

District Court Emergency Administrative Regulation 20-1

Temporary Regulation for Waiver of Signature Requirement for Affidavit of Indigency for Appeals Under G.L. c. 123, § 9(a) as a Result of COVID-19

Due to the extreme risk of person-to-person transmission caused by the 2019 novel Coronavirus (COVID-19), which has been declared a pandemic by the World Health Organization, and which has occasioned the declaration of a State of Emergency in the Commonwealth of Massachusetts through Executive Order No. 591: Declaration of a State of Emergency to Respond to COVID-19;

It is hereby ORDERED, pursuant to my authority as set forth in G.L. c. 218, § 43A, that effective April 22, until a date further ordered:

All appeals under G.L. c. 123, § 9(a) wherein the appellant seeks an indigency waiver of the filing fee established pursuant to G.L. c. 262, § 2, and any associated normal fees and costs as defined by G.L. c. 261, § 27A, and the extra cost to obtain a transcript for the purpose of pursuing the appeal, may proceed notwithstanding the absence of a signature on the affidavit of indigency required under G.L.c. 261, § 27B.

The Court may, upon declaration that this Emergency Administrative Regulation has been rescinded, enter an order requiring the appellant to submit a signed copy of the affidavit of indigency and may vacate entry of the appeal if a signed affidavit is not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.

This Regulation shall not be construed to eliminate the affidavit requirement altogether; nor shall this Regulation be construed to eliminate the requirement that waiver of the extra cost of the transcript be granted by a judge pursuant to G. L. c. 261, § 27C (3). Absent extraordinary circumstances, such an application shall be allowed without a hearing when filed by appointed counsel under G.L. c. 123, § 9(a). Said counsel should, when filing the Notice of Appeal and a request for transcript, add the following language to their appeal notice –

"Absent further order of the Court, this request under G.L. c 261, § 27C for substitution or payment by the Commonwealth of fees and costs for court transcript for indigent persons is approved under Trial Court Administrative Order 20-3 (3/16/2020) and District Court Standing Order 3-20(IV)(I)."

So ordered.

Paul C. Dawley, Chief Justice

Dated: April 22, 2020.