines.** The Supreme Judicial Court's March 17, 2020 Order provides, in part, "[u]nless otherwise ordered by the applicable court, all deadlines set forth in statutes or court rules, standing orders, or guidelines that would otherwise expire before April 21, 2020, are extended to that date." Consistent with this provision, the Appeals Court hereby explains the effect of this order on deadlines in the Appeals Court and the Court's related internal operating procedures.

a. **Briefing due dates and deadlines.**

1. The due date or time for filing any appellate brief due in the Appeals Court between the dates of March 17, 2020 and April 20, 2020 by operation of the Rules of Appellate Procedure or by any enlargement granted by the court or a single justice thereof, is extended to April 21, 2020. This applies to all case types and to all types of briefs. A formal extension is not being docketed in each individual case but will be administered internally by the Court in each case. A general notice will be posted prominently on the Appeals Court's website and shared on the Appeals Court's Listserv. The Clerk's Office will continue to accept any voluntary filings of motions, briefs, appendices, and other documents before April 21, 2020, but is not enforcing any deadlines for any document's due date. No motion for extension of time is required to

accompany any filing on or before April 21, 2020. The foregoing applies to all status report deadlines previously ordered by the Court.

2. The Appeals Court will not enter notices or orders pursuant to its Standing Order Concerning Dismissal of Appeals and Reports in All Cases for Lack of Prosecution until April 21, 2020. The time for filing any motion required by the standing order is extended to April 21, 2020.

b. Responses. Unless otherwise ordered by the single justice or a panel in a particular case, a response or opposition to any motion due between March 17, 2020 and April 20, 2020 is extended to April 21, 2020. For any emergency matter, the court or a single justice thereof may require a response to be filed by an earlier date.

c. Show cause orders. A response to a show cause order due between March 17, 2020 and April 20, 2020 is extended to April 21, 2020. The Appeals Court will not take any action with respect to show cause orders until after April 21, 2020.

d. Docketing civil appeals. In cases where payment or request for waiver of the civil appeal entry fee is due between March 17, 2020 and April 20, 2020, the time for entering an appeal is extended to April 21, 2020. For details on the mechanics of docketing an appeal, see section III below.

e. Notices of appeal filed in the Appeals Court. The time for filing any notice of appeal in a case currently pending in the Appeals Court that would otherwise expire between March 17, 2020 and April 20, 2020 is extended to April 21, 2020.

f. Mass. R. A. P. 27 motions. The time period for filing any motion under Mass. R. A. P. 27 for reconsideration or modification of decision that is due between March 17, 2020 and April 20, 2020, is extended to April 21, 2020.

g. Rescript. Issuance of the rescript of Appeals Court decisions pursuant to Mass. R. A. P. 23(c) is stayed until April 21, 2020.

h. Petitions seeking relief under G.L. c. 231, § 118 (first par.). The statute's 30 day deadline for a petition due between March 17, 2020 and April 20, 2020 is extended until April 21, 2020, as well as any response to any petition otherwise due within that period.

**III. Mechanics for Docketing Civil Appeals and Single Justice Cases.** Consistent with the orders of the Supreme Judicial Court and the Chief Justice of the Trial Court concerning reducing in-person traffic in the courthouse and possible transmission of COVID-19, the Appeals Court has implemented the following practices regarding payment and request for waiver of the entry fees required for panel appeals and single justice cases. As stated above in paragraph II(d), in cases where payment or request for waiver of the civil appeal entry fee is due between March 17, 2020 and April 20, 2020, the time for entering an appeal is extended to April 21, 2020.

a. Payment.

1. In-person payment at the Appeals Court will not be accepted. Electronic payment through eFileMA.com is accepted. Payment by check through the mail will also be accepted.

2. In addition, payment of the required entry fee is hereby deferred to April 21, 2020. Provided the Appeals Court has received the assembly of the record, the Clerk may enter an appeal on a request without payment. In a case docketed by the Clerk without an entry fee, the Clerk shall enter a notation on the docket that no entry fee has been filed. After April 21, 2020, the Court may enter an order requiring the fee to be paid, and the failure to comply with the order will be grounds for vacating entry of the appeal.

b. Request for waiver.

1. Except in emergency cases, in-person written requests to docket an appeal without payment supported by an affidavit of indigency will not be accepted. Written requests and affidavits of indigency that are electronically filed or filed by mail will be accepted.

2. In addition, the requirement that a party provide a written request supported by an affidavit of indigency is deferred to April 21, 2020. Provided the Appeals Court has received assembly of the record, the Clerk may enter an appeal on a request by email or other means without the written request and affidavit of indigency required by Mass. R. A. P. 10(a)(1). In such cases the Clerk shall enter a notation on the docket that no affidavit of indigency has been filed. After a date to be specified after April 21, 2020, the Court may enter an order requiring the affidavit of indigency and may vacate entry of the appeal if the affidavit is not filed. Upon the filing of the affidavit of indigency, it will be treated in the ordinary course. If a party is determined not to be indigent, the Court may require a filing fee.

**IV. Emergency and Remote Filings.**

a. Emergency Filings. Persons with an emergency matter must contact the Clerk's Office by email at [MACClerkEmergency@Jud.State.Ma.Us](mailto:MACClerkEmergency@Jud.State.Ma.Us) with details about the emergency and provide their immediate contact information. Emergency matters may be filed electronically or at the John Adams Courthouse.

b. Non-Emergency Electronic Filings. The Clerk's Office is open and accepting all filings in all case types via its electronic filing program. See <https://www.mass.gov/guides/electronic-filing-at-the-appeals-court>

c. Electronic Filing and Waiver of Fees.

1. The Appeals Court Standing Order Concerning Electronic Filing remains in effect and requires most documents be electronically filed. It is further encouraged that all documents be electronically filed.

2. Indigent parties may use a “waiver account” to waive electronic filing fees and file the affidavit of indigency at a later date as described in paragraph III(b)(2). For information about establishing a waiver account, see <https://www.mass.gov/doc/adding-a-waiver-account-to-your-firm/download>.

3. In emergency cases and where electronic filing is not practicable, the Clerk may allow filing by other remote means such as email or fax.

**V. Hearings.**

a. Panel sessions. On March 18, 2020, the Appeals Court ordered that all cases scheduled for oral argument during April 2020 shall be deemed submitted on the briefs on file, without any further argument unless otherwise ordered by the Court in a particular case. At this time, the Court is moving forward with the tentative scheduling of the May session and requires responses to anticipated availability of attorneys and parties. At a later date the Appeals Court will announce the form of any arguments in May, which could include telephonic or videoconference. The court's preference is to make a record of any hearing in a medium that may be made available by electronic means.

b. Single Justice session. The single justice has discretion to determine whether to hold a hearing and the means by which any such hearing would occur, including telephonic or videoconference. The court's preference is to make a record of any hearing in a medium that may be made available by electronic means.

Dated: March 19, 2020