

State of New York
Unified Court System



Lawrence K. Marks
Chief Administrative Judge

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MEMORANDUM

April 7, 2020

TO: All Trial Court Justices and Judges

FROM: Lawrence K. Marks *LM*

SUBJECT: Next Steps

Chief Judge DiFiore and I sincerely hope that you and your families are safe and otherwise holding up well under these difficult circumstances as we continue to cope with this emergency public health crisis.

As you know, and as the Chief Judge discussed in her video remarks yesterday, for the past two weeks, we have concentrated all our efforts in the trial courts on addressing essential matters, as delineated in Administrative Order 78/20, issued on March 22, 2020. As a result of the dedication and incredibly hard work of outstanding judges, court managers, court officers, court clerks and other nonjudicial staff, the program has been highly successful. Notably, as of yesterday, essential proceedings across the state are all being handled virtually, with judges, attorneys, and most nonjudicial staff participating remotely, and with a minimum of staff assigned to courthouse locations. This has been a truly remarkable achievement, and the court system's highly-skilled technology staff deserve enormous credit for setting this up, particularly in such a short time frame.

Now that we have successfully transitioned to a virtual court system for handling essential matters, we are turning our attention to non-essential matters, which make up the vast bulk of our trial court caseloads. These include tort (including medical practice and asbestos), commercial, matrimonial, trusts and estates, felony and other categories of cases. In recent days, we have had discussions with the Deputy Chief Administrative Judges, Administrative Judges, individual judges and court managers, as well as with attorneys representing different segments of the bar, who naturally are eager to see us resume provision of some level of access to justice for clients with non-essential matters.

The following is a brief summary of what we are planning.

Going forward, the existing prohibition on the filing of new non-essential matters will continue. However, although our planning is ongoing, starting next Monday, April 13, we will take certain preliminary steps to open up access – *remote* access – to the courts for non-essential pending cases. This means that judges should review their case inventories to identify cases in which court conferences can be helpful in advancing the progress of the case, including achieving a resolution of the case. Judges can also schedule conferences at the request of the attorneys, and can be available during normal court hours to address discovery disputes and other ad hoc concerns. The conferences will need to be conducted remotely, by Skype or by telephone. Judges’ personal staff will be able to assist judges remotely, as needed.

Courts that have high-volume calendar parts, such as compliance and trial assignment parts (primarily Supreme Court in New York City and the large downstate suburban counties) are now reviewing existing calendars in those parts and identifying cases on those calendars that can be assigned to judges to conduct remote conferences. Again, the goal is for judges to help advance the progress of the cases and facilitate their resolution.

Another important activity that will resume now is for judges to decide fully submitted motions. This is an ideal time for individual judges to take this opportunity to resolve any backlogs of undecided motions and other matters in their case inventories. We will be activating law departments in those counties that have them, to assist you in drafting decisions.

These are preliminary steps that we can take now to provide an important service to the bar and their clients, and will be a significant step forward in ensuring that the vitally important business of the courts continues. The Chief Judge and I know that all of you will embrace these steps, which will enable you to be active and serve the public in this time of great need. Other steps will be taken in the weeks ahead to further increase access to justice in non-essential matters, and you will be hearing more from us as that planning proceeds.

Additional details about these initial steps that will begin next week will be provided by your Administrative Judge, who will be reaching out to you, if he or she has not already done so. Administrative and court staff are available to assist you, wherever necessary, in receiving computer equipment and programs you may need, obtaining technical support to use Skype and other technology platforms to conduct court conferences, gaining access to your chambers computers and your case inventories,

accessing e-filed court records in our NYSCEF system, using your chambers telephone remotely to conduct conferences, etc.

Thank you to everyone for your cooperation and patience as we all navigate our way through this extraordinarily difficult period. Please be safe, and stay healthy!

cc: Chief Judge Janet DiFiore
Hon. George Silver
Hon. Vito Caruso
Administrative Judges