

Notice to the Bar, Appellate Division Guidelines for Entertaining Emergent Applications, July 1, 1999

The Appellate Division is issuing these guidelines to clarify the circumstances and procedures pursuant to which emergent applications will be entertained. These guidelines distinguish between applications made during the pendency of trial and all other applications.

1. Initiation. The Clerk's office maintains a list of each judge on emergent duty for each group of vicinages. A litigant making an emergent application must determine from the Clerk's office the judge who is covering the vicinage in which the action to which the motion relates is pending. Upon such determination, the litigant should call the chambers of that judge. The judge's chambers shall arrange for the completion of an intake fact sheet in the form annexed hereto either by accepting the information by telephone or having the applicant complete the form.

2. Emergent Applications Made During Trial. The court will entertain an emergent application made during trial only upon a preliminary showing of likelihood of success of the application and that immediate and irreparable harm will result if the application is not entertained. If the application is not entertained, a denial shall be endorsed on the fact sheet by the intake judge so that the litigant has a record for further review by the Supreme Court should the litigant decide to pursue the matter. If the application is entertained, the judge's chambers will advise the litigants with respect to the filing fee, notice to adversaries, motion papers required and to whom they must be submitted, scheduling, and whether oral argument on the motion will be heard.

3. Emergent Applications Not Made During Trial. Applications not made during trial will be entertained by the court, on a showing that a definitive event will occur or specific action is required on a date prior to the date on which a motion made in the ordinary course can be considered by the court, usually three to four weeks after the filing of the motion. If the emergent motion is not made during trial, it shall simply be considered as a short-notice motion and, upon filing of the required documents, the emergent judge's chambers will instruct the movant as provided in paragraph 2. If the motion is not entertained, a denial and the reason therefor shall be endorsed on the fact sheet.

Sylvia B. Pressler

Presiding Judge for Administration

Appellate Division