

Superior Court of New Jersey
Appellate Division
Application for Permission to File Emergent Motion

To: Appellate Division Emergent Judge _____

Date: _____

From: _____

Telephone: _____

The following questions are to be answered by the attorney or self-represented litigant requesting permission to file an emergent motion. This questionnaire is designed to assist the court's determination respecting its further instructions. **COMPLETION OF THIS APPLICATION DOES NOT IN ANY SENSE CONSTITUTE THE FILING OF AN APPEAL OR MOTION.** There is no right to be heard orally on an emergency application. Further instructions will come from the court.

Except by permission of the court, the only documents you may submit with this application are: a copy of the decision being appealed, any opinion or statement of reasons given by the trial judge or agency, and any order or decision denying or granting a stay. A copy of this application must be served simultaneously on both your adversary and the trial judge or agency. No answer shall be filed unless directed by the court.

If the court grants you permission to file an emergent motion and you have not previously filed a motion for leave to appeal or notice of appeal (whichever is applicable), you must simultaneously file one. See njcourts.com for notice of appeal and Court Rules. You must also pay the applicable filing fee (\$50 for a motion for leave to appeal; \$250 for a notice of appeal), direct the charging of an attorney's account with the Superior Court, or file a motion to proceed as an indigent and supporting certification.

Case Name: _____

Appellate Division Docket Number: (if available): _____

Trial Court or Agency Docket Number: _____

1. What is the vicinage of the matter? (i.e., what judge, in what county or what agency entered the decision?)

2. a) What is your name, address, including any e-mail address, phone number and fax number?

- b) Who do you represent? (i.e., client, yourself)

9. If you did not immediately seek a stay from the trial court or agency, or if you did not immediately file this application with the Appellate Division after the trial court or agency denied your stay application, explain the reasons for the delay.

10. Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees?
If so, the decision is not final, but rather interlocutory, and leave to appeal must be sought. (Court Rules 2:2-4 and 2:5-6)

11. If the order or agency decision is interlocutory (i.e., not final), are you filing a motion for leave to appeal?

12. If interlocutory, are you filing a motion to stay the trial court or agency proceeding?

13. If the order, judgment or agency decision is final, have you filed a notice of appeal?

14. What is the essence of the order, judgment or agency decision?

15. a) Has any aspect of this matter been presented to or considered by another judge or part of the Appellate Division by emergent application or prior appeal proceedings? If so, which judge or part?
- b) Have the merits briefs been filed in this matter? If so, has the matter been calendared to a part of the Appellate Division?
16. a) Have you served simultaneously a copy of this application on both your adversary and the trial judge or agency?
- b) If so, specify method of service.
17. a) Have any transcripts been ordered (particularly of the trial judge's challenged ruling)?
- b) If so, when will the transcript(s) be available?

18. Please give a brief summary of the facts of your case.

19. What legal citation (i.e., statute, regulation, court case) is most important for the proposition that you are likely to prevail on appeal?

By signing below, I certify that this application is made in good faith, and not for any improper purpose such as to harass or to cause unnecessary delay or expense. I further certify that the factual statements contained in this application are true to the best of my knowledge.

Date: _____

Print/Type Name of Attorney or Self-Represented Litigant

Signature of Attorney or Self-Represented Litigant

**Superior Court of New Jersey
Appellate Division**

Disposition on Application for Permission to File Emergent Motion

Case Name: _____

Appellate Division Docket Number: (if available): _____

Trial Court or Agency Below: _____

Trial Court or Agency Docket Number: _____

DO NOT FILL IN THIS SECTION – FOR COURT USE ONLY

I. The application for leave to file an emergent motion on short notice is **Denied** for the following reasons:

- The application on its face does not concern a threat of irreparable injury, or a situation in which the interests of justice otherwise require adjudication on short notice. The applicant may file a motion with the Clerk's Office in the ordinary course.
- The threatened harm or event is not scheduled to occur prior to the time in which a motion could be filed in the Clerk's Office and decided by the court. If the applicant promptly files a motion with the Clerk's Office it shall be forwarded to a Panel for decision as soon as the opposition is filed.
- The applicant did not apply to the trial court or agency for a stay, and obtain a signed court order, agency decision or other evidence of the ruling before seeking a stay from the Appellate Division.
- The application concerns an order entered during trial or on the eve of trial as to which there is no prima facie showing that the proposed motion would satisfy the standards for granting leave to appeal.
- The timing of the application suggests that the emergency is self-generated, given that no good explanation has been offered for the delay in seeking appellate relief. Due to the delay, we cannot consider a short-notice motion within the time frame the applicant seeks, without depriving the other party of a reasonable time to submit opposition. And the magnitude of the threatened harm does not otherwise warrant adjudicating this matter on short notice despite the delay. If the applicant promptly files a motion with the Clerk's Office it shall be forwarded to a Panel for decision as soon as the opposition is filed.
- Other reasons:

J.A.D. _____
Date

