

MESSAGE FROM CHIEF JUDGE DIFIORE

May 25, 2020

Thank you for again giving me a few minutes of your time to discuss the latest COVID developments affecting the courts and the justice system. And happy Memorial Day to all of you.

Last week we resumed in-person court operations in 40 counties in the six regions which met the state's seven public health benchmarks for economic reopening: the Finger Lakes, Mohawk Valley, Southern Tier, North Country, Central New York and Western New York regions.

And tomorrow, Tuesday, May 26th, we are restoring in-person court operations in eight more counties in the Capital Region. We have been informed that the Mid-Hudson and Long Island regions are expected to hit the requisite benchmarks later this week, and once that happens, we will of course return to those courthouses.

The court system is following, and supporting, Governor Cuomo's plan to reopen the economy on a regional, phased-in basis. Under phase 1, we have restored limited in-person operations, and we have

authorized the filing of new lawsuits in all of the regions and counties covered by the Governor's reopening orders.

While this is an important step forward in our emergence from the pandemic, I do want to stress that this is not a return to business as usual, but rather a return to a "new normal" defined by limited courthouse traffic and procedures and safety measures designed to reduce the risk of virus transmission and ensure the health and safety of judges, court staff and all court users and visitors.

So, while judges and their personal staffs, and certain essential court personnel, are back and physically working in our courthouses, we are limiting public density in our buildings by relying on virtual technology to conduct as much court business as possible. Many safety measures have been put in place, including: COVID screening; the wearing of masks by all who enter our courthouses; social distancing protocols; availability of PPE; strict cleaning and sanitizing standards; and the installation of plexiglass partitions in strategic courthouse locations.

This will be the new normal, and everyone will have to adapt and get used to the new normal as we gradually loosen restrictions and safely return, phase by phase, to fuller in-person operations.

Another important step in our return to a new normal took effect today: the filing of new lawsuits and court matters previously classified as “nonessential.” In regions that have reopened, new matters must be filed electronically in those courts that use our NYSCEF e-filing system, and by mail in those courts where NYSCEF is unavailable. In regions that have not yet met the benchmarks for reopening, new matters may now be filed electronically in those courts that use the NYSCEF system. Details are set forth in Administrative Order 114, on our website.

The ability to file new cases is a significant milestone for the entire justice system, and one we know that the Bar and litigants across the state have been waiting for. Individuals and businesses need access to our courts to move forward with important legal matters -- such as divorce actions, contract disputes, and tort and commercial claims -- and lawyers obviously need to be able to file new cases in order to pursue their calling and serve their clients.

While we are excited and encouraged by these first steps on our road to recovery, there is still a long way to go. Those of us who live and work in the New York City and downstate regions are understandably eager to follow in the footsteps of our upstate colleagues, but we cannot get ahead of what our public health authorities are telling us.

So, in those regions that have been cleared to reopen, we will move forward with our plan to get back in our courthouses with a cautious, disciplined approach, consistent with each phase of the Governor's plan, in order to do our part to minimize the risk of triggering a resurgence of the virus.

And in those regions that have not yet met the public health benchmarks for reopening, we'll be patient; we'll watch and learn from our upstate colleagues; and we'll continue to plan and prepare for our return to in-person operations in all areas of the state. And, of course, we will continue with our virtual court operations, and our efforts to expand and improve those virtual services.

And in this regard, I'm pleased to report that this week judges in our high-volume New York City Housing Court will begin conducting

virtual conferences in pending eviction cases, where both sides are represented by counsel, in order to facilitate settlements prior to the influx of new eviction cases that we anticipate will be filed as a result of the pandemic.

I am also pleased to announce that our backlog of undecided motions has been cleared out in our courts outside of New York City, except for one county that is fast approaching zero. I want to thank Judge Vito Caruso, our Deputy Chief Administrative Judge for the Courts outside the City, and all the Administrative, Supervising and trial judges, including our criminal court judges, and all of our court attorneys and court attorney-referees, who worked so hard, under unusual circumstances, to achieve their goal and put these courts in the best position to take on the large number of new case filings that we know will follow the pandemic.

In the City, the sheer volume of pending motions has made the challenge more difficult, but we're making good progress and the backlog has been reduced by more than half. I want to thank Deputy Chief Administrative Judge George Silver for leading this effort, along with the City's Administrative Judges and all of the trial judges and court attorneys who have been working hard on this important project.

I turn now to our continuing efforts to administer the bar exam, scheduled for September 9th and 10th. Given current conditions in New York – including social distancing guidelines and crowd density restrictions – it is clear that seating capacity for the bar will be significantly limited compared to past years. We are working hard to find ways to seat as many candidates as possible, but at the end of the day our top priority must be the health and safety of all participants.

The application process for the bar exam is proceeding on a rolling basis as space permits. The initial application period closed on May 15th and the Board is now assessing available seating in light of the latest health and safety guidelines. Our hope is to re-open the application period at a later date to a broader group of candidates. Further updates will be posted to the Board of Law Examiners' website.

Even in the midst of a horrible public health crisis, there is much to be grateful for. And we are grateful to everyone who has demonstrated patience and perseverance as we have navigated the unprecedented challenges presented by the pandemic. We could not have made it to this point without the positive support and cooperation of so many people and constituencies who regularly work, practice in, and use our courts. By working together and being disciplined, yet

flexible, in our approach to fulfilling our respective missions and shared responsibilities, we have been able to balance access to the courts with the safety and welfare of all those who work in, and visit, our courthouses. We have shown what we are made of -- commitment, service and fidelity to the rule of law.

So, to recap, the court system is making encouraging progress, and we are steadily emerging from the pandemic. We have embarked on phase 1 of our gradual return to in-person courthouse operations in 48 of our 62 counties, and we have resumed the filing of new lawsuits in all 62 counties across the state.

We hope and expect that this forward progress will continue with each coming week, but we won't take that outcome for granted. We will remain disciplined and responsible, and we will take every protective precaution necessary to avoid new outbreaks of the virus. Given what is at stake, we can't afford, and we will not take, any shortcuts that turn out to be the long way around.

So, please stay tuned for additional updates . . . and I wish each of you the patience, the stamina and the discipline to keep yourself, and all those around you, safe.