



Supreme Court Guidelines for Emergent Matters (*Rule 2:9-8*)

The Supreme Court has issued these guidelines to clarify the procedures for requesting emergent relief from the Court. The purpose is to help litigants better understand the process and the circumstances under which an emergent matter may be entertained or denied.

What Are “Emergent Applications” and “Emergent Motions”?

The term “emergent matters” refers generally to both “emergent applications” and “emergent motions.” An “emergent application” is a written request for permission to file a motion for review by a court on an emergent (very fast) basis. For example, if an event (for example, an eviction) that a litigant wants to delay until the appeal is decided is going to occur very soon, there may not be time for a court to decide a regular motion for a stay before the event takes place. The emergent application asks the court to allow a motion to be filed and briefed quickly – an “emergent motion” – so the court can decide it before the event occurs.

Before you Ask the Supreme Court for Emergent Relief:

- (1) **Carefully review these guidelines and the relevant Rules of Court**, including but not limited to *Rule 2:9-8* and *Rule 2:8*, before you attempt to request emergent relief. Whether you are an attorney or a litigant representing yourself (“*pro se*”), you must follow the Rules.
- (2) **You must obtain a written order or disposition from the Appellate Division.** For information on filing papers in the Appellate Division, including motions and emergent applications, please visit the judiciary’s website, njcourts.gov. Useful forms are available at the *Self-Help Resource Center*, njcourts.gov/selfhelp/index.html. The *Appellate Division Guidelines for Entertaining Emergent Applications*, which provide an explanation of the Appellate Division’s emergent application process, are available at njcourts.gov/forms/10498_appl_perm_file_emerg_motion_portal.pdf
- (3) **Remember: The Supreme Court is a court of discretionary review. It does not review every case or consider every claim of error.** With rare exceptions, there is no right to appeal to the Supreme Court after the Appellate Division enters a final judgment. There also is no right to have the Court review “interlocutory” orders (orders entered before a final judgment). A litigant must ask the Court to consider taking action, which the Court agrees to do in only a small percentage of cases. Even if a litigant is asking for an order to stop an imminent event, the Court may decide not to intervene. For example, that may happen if the matter was already considered by the Appellate Division, or if the litigant created the emergency by delaying action.

Initiating a Request for Emergent Relief in the Supreme Court

Complete the [Supreme Court Emergent Matter Intake Form](#) and then call the Supreme Court clerk's office at (609) 815-2955. A staff attorney will provide instructions on submitting the form and other required documents. This is not a time to make arguments about why you believe you are entitled to relief. Staff attorneys do not decide the application. Their role is to get basic information to appropriately process the matter and provide further procedural instructions.

What documents Are Submitted to the Court?

The litigant should submit a completed [Supreme Court Emergent Matter Intake Form](#). Staff will instruct you on what other documents you may provide depending on how the matter proceeded in the Appellate Division. In general, you should expect the following instructions:

- (A) **If the Appellate Division denied the emergent application using a form of *Disposition on Application for Permission to File Emergent Motion*:** As instructed by the clerk's office, the litigant must file and must serve all adversaries and the trial judge or agency with copies of: (1) the signed Appellate Division *Disposition* form and (2) the *Application for Permission to File Emergent Motion* and any attachments that were considered by the Appellate Division. **No responses or other materials are permitted unless requested by the Court.**

- (B) **If the Appellate Division decided a motion:** In this situation, the parties were permitted to file briefs and the Appellate Division entered an order. To request Supreme Court review of an Appellate Division order, a litigant must file and serve copies of a notice of motion and a brief for the full Court to review. The clerk's office will provide any special instructions, depending on the nature of the matter, the Court's schedule, and whether temporary relief may be requested from a single Justice prior to the full Court's decision.

What Does It Mean If an Emergent Application Is Denied?

It means simply that the litigant was not permitted to file an emergent motion. A regular motion may still be filed, but it will be reviewed in ordinary course, not on an emergent basis.

Some Reasons Why the Court May Deny an Emergent Application

Although the Supreme Court provides written decisions explaining its judgments on appeals and certain other matters, the Court is not required to state the reasons for its orders on motions or dispositions on emergent applications. Motions may be denied on the merits for many reasons. For example, a stay motion may be denied if a court finds that the harm that allegedly may occur if a stay is denied can later be remedied. A court may deny bail because it determines the defendant is a flight risk.

The denial of an emergent application is different because it is primarily a scheduling decision. An emergent application may be denied because there is time to decide a regular motion—or because there would have been time if the litigant had been more diligent and prompt in filing papers. In other words, the emergency was “self-created.” Also, orders entered during or on the eve of trial will not be reviewed on an emergent basis unless the applicant establishes that there is a likelihood of success on the merits and that immediate, irreparable harm will result. Alleged harm is not “irreparable” if it can be remedied in future proceedings. In addition, if a matter has already been considered on the merits by the Appellate Division, the Supreme Court may simply decide not to intervene and review the matter on an emergent basis.