



ELEVENTH AMENDED ADMINISTRATIVE ORDER
NINTH JUDICIAL DISTRICT

Pursuant to the authority vested in me, in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System and after consultation with the Chief Administrative Judge and the Deputy Chief Administrative Judge and

WHEREAS, New York State and the nation are now in the midst of an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, COVID-19 is known to be a highly infectious disease, and there is much community concern that large gatherings of people can result in greater public exposure to possible contagion or "community spread"; and

WHEREAS, on a daily basis, in courts across the State, hundreds if not thousands of people representing a broad cross-section of the community gather to conduct business in large groups in close proximity to one another; and

WHEREAS the Courts of the Ninth Judicial District commenced Phase I of the Return to In-Person Operations Plan ("RIOP") on May 27, 2020, Phase II of the RIOP on June 11, 2020, Phase III of the RIOP on June 25, 2020, Phase IV of the RIOP on July 9, 2020, Phase 4.1 of the RIOP on August 14, 2020, the Updated RIOP on November 19, 2020, the Updated Operating Protocols Effective November 23, 2020, and the Updated Operating Protocols Effective December 9, 2020; it is hereby

ORDERED that effective immediately the following rules be put into effect in the Ninth Judicial District until rescinded.

- A. General matters and matters applicable to more than one case type
 1. Until further Administrative Order or Executive Order, residential eviction matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge Lawrence Marks dated October 9, 2020 and November 17, 2020 and pursuant to Administrative Orders AO/231/20 and AO/268/20. Further reference is made to Executive Order 202.72 signed by the Governor on November 3, 2020, the Tenant Safe Harbor Act (Ch. 127, L. 2020) and the CDC Agency Order filed on September 1, 2020.

2. Default judgments may be granted pursuant to CPLR 3215 provided that the granting of the default judgment is not contrary to any statute, Executive Order or Administrative Order.
3. All Family Court and all County Court Judges are cross-assigned to the County and Family Courts in all counties of the District. All City Court Judges are cross assigned to all County, City Town and Village Courts in the County of their residence and any adjoining County.
4. The Return to In-Person Operations Plan ("RIOP") (Phase I) implemented on May 27, 2020, the RIOP (Phase II) implemented on June 11, 2020, the RIOP (Phase III) implemented on June 25, 2020, the RIOP (Phase IV) implemented on July 9, 2020, the RIOP (Phase 4.1) implemented on August 14, 2020, the Updated RIOP implemented on October 19, 2020, the Updated Operating Protocols implemented on November 23, 2020, the Updated Operating Protocols implemented on December 9, 2020, and any further updated operating protocols are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the protocols.
5. Virtual proceedings must occur via Microsoft Teams video conferencing, or telephone.
6. Occupancy of all courtrooms shall be limited to the lesser of 10 people or ½ the posted room occupancy per code. An exception shall be granted for ongoing grand juries currently in progress (in those instances, occupancy shall be limited to the lesser of 30 people or ½ the posted room occupancy per code). Any exceptions that were previously granted to the occupancy limits are rescinded until further notice.
7. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
8. Staff shall report to the courthouse as determined by his/her supervisor. In all circumstances, non-judicial staff reporting to the courthouse shall be between 25% to 40% of normal pre-COVID staffing. All staff not reporting to the courthouse shall work remotely. (This provision does not apply to Town and Village Courts.)
9. All Temporary Orders of Protection issued in any criminal or civil matter that has expired or is due to expire on or after March 19, 2020 "shall be extended under the same terms and conditions until the date the matter is re-calendared, unless the order is sooner terminated or modified by a judge or justice of the court that issued the order" pursuant to Administrative Order AO/73/20 signed by the Chief Administrative Judge of the Courts on March 19, 2020. The terms of such orders shall be extended either through the Division of Technology or as addressed by each Court.
10. All filings shall be pursuant to the Administrative Order signed by the Chief Administrative Judge of the Courts (AO/267/20 and any amendments thereto).
11. The Judges should encourage or require, to the greatest extent possible, the use of virtual technology in matters that occur off court premises (depositions, discovery, etc.). Such language should be included in any scheduling orders.

B. Supreme Civil

- 1. All Mental Hygiene Law proceedings in which a party is confined to a hospital or other facility shall be conducted with appearances by means of remote audiovisual technology or telephone pursuant to Administrative Order AO/72/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020.**
- 2. Until further Administrative Order or Executive Order, foreclosure matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge Lawrence Marks dated July 24, 2020 and October 22, 2020 and pursuant to Administrative Orders AO/157/20 dated July 23, 2020 and AO/232/20 dated October 22, 2020. Further reference is made to Executive Order 202.28 signed by the Governor on May 7, 2020, Executive Order 202.64 signed by the Governor on September 18, 2020, Executive Order 202.67 signed by the Governor on October 4, 2020, and the Laws of New York 2020, Chapters 112 and 126. All Foreclosure Auctions must adhere to the Ninth Judicial District Foreclosure Auction Plan.**

C. Superior Court Criminal Cases

- 1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order. For Defendants not in custody, the new adjourn dates shall be no greater than 60 days. For defendants in custody, there shall be no adjournment date greater than 30 days.**
- 2. All arraignments, other than those listed in Paragraph (II)(D)(6, 7) of the Updated Operating Protocols effective December 9, 2020 shall be administratively adjourned until further notice.**
- 3. No new prospective grand jurors will be summoned to report for grand jury service until further notice. Existing grand juries, pursuant to Section 190.15 of the Criminal Procedure Law, may continue.**
- 4. The Youth Part arraignment procedure established in the Virtual Courtroom Protocol effective April 6, 2020 is modified only as follows: The Youth Part Judge, or designated back-up Youth Part Judge, shall preside over Youth Part proceedings. Virtual Youth Part proceedings shall take place via Microsoft Teams.**
- 5. Each County, in consultation with the Sheriff, shall develop a plan for the imposition of intermittent sentences.**
- 6. The Centralized Parts in Rockland and Putnam Counties shall be available for Essential Matters where a Town of Village Court is unavailable due to Covid-19.**

D. Treatment Courts/OSP

- 1. Treatment courts and Opioid Stabilization Parts will be handled by the Assigned Judge and reference is made to Paragraph (II)(D)(9) of the Updated Operating Protocols Effective December 9, 2020.**

2. Virtual conferences are encouraged (reference is made to Administrative Order AO/87/20 of Chief Administrative Judge Lawrence Marks dated May 1, 2020, "Problem-solving courts may conduct virtual court conferences with counsel, court staff, service providers, and, where practicable, clients").

E. Family Court

1. All matters shall be addressed by the Assigned Judge and appropriately scheduled. Virtual calendars are encouraged.
2. Judges should ensure that all Permanency Planning Hearings are timely scheduled and heard pursuant to existing Federal or State Law. Difficulties in scheduling the hearings should immediately be brought to the attention of the supervising judge.
3. All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge, at a minimum, at least once every fourteen days.
4. No new S (PINS), F (Support), P (Paternity), or U (UIFSA) warrants may be issued unless approved by the Supervising Judge. Only D (Juvenile Delinquent) warrants may be issued in the discretion of the Assigned Judge.

F. Surrogate's Court

All matters shall be calendared consistent with all Administrative Orders and Executive Orders at the discretion of the Presiding Surrogate.

G. City Court

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order. For Defendants not in custody, the new adjourn dates shall be no greater than 60 days. For defendants in custody, there shall be no adjournment date greater than 30 days.
2. All arraignments, other than those listed in Paragraph (II)(D)(6, 7) of the Updated Operating Protocols effective December 9, 2020 shall be administratively adjourned until further notice.
3. The Centralized Part shall be available to for Essential Matters, only if the Town or Village Court is unavailable due to Covid-19.

H. Town and Village Courts

1. Courthouse Operations
 - a. Occupancy of all courtrooms shall be limited to the lesser of 10 people or 25% of the posted room occupancy per code.
 - b. There shall be a maximum of 10 court users in the courtroom at any one time. This includes lawyers/litigants/spectators but does not include any court personnel or security.
 - c. All current safety measures and protocols will continue.
2. Court Proceedings- in-person matters only as listed below.

a. No new prospective trial jurors (criminal or civil) will be summoned for jury service until further notice. Commenced criminal and civil jury trials will continue to conclusion.

b. No new in-person bench trials and hearings in civil and criminal cases will be conducted. Exception: Preliminary Hearings in Criminal Court may be heard in-person.

c. Judges may conduct in-person off-hour arraignments and hear requests for Temporary Orders of Protection. In counties with a CAP, the arraignments shall occur with the Judge presiding at the CAP; where there is a VAP, virtual arraignments shall continue. In all other counties, necessary arraignments shall occur at the Town or Village Court.

d. Judges may conduct arraignments of in-custody defendants.

e. Judges may conduct arraignments where the Court is notified of a request for an arraignment by either the prosecution or the defense.

f. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders (virtual appearances only). For Defendants not in custody, the new adjourn dates shall be no greater than 60 days. For defendants in custody, there shall be no adjournment date greater than 30 days.

h. Lockouts shall be brought to the Town and Village Court unless the Town/Village Court is unavailable then lockouts shall be brought to the Centralized Part. Lockouts may be heard in-person.

Dated: December 21, 2020
White Plains, New York



Hon. Kathie E. Davidson
Administrative Judge
Ninth Judicial District

Distribution:
HON. VITO CARUSO