

## **MESSAGE FROM CHIEF JUDGE JANET DIFIORE**

**July 27, 2020**

Thank you for giving us a few minutes of your time for an update on the latest COVID developments affecting our courts and the justice system.

As we approach the end of July, our court system continues to make safe, careful, and steady progress on the road back to in-person operations. And while virtual operations will be a mainstay for our court system going forward in order to limit courthouse traffic and reduce the risk of community transmission, our judges and professional staff are committed to incrementally returning to jury and bench trials. In fact, two previously adjourned jury trials are resuming today and tomorrow in Suffolk and Bronx Counties, and our first bench trial in Kings County Housing Court is also scheduled to begin today.

Since entering Phase 3, our Judges and professional staff in the New York City Criminal Court and Criminal Term of Supreme Court have presided over approximately 450 in-court proceedings, in which all

counsel and many defendants have appeared in person. These matters include plea and sentencing proceedings, conferencing of felony cases and a limited number of preliminary hearings involving defendants being held on felony complaints. And what we are finding is that these appearances have been meaningful, and cases are moving forward with judges often taking pleas, dismissing cases and reducing charges.

The planning and preparation for the careful resumption of Grand Jury operations in New York City -- to begin on August 10th – continues. We are retrofitting many of our courtrooms and adjusting operations in our facilities, all in consultation with our epidemiologist.

As I mentioned earlier, in the New York City Housing Court, in-person bench trials are set to begin in Kings County today in spacious courtrooms set aside for that purpose in the nearby Kings County Supreme Court building, located at 320 Jay Street. We are also scheduled to resume in-person trials in New York County Housing Court, starting on August 10th. These trials are limited, of course, to matters filed before the pandemic in which both sides are represented by counsel. For lawyers and litigants who cannot appear in person for public health reasons, we are offering and encouraging the use of virtual bench trials.

Finally, in the courts outside New York City, which are tracking Phase 4 of the state’s economic reopening, I’m pleased to report that our gradual return to in-court operations is going smoothly. Grand Juries have been convened in all 57 counties outside New York City, and we are pleased that the Grand Jury process, one of the lynchpins of our criminal justice system, is safely operating again within the context and parameters of the public health precautions that now define our “new normal.”

Outside New York City, our Administrative Judges have been reaching out to and consulting with local bar associations and stakeholders to solicit their input as to how we can further improve the safety and efficiency of current operations -- and how we move forward, together, to safely expand our in-court operations.

And now for some more good news, I’m pleased to report that last week 36 new Court Officers graduated from our Court Officers Academy. Back in March, we were forced to suspend the training of the 211 Court Officer Trainees in our latest class of Officers, originally scheduled to graduate from the Academy in April. While it was not possible at that time to continue the intensive, in-person training

regimen that our officers go through without risking the health and safety of the entire class and our instructors, the Academy's leadership was able to move its classroom curriculum online in order to minimize the amount of time that the Trainees would have to physically be present in the Academy.

As a result, we were able to resume the socially-distanced training of our first squad of 36 Trainees at the Brooklyn Academy, and our next 36-member squad is scheduled to complete its training next Tuesday, August 4th. We are "all in" for this class, and we are committed to safely training and graduating successive squadrons of this group of Trainees until the entire class can take its place alongside our veteran New York State Court Officers -- who, as you know, have done a magnificent job of serving and protecting the public and the members of our court family during these very difficult times.

I want to thank our Chief of Public Safety, Michael Magliano, and our Chief of Training, Joseph Baccellieri, Jr., for their leadership and resourcefulness in developing a plan to safely complete the training and instruction of this long-awaited class of Court Officers. So, thank you to them.

And now for an update on the bar exam. Last week, I explained the necessity of cancelling the socially-distanced September administration of the bar exam given the nationwide surge in COVID-19 cases and the heightened public health risks, travel restrictions and quarantine requirements that are now in place.

In response, I appointed a special Working Group, chaired by former Court of Appeals Judge Howard Levine, to carefully examine a range of contingency options and promptly make recommendations as to the best path forward. Within a week, the Working Group issued a comprehensive report recommending that New York join the growing number of jurisdictions that are participating in the online bar exam being administered by the National Conference of Bar Examiners on October 5th and 6th.

After examining the various access, security and grading issues associated with an online bar exam, and proactively consulting with outside experts on these matters, the Working Group concluded that, with the implementation of appropriate safeguards, the online bar exam option sufficiently satisfies our dual goal of offering an expeditious path to licensure for 2020 law graduates while assuring the

public that these candidates meet an appropriately high standard of competency for admission to the bar.

So, while the October online testing option may not be a perfect solution, we believe that it is a sound alternative that best serves everyone's interests at this unprecedented time of extraordinary stress and uncertainty for the law school class of 2020.

Last week, the Court of Appeals also amended its rules to permit eligible law graduates employed in New York to be able to practice law under the supervision of a New York attorney in good standing. And we will continue to work with the Presiding Justices of the Appellate Division, the Board of Law Examiners, the law school community and the Bar to alleviate the unique hardships facing these new law graduates.

Finally, I want to express my appreciation to the members of the Working Group – retired Court of Appeals Judge Howard Levine; Justice Erin Peradotto of the Appellate Division, Fourth Department; Past-State Bar President Seymour James; and distinguished attorney and partner at Gibson, Dunn & Crutcher, Matthew Biben. We thank them for immediately rising to our call and for putting their busy professional

lives on hold to perform a most valuable service on behalf of our entire legal profession.

So, in closing, this past week has been another productive week for our court system, and while I am the first to admit that not every single day has been a treat, I am truly proud of the steady and positive progress we have made together. And I am so very proud of the way in which our entire court family has battled through challenge after challenge and remained faithful to our mission throughout the pandemic. No matter what, we have kept our courts up and running. Lawyers and litigants are able to have their matters heard, and the public can be assured that access to justice, and the rule of law, remain in full effect.

So, thank you for your time today. We hope that you remain disciplined in keeping yourself and those around you safe, and that you stay tuned for additional updates.