

Impact of COVID-19 on Appellate Mediation Rules and Procedures

Court of Appeals mediations will necessarily be delayed due to the coronavirus epidemic but, to the extent possible, the mediation program will continue to accept mediation requests and to schedule mediations to be held after restrictions on travel and gatherings are lifted. In the meantime, the usual mediation rules and scheduling procedures are revised as follows:

1. Deadline for requesting mediation extended

In accord with the [order](#) issued by the North Carolina Supreme Court on March 27, 2020, extending for 60 days all appellate court deadlines that fall between March 27 – April 30, 2020, the deadline for filing the "Consent to Appellate Mediation Form and Motion for 60-day Extension of Time" ("Consent Form") is also extended accordingly.

2. E-filing or emailing Consent Form

Counsel may email the completed Consent Form to mediate@coa.nccourts.org. The Consent Form may also be filed electronically at <https://www.ncappellatecourts.org/>. While Counsel may still mail the completed Consent Form to the Court of Appeals for filing, the prior two methods are preferred.

3. Scheduling of in-person mediation sessions by current Court of Appeals Judges postponed

No mediation sessions being conducted by a current Court of Appeals judge will be held prior to May 1, 2020, in compliance with Executive Order 121, which is the statewide Stay-at-Home Order issued by Governor Cooper. If this Order is extended, no in-personal mediations will be held until it is lifted. However, if a Consent to Mediation form is filed with the Court of Appeals during this time, the mediator may schedule the mediation session for a date after May 1, 2020 after consultation with counsel for all parties regarding the date and location for the mediation session. If the Stay-at-Home order is extended, any scheduled mediation sessions shall be postponed until after the order is lifted.

4. Extensions of time for filing appellant's brief

When a Consent Form shows that all parties have agreed to appellate mediation, the Court routinely enters a 60-day extension order for filing the appellant's opening brief ("appellate mediation extension"). In accord with the Supreme Court's March 27 order, any briefing deadline that falls between March 27 and April 30, 2020 ("extension window") is automatically extended an additional 60 days. This automatic extension applies even when the briefing deadline falls within the extension window based on the routine appellate mediation extension order. The Court also recognizes that additional extensions of time may be needed, including those necessitated by delays in scheduling a mediation session due to the Stay-at-Home order. Any reasonable additional extensions of time will be granted upon party request.

5. Private mediation by teleconference permitted

If the mediation is to be conducted by a current Judge on the Court of Appeals, the mediation will be scheduled as described above to be held in person. The judges will not hold mediations by teleconferencing. However, if the parties select a private mediator to conduct the mediation, and all parties as well as the mediator agree to hold a mediation by teleconference during the stay-at-home period, they may do so.

6. Canceling mediation a possibility

Calendaring of cases for argument will necessarily be delayed by the extensions of time for filing documents in the Court of Appeals. At this time, the Court does not know the exact effect of these delays on the calendaring of cases. However, if a case has been scheduled for mediation and the mediation session cannot be held soon enough for the case to proceed as the Court deems necessary, the mediation may be cancelled in the Court's discretion. If the mediation is canceled, the Court will notify the parties and will grant an additional 30-day extension of time for filing the appellant's brief.