OFFICE OF THE ADMINISTRATIVE JUDGE

10TH Judicial District - Nassau County



MEMORANDUM

To:

Nassau County Justices and Judges

From:

Hon. Norman St. George, District Administrative Judge

Date:

August 13, 2020

Re:

Return to In-Person Operations for Nassau County-Phase 4.1

As the Nassau County Courts' Return to In-Person Operations Plan evolves, I will continue to provide periodic updates detailing how In-Person Operations will expand in a manner that strives to ensure the health and safety of all individuals who work in our Courthouses. As always, Nassau County's Justices and Judges have my sincere thanks for their patience with the Return to In-Person Operations process and for their tremendous cooperation throughout the process.

As you know, Phase One of the Return to In-Person Operations, which began on May 29, 2020, allowed the individual Courthouses throughout the County to re-open with Judges and their Staff returning to Chambers. Emergency and Essential Proceedings continued to be held virtually, with the Judges appearing in the Courtroom via Skype audio conference. Phase Two of the Return to In-Person Operations, which began on June 12, 2020, allowed an increase in foot traffic in the Courthouses with Emergency and Essential Proceedings occurring In-Person in designated courtrooms throughout the County. Phase Three of the Return to In-Person Operations, which began on June 26, 2020, began the expansion of the type and manner of cases which were permitted to be heard In-Person. Phase Four of the Return to In-Person Operations which began on July 10, 2020, saw another gradual increase in the type and manner of cases which were permitted to be heard In-Person.

The Nassau County Courts have been approved to begin another expansion of In-Person Operations for what is termed Phase 4.1 which will commence on Monday August 17, 2020. The highlight of Phase 4.1 will be the return of Jury Trials in Nassau County. The Office of Court Administration has approved our Pilot Plan for the return of Civil Jury Trials in Supreme Court. A copy of the Plan is attached for your review. Petit Jury Summonses will be issued in

September for Civil Jury Trials to resume in Supreme Court in the beginning of October. As the District plans for the return of Civil Jury Trials, we will be looking for five Supreme Court Justices to volunteer to conduct the first jury trials. Please contact my Chambers if you are interested.

We are awaiting the approval of our Pilot Plan for the return of Criminal Jury Trials. Under that plan, Petit Jury Summons will be issued in October for Criminal Jury Trials to resume in the County Court in November. Once the plan is approved, we will be looking for two County Court Judges to volunteer to conduct those first trials in the County Court. In addition, we have submitted a Pilot Plan for the return of Civil and Criminal Jury Trials in District Court.

GENERAL PROVISIONS

Operational Considerations:

For Phase 4.1, all of the General Safety Protocols previously implemented, including Cleaning and Sanitizing regimens that were designed to help protect the health and safety of all individuals coming into the Courthouses in Nassau County, will remain in effect and be enhanced during the implementation of Phase Four. Masks must be worn at all times by anyone entering any Courthouse. Public spaces in the Courthouses have all been configured to maintain appropriate social distancing. The signs and floor markings that have been placed throughout the Courthouses will remain in place. Plexiglass has been installed around all magnetometers and select security posts. Plexiglass has now also been installed at all public counters, central jury counter and essential courtrooms. Content specific social distancing signage provided by OCA has been posted in both English and Spanish in elevators, restrooms and by water coolers. Court Officers will continue to monitor foot traffic and ensure social distancing.

All visitors to any Courthouse shall be screened by Court Officers for potential Covid-19 infection pursuant to the June 30, 2020 Memorandum from John McConnell and Nancy Barry.

All Judges and Non-Judicial Staff shall adhere to the Self-Assessment and Thermal Temperature Screening Protocol pursuant to the July 10, 2020 Memorandum from John McConnell and Nancy Barry and the UCS Covid-19 Daily Self-Assessment and Temperature Screening Memorandum from Carolyn Grimaldi dated July 14, 2020.

Courthouses and Courtrooms

All courthouses will continue to be fully open to the public and media. While excess foot traffic will be discouraged, at no time will a member of the public or the media be excluded from the courthouse, unless there is a security or Covid-19 infection concern.

The public or media may be excluded from a courtroom only by the direct order of the Judge presiding over the case in question. In the event that the public and/or media's presence in the courtroom causes the occupancy limit of the courtroom to exceed 25% of the courtroom's stated occupancy, permission to exceed that capacity shall be sought from the District Executive or the Administrative Judge.

The number of courtrooms in a courthouse in use at one time will remain limited to 50% of the number of courtrooms in that facility. Additionally, only 50% of the judges, referees and magistrates of Supreme, County, Family, District or the City Courts may hold in-person proceedings at any one time. Where possible, court calendar and docket times will be staggered to reduce the number of individuals in the courthouse and the courtrooms. The Chief Clerks of each court will determine the appropriate staggering of cases based on the nature and type of proceeding.

Non judicial staffing will remain at its current level, not to exceed 80%.

Starting in September, all Judges and Non-Judicial Staff will be present in the various Courts unless an exceptional circumstance prevents their attendance.

In-Person and Virtual Matters

- 1. The following matters shall be presumptively heard In-Person. However, upon application by any of the parties, the Assigned Judge may agree to allow the matter to proceed virtually based on the circumstances presented.
 - a. Supreme Court
 - i. Trials
 - ii. Evidentiary Hearings.
 - iii. Inquests
 - iv. All appearances and conferences where at least one party is self-represented
 - v. Essential Matters
 - b. County Court (Incarcerated Defendants shall appear virtually, unless otherwise directed by the Judge)
 - i. Trials
 - ii. Evidentiary Hearings
 - iii. Non-custodial arraignments
 - iv. Waivers of Indictment, Pleas and Sentences for non-custodial defendants
 - v. Motion arguments
 - vi. Treatment Court and Judicial Diversion where the Judge determines that an appearance is necessary to protect the health and safety of a defendant
 - vii. Grand Jury proceedings (commencing on or after July 13, 2020)
 - viii. Essential Matters
 - c. Family Court
 - i. All Evidentiary Hearings (priority given to matters filed first)
 - ii. Child Support proceedings
 - iii. Permanency Hearings
 - iv. Article 10 Consents, Admissions and Surrenders
 - v. Essential Matters

- d. Surrogate's Court
 - i. Citations and Show Cause orders
 - ii. Bench Trials
 - iii. Evidentiary Hearings
 - iv. All appearances and conferences where at least one party is self-represented
 - v. Essential Matters
- e. District Court Civil
 - i. Bench Trials
 - ii. Evidentiary Hearings
 - iii. Small claims matters, including the small claims arbitration program.
 - iv. Essential Matters
 - v. Desk Appearance Tickets
- f. District Court Criminal (Incarcerated Defendants shall appear virtually, unless otherwise directed by the Judge)
 - i. Bench Trials
 - ii. Evidentiary Hearings
 - iii. Desk Appearance Tickets Arraignments
 - iv. Vehicle & Traffic Appearances
 - v. Pleas and Sentences for non-custodial defendants
 - vi. Motion arguments
- vii. Treatment Court where the Judge determines that an appearance is necessary to protect the health and safety of a defendant.
- viii. Essential Matters
- 2. The following matters shall be presumptively heard virtually. However, upon application by any of the parties, the Assigned Judge may agree to allow the matter to proceed virtually based on the circumstances presented.
 - a. Supreme Court
 - i. All conferences, including preliminary conferences, compliance conferences, and foreclosures where all parties are represented by counsel
 - ii. Motion arguments where all parties are represented by counsel
 - iii. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20)
 - iv. All other proceedings not listed in (1)(a) above
 - b. County Court
 - i. Conferences
 - ii. Waivers of Indictment, pleas and sentences where the defendant is incarcerated
 - iii. Felony Exams/Preliminary Hearings
 - c. Family Court
 - i. Conferences
 - ii. Juvenile Delinquency Proceedings

- iii. Person In Need of Supervision Proceedings.
- iv. Adoptions
- v. Appearances calendars
- vi. All other proceedings not listed in (1)(c) above

d. Surrogate's Court

- i. Conferences where all parties are represented by counsel
- ii. Motion Arguments where all parties are represented by counsel
- iii. Adoptions
- iv. All other proceedings not listed in (1)(d) above
- e. District Court Civil
 - i. Conferences
 - ii. Motion arguments
 - iii. All other proceedings not listed in (1)(e) above

f. District Court Criminal

- i. Conferences
- ii. Pleas and sentences where the defendant is incarcerated
- iii. All other proceedings not listed in (1)(f) above

3. Jury Trials

- a. Petit Civil Jury Trials in Supreme Court will be conducted in October according to the written protocols developed by the Administrative Judge in consultation with the Deputy Chief Administrative Judge for the Courts Outside New York City.
- b. In light of the success and positive feedback regarding the impaneling of Grand Juries in Nassau County during Phase Three of the Return to In-Person Operations, Petit Criminal Jury trials in the County Court will commence in November subject to the approval of Nassau County's Petit Criminal Jury Plan.
 - i. Civil Jury Trials
 - 1. Summonses for Civil Jury Trials may be mailed in Term 10.
 - 2. Civil Jury Trials shall commence in Term 11.
 - 3. Following the completion of a Civil Jury Trial, the District shall review the jury trial protocols with the presiding Judge, lawyers, and to the extent possible, the jurors, to determine if any part of the protocols should be modified.

ii. Criminal Jury Trials

- 1. Summons for Criminal Jury Trials may be mailed in Term 11
- 2. Criminal Jury Trials shall commence in Term 12.
- 3. Following the completion of a Criminal Jury Trial, the District shall review the jury trial protocols with the presiding Judge,

lawyers, and to the extent possible, jurors, to determine if any part of the protocols should be modified.

- c. Prior to the scheduling of any case for trial and again immediately prior to jury selection, there shall be a robust effort to resolve the case through settlement or plea.
- 4. All virtual matters shall be held via Skype for Business until the conversion to Microsoft Teams is fully implemented. Included in the Skype for Business invitation is a call-in number for lawyers and litigants that do not have access to Skype for Business video. In the event that a self-represented litigant is unable to access Skype for Business, arrangements shall be made at the courthouse for the litigant to appear virtually.
- 5. Commercial and Residential Eviction matters may proceed pursuant to the protocols established in the Memorandum from Chief Administrative Judge Lawrence Marks dated August 12, 2020 and pursuant to Administrative Order AO/160/20. A copy of the Memorandum and Administrative Order are attached.
- 6. Foreclosure matters may proceed pursuant to the protocols established in the Memorandum from Chief Administrative Judge Lawrence Marks dated July 24, 2020 and pursuant to Administrative Order AO/157/20 dated July 23, 2020.
- 7. Default Judgments shall not be granted where, pursuant to CPLR § 3215, the default occurred after March 16, 2020. Furthermore, no Default Judgment requiring the defendant's notice pursuant to CPLR § 3215(g) shall be granted, unless the application was heard prior to March 17, 2020 and proper notice was given (7th Judicial District's Seventh Amended Administrative Order).
- 8. ADR shall be conducted virtually (Chief Administrative Judge Lawrence Marks' AO/87/20).
- 9. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program will occur virtually.
- 10. Small Claims Assessment Review ("SCAR") proceedings shall be conducted virtually.

OFFICE OF THE ADMINISTRATIVE JUDGE

10TH Judicial District - Nassau County



MEMORANDUM

To:

Hon. Vito C. Caruso, Deputy Chief Administrative Judge

Hon. Craig Doran, Administrative Judge, 7th Judicial District

From:

Hon. Norman St. George, District Administrative Judge

Date:

August 5, 2020

Re:

Petit Juror Reopening for Civil Trials in Nassau County

In accordance with the directives of the Chief Judge and the Chief Administrative Judge, the Courts in Nassau County are planning a limited return of Civil Jury Trials in Nassau County Supreme Court for October 2020.

For the return of Petit Jurors, all General Safety Protocols that have been implemented throughout the phased reopening of the Courts to help protect the health and safety of all individuals coming into the Courthouses in Nassau County will remain in effect.

Masks must be worn at all times by all Petit Jurors entering Supreme Court. Public spaces in Supreme Court, including the Central Jury Room, have all been configured to maintain appropriate social distancing. Plexiglass has been installed around all magnetometers, security posts, the Central Jury Counter and essential Courtrooms. Content specific social distancing signage provided by OCA has been posted in both English and Spanish in elevators, restrooms and water coolers. Court Officers are present to monitor foot traffic, ensure social distancing, and screen all Courthouse visitors for Covid-19 pursuant to the protocols developed by the Office of Court Administration.

OPERATIONAL CONSIDERATIONS:

Summoning the Petit Jurors

As a threshold matter, it should be noted that the recent return of Grand Jurors as part of the Nassau County Phase Three Reopening was a resounding success. Three Grand Juries were

impaneled in total. There were no issues with prospective Grand Jurors willingness to serve and we accordingly anticipate no issues with prospective Petit Juror's willingness to serve. Many of the same protocols and procedures used for the summoning of Grand Jurors will be used for the summoning of Petit Jurors.

Typically, there are five Jury empaneling rooms for Counsel to use for selecting a Jury. However, since these rooms do not permit proper social distancing, the empaneling will take place in the Central Jury Room itself. The Central Jury Room seats over 300 potential jurors at one time permitting for maximum physical distancing for prospective jurors. If needed, the Trial Judge may report to the Central Jury Room to preside over Petit Jury selection. One Jury trial will pick at a time with two days allocated for Jury selection for each trial. As with the Grand Jury, the Petit Jurors reporting for service will have staggered summoning times, both in the morning and in the afternoon, so that no more than 40 Petit Jurors will be sitting at one time.

Parking Lot 14 will be designated for the potential Petit Jurors who are responding to Summonses.

Courtroom Considerations:

There are 25 Courtrooms available for Jury Trials in the Supreme Court building. No more than five trials will be conducted at once in order to ensure that Supreme Court courtroom use remains at less than 50% as set forth in Nassau County's Phase Four Return to Operations Memo.

Two courtrooms will be allocated for each trial. One Courtroom will be used for the trial. The second Courtroom will be used for Jury deliberations and the Jury break room. To maximize social distancing in the Trial Courtroom, Jurors will seated in the spectator area. Counsel tables will be turned to face the Jury box to permit full social distancing between plaintiff's and defendant's counsel. Witnesses will give testimony from the Jury box to permit social distancing between the witnesses, counsel, the Judge, court reporter and Jury. The Court reporter will be placed in the witness stand for proper social distancing from the Judge, witness, and Jury. The use of face masks will be mandatory in the Courtroom. Face shields will be provided for additional protection to any Juror or Court personnel who requests them

As noted, the second courtroom will be used for Jury deliberations and as the Jury breakroom, taking the place of the Jury deliberation rooms in the back areas of Supreme Court. The Jury deliberation rooms in Supreme Court are not appropriate for social distancing, necessitating the use of the larger rooms, in this case, a second courtroom.

In order to maintain maximum physical distancing in the courtroom, the Judges will work with counsel to stipulate to as much evidence as possible prior to the trial. One courtroom in Supreme Court is currently configured for the electronic presentation of documents and evidence, this courtroom will be utilized as a trial courtroom. Where physical evidence must be presented in paper form, gloves will be provided to all individuals who are required to handle the evidence.

Cleaning and Sanitizing

The court will provide individualized cleaning services for all Courtrooms being used for Jury trial and Jury deliberations. Provisions will be made to clean and sanitize the witness area between the testimony of witnesses. In addition, sanitizing wipes will be provided in the witness area to provide the witness the opportunity to clean the area themselves for increased comfort and peace of mind. In addition, hand sanitizer stations will be made available throughout the courtroom for use by the witnesses and any other individuals required to handle physical evidence, documentary or otherwise.

State of New York Unified Court System



Lawrence K, Marks Chief Administrative Judge 25 Beaver Street New York , N.Y. 10004 (212) 428-2100

MEMORANDUM

August 12, 2020

To:

Hon. George J. Silver

Hon. Vito C. Caruso

From:

Lawrence K. Marks LM

Subject:

Revised Procedure for Addressing Residential and Commercial

Eviction Proceedings

In light of recent revisions in statewide restrictions on the filing and prosecution of eviction matters in New York State arising during the course of the COVID-19 public health emergency, attached please find a copy of AO/160/20 (Attachment A), which amends the temporary protocol for handling of those proceedings in several significant respects. In brief: (1) eviction proceedings filed on or after March 17, 2020 continue to be suspended; (2) cases filed before March 17 may proceed; (3) residential eviction cases filed before March 17 including cases where a warrant of eviction has already issued but not been executed — must be conferenced before a judge before any further action is taken, and no outstanding or new residential warrants of eviction may be executed prior to October 1, 2020; and (d) commercial evictions may proceed without a conference. The order is described in further detail below.

- 1. Effective August 13, 2020, eviction matters commenced prior to March 17, 2020 may be resumed, with certain important caveats:
 - (a) Further proceedings in particular matters (both commercial and residential) may continue to be governed by the suspension of "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as described by the procedural laws of the state," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.
 - (b) <u>Commercial Matters</u>: A stay of commencement and enforcement of commercial eviction matters against certain tenants (including those "facing financial hardship due to the COVID-19 pandemic"), initiated by Governor

¹ Executive Order 202.55 extended this suspension through September 4, 2020.

Cuomo's Executive Order 202.28, remains in effect through August 19, 2020. Commercial eviction matters may otherwise proceed in the normal course (subject to paragraph 1[a]).

- (c) Residential Matters: Prior to any further proceedings in any residential eviction matter commenced prior to March 17 including matters in which judgments and warrants of eviction have issued and been delivered to enforcement agents (but not yet executed) the court must hold a status or settlement conference to address a range of subjects related to the case and COVID-19 concerns, including the availability of relief under the New York Tenant Safe Harbor Act (L. 2020, c. 127) and other state or federal edicts.
 - After holding such a conference, the court may take whatever further steps it deems appropriate, including deciding any pending motion, entertaining other applications, or allowing the matter to move forward in the normal course (subject to paragraph 1[a]).
 - No residential eviction may take place prior to October 1, 2020 or in the event of a future state or federal moratorium on evictions such later date or dates set forth in law.
- 2. Eviction proceedings commenced on or after March 17 whether residential or commercial, nonpayment or holdover–shall continue to be suspended.
- 3. Filing and service of documents in eviction proceedings continue to be governed by AO/121/20. Consequently, initiating documents by represented petitioners must be filed through NYSCEF or mail only at this time. (Unrepresented parties may file papers in person.)
- 4. Eviction proceedings should be conducted remotely whenever the court deems it appropriate for the health, safety and convenience of participants.
- 5. Commencement papers in commercial and residential eviction proceedings must continue to include the form notice indicating that respondent-tenants may be eligible for an extension of time to respond to the complaint.
- 6. Eviction matters within the City of New York shall be governed by AO/160/20 and the procedures set forth in New York City Civil Court DRP 213.
- 7. Administrative Order AO/127/20 is superseded.

Please distribute this memorandum and attachments to judges and non-judicial staff as you deem appropriate.

Attachment

cc: Hon. Anthony Cannataro

Attachment A

ADMINISTRATIVE ORDER OF THE CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, at the direction of the Chief Judge, and consistent with the Governor's determination approving the easing of restrictions on commerce imposed due to the COVID-19 health emergency. I hereby direct that, effective August 13, 2020, notwithstanding the terms of any prior administrative order, the following procedures and protocols shall apply to the conduct of residential and commercial eviction matters before the New York State courts:

- I. Commercial Eviction Matters Commenced Prior to March 17, 2020: Commercial eviction matters commenced prior to March 17, 2020 may proceed in the normal course, subject to the following:
 - a. Consistent with Executive Order 202.28, as modified by Executive Order 202.48, "[t]there shall be no initiation of a proceeding or enforcement of ... an eviction of any ... commercial tenant, for nonpayment of rent ... rented by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic" for a period of sixty days beginning on June 20, 2020.
 - b. Further proceedings in commercial eviction matters may be governed by the suspension of "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as described by the procedural laws of the state," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.
- 2. Residential Eviction Matters Commenced Prior to March 17, 2020: Effective August 13, 2020, residential eviction matters commenced prior to March 17, 2020 may proceed as follows:
 - a. Prior to conducting any further proceedings in any pending residential eviction matter filed prior to March 17, 2020, the court must initiate a status or settlement conference. This requirement shall apply in all matters at any stage of the eviction process, including any matter where a warrant of eviction has issued and been delivered to an enforcement agent but has not been executed.
 - b. At the conference, the court shall review the procedural history of the matter; confirm compliance with notice requirements; inquire into the effects, if any, that the COVID-19 pandemic has had upon the parties; review any special relief under state or federal law to which the parties may be entitled in light of the pandemic, including the New York Tenant Safe Harbor Act (L. 2020, c. 127); refer unrepresented parties to local civil legal service providers and housing counseling agencies; assess any

- pending and anticipated motions; approve briefing schedules proposed by stipulation of the parties; and use best efforts (including referral to alternative dispute resolution) to resolve any outstanding issues.
- c. Following the conference, the court may take such further steps as it deems appropriate, including allowing the matter to proceed. If the court directs an eviction to proceed following the conference, the eviction shall be scheduled or rescheduled to take place no sooner than October 1, 2020.
- d. Further proceedings in residential eviction matters may be governed by the suspension of "any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding, as described by the procedural laws of the state," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.
- e. In ordering relief in any residential eviction matter, the court should remain particularly mindful of additional prohibitions on evictions that may be commanded by executive order, state statute, or federal law.
- 3. Continued Suspension of Eviction Matters Commenced After March 16, 2020: Eviction proceedings commenced after March 16, 2020 shall, upon the filing of a petition (if no answer is filed thereafter) or the filing of an answer, be suspended until further order. Notwithstanding the foregoing, eviction matters in which all parties are represented by counsel shall be eligible for calendaring for virtual settlement conferences.
- 4. Filing and Service: Filing and service of process in eviction proceedings shall continue as set forth in Administrative Order AO/121/20.
- 5. Notice to Respondent Tenant: Petitions in eviction proceedings pursuant to Article 7 of the Real Property Actions and Proceedings Law shall continue to include a Notice to Respondent Tenant in the form attached as Exh. 1a (if filing within the City of New York) or Exh. 1b (if filing outside the City of New York).
- 6. Remote Proceedings: Eviction proceedings should be conducted remotely whenever appropriate.
- 7. Essential Matters: This order shall not affect procedures for the filing and service of essential matters.
- 8. New York City: In addition to the applicable provisions of this Administrative Order, eviction matters before the New York City Housing Court shall also be governed by DRP 213 of the Civil Court of the City of New York.

9. This order supersedes Administrative Order AO/127/20, and further supersedes the provisions of any other Administrative Order inconsistent with its terms.

Chief Administrative Julig

Dated: August 12, 2020 (AO/160/20

NOTICE TO RESPONDENT TENANT

DURING THE CORONAVIRUS EMERGENCY, YOU MIGHT BE ENTITLED BY LAW TO TAKE ADDITIONAL DAYS OR WEEKS TO FILE AN ANSWER TO THIS PETITION.

PLEASE CONTACT YOUR ATTORNEY FOR MORE INFORMATION.

IF YOU DON'T HAVE AN ATTORNEY, PLEASE CALL

718-557-1379

OR VISIT

www.nycourts.gov/evictions/nyc/

AVISO A INQUILINO DEMANDADO

DURANTE LA EMERGENCIA DEL CORONAVIRUS,
ES POSIBLE QUE USTED TENGA DERECHO POR LEY
A TOMAR DÍAS O SEMANAS ADICIONALES
PARA PRESENTAR UNA RESPUESTA
A ESTA PETICIÓN

POR FAVOR CONTACTE A SU ABOGADO PARA MAS INFORMACIÓN.

SI USTED NO TIENE UN ABOGADO, LLAME AL 718-557-1379

O VISITE

www.nycourts.gov/evictions/nyc/

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FOR MORE INFORMATION.

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PARA PRESENTAR UNA RESPUESTA
A ESTA PETICIÓN

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