



Ensuring Access To Justice for Unrepresented Court Users in the Virtual Court Era—and Beyond



A REPORT TO CHIEF JUDGE JANET DIFIORE *and*
CHIEF ADMINISTRATIVE JUDGE LAWRENCE K. MARKS



NEW YORK STATE OFFICE OF COURT ADMINISTRATION
OFFICE *for* JUSTICE INITIATIVES

HON. EDWINA G. MENDELSON
DEPUTY CHIEF ADMINISTRATIVE JUDGE

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Executive Summary

The COVID-19 pandemic has significantly impacted a substantial population of court users — the unrepresented. The faces of the unrepresented are reflective of communities that have been traditionally underserved: Low to moderate income families, older adults, those with limited English proficiency and those with physical and mental disabilities. The COVID-19 virus has taken a particular toll on these communities and has had a devastating effect on others. Nationwide, essential workers and communities of color are suffering disproportionately and more severely from the virus. Those who work in service industries such as hospitals and nursing homes, utilities and transportation, grocery stores and restaurants have been reporting to their work sites throughout the crisis and are contracting the virus at significantly higher rates. Once they become ill, these individuals – and many of their family members – are no longer able to work. No work means no pay. Families become unable to keep up with monthly bills, including housing costs, electricity, cable and internet services and medical insurance. Failure to pay such bills will inevitably lead to an increase in consumer debt, eviction and other income-related court filings. Financial stressors also lend themselves to tension in the household which can lead to family and matrimonial filings and, in some cases, criminal court filings. Surrogate’s Court filings will also grow substantially, with the horrific number of COVID- 19 and related deaths exceeding 24,000.

In short, the impact of COVID-19 will lead to a greater number of unrepresented litigants entering the court system – either to initiate a claim, to defend against one, or both. The unrepresented are often at a disadvantage in even the best of times, and this crisis has exacerbated many of the hardships, including the digital divide between those with access to technology and those lacking such access. Yet, this crisis comes with an opportunity – it has provided the UCS with the impetus to design and implement a virtual extension of our existing Access to Justice program. A system that works well during a pandemic will work exceedingly well as the crisis subsides. Our response must be immediate; we simply do not have the luxury of delay.

Cognizant of this reality, and the implications for unrepresented court users, Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence K. Marks appointed the Hon. Edwina G. Mendelson, Deputy Chief Administrative Judge for Justice Initiatives, to lead a working group to consider and develop strategies for promoting access to our virtual courts for unrepresented court users. DCAJ Mendelson immediately convened the following working group to develop a plan: representatives of the Office for Justice Initiatives (OJI), the New York City Self Represented Committee previously created by Deputy Chief Administrative Judge for New York City Courts George Silver, Deputy Chief Administrative Judge for Courts Outside New York City Vito Caruso, and all Administrative Judges and District Executives outside New York City (see Appendix A). This ad hoc committee promptly consulted with or received communications from members of the bar and other justice partners, including the Fund for Modern Courts, Legal Information for Families Today (LIFT), New Yorkers for Responsible Lending, the OCA Advisory Committee on Access for People with Disabilities, the OCA Office of Language Access, the NYS Permanent Commission on Access to Justice, the New York City Law Department (Corporation Counsel) and Assigned Counsel practitioners (see Appendix B).

Significantly, the working group quickly discovered that jurisdictions across the state had, largely on their own, undertaken local or regional efforts to promote access to virtual courts. Those efforts will be highlighted later in this report. This crisis necessitated an immediate local response. While all of these efforts are impactful, a coordinated, unified strategy is optimal.

This report will identify the efforts undertaken by the Unified Court System to maintain access to justice, discuss the barriers encountered by the unrepresented and offer a preliminary blueprint for best serving all court users for the duration of the pandemic and beyond. It takes into consideration access to justice measures provided through virtual appearance, as well as those that can be made safely available in person. Immediate and longer-range goals are identified. The primary focus must be the immediate goals, many of which can be attained in days or weeks.

UCS Response to COVID-19

The business of the New York courts must and will continue during this national crisis as we provide essential services to the best of our abilities, while safeguarding the health and safety of our workforce, our families and the public.

NYS Chief Judge Janet DiFiore, March 17, 2020

In the face of this unprecedented public health emergency, the New York State court system had no choice but to reduce its operations to essential and emergency functions. Procedures, policies and technologies were adjusted in a herculean and remarkably successful effort to ensure that the critical services provided by the criminal and civil justice systems remained safely available.

The Unified Court System's homepage at NYCOURTS.gov was promptly transformed to incorporate critical and evolving COVID-19 related information for court employees and the general public. The site includes vital resources such as the UCS Coronavirus Hotline number that is staffed during the day and provides recorded information after hours. This site also includes links for *CourtHelp* (OJI's plain language informational site that also hosts the UCS' Do-It-Yourself (DIY) document assembly programs), *Ask a Law Librarian* (a court-based text, email and live chat portal) and *LawHelp* (an organization that partners with UCS to provide free web-based legal assistance and referrals).

On March 15, Chief Administrative Judge Marks announced procedures to reduce courthouse traffic statewide by temporarily suspending non-essential court functions and consolidating essential and emergency matters into a limited number of courthouses. By the following week, New York City Family Court, Criminal Court and Supreme Court mental hygiene parts were proceeding virtually. Almost simultaneously, every county in the state designated a location for

consolidated court operations. An administrative order issued by Judge Marks on March 22 outlined and defined “essential proceedings” in Criminal, Family, Supreme, Civil and Housing courts. By April 6, virtual court operations were up and running statewide. A week later, the re-tooled court system extended virtual operations beyond essential matters, enabling thousands of cases to be conferenced and settled every day.

On May 13, the court system announced a return to in-person courthouse operations in various upstate counties, effective the week of May 18. Judges and their chambers staff, as well as a reduced number of professional court staff, have returned to their in-person worksites, gradually increasing the court system’s ability to perform in-person operations. As of July 1, all courts outside New York City have entered Phase 3 or 4 of our return to in-person court operations and New York City courts are preparing to enter Phase 3 operations. Courts have incrementally increased staffing levels and the types of matters that are being heard in-person. In order to limit courtroom occupancy rates and ensure personal distancing, most non-essential matters continue to be heard virtually.

Each region’s phased return has been prominently posted on the court system’s website and its social media platforms, such as Facebook and Twitter, as well as in the New York Law Journal and other publications. Most were also promoted as “push” notifications on Twitter or through the new NY-ALERT system, meaning subscribers received a direct communication instead of having to search for the latest information on the website or social media.

Town and Village courts present a different challenge since they are administered locally, rather than through the Office of Court Administration. The Office for Justice Court Support is working with community stakeholders and with the Office for Justice Initiatives to ensure access to justice for unrepresented court users in the local courts.

The court system is working with legal services organizations and bar associations to enhance the availability of volunteer attorneys to assist unrepresented court users. Chief Judge DiFiore has partnered with New York State Bar Association (NYSBA) immediate Past-President Henry M. Greenberg and former Chief Judge Jonathan Lippman to create the Pro Bono Network and COVID-19 Recovery Task Force, in which Hon. Anthony Cannataro, Administrative Judge of the Civil Court of the City of New York and DCAJ Mendelson participate. Additionally, in anticipation of a surge of COVID-related estate matters, NYSBA, with assistance from other bar groups, is developing a network of volunteer lawyers to provide free legal representation in uncontested COVID-related matters in New York’s Surrogate’s Courts to families who cannot afford a lawyer. Many other bar associations across the state are also undertaking their own initiatives, and a network is forming that will connect available lawyers to court users in need.

In short, the Bench and the Bar in New York State are rising to the occasion in taking steps to ensure that those who need the courts have full access.

Electronic Document Delivery System (EDDS)

In an effort to improve access for all court users and to minimize foot traffic, the Unified Court System implemented the Electronic Document Delivery System, pursuant to an administrative order issued by Chief Administrative Judge Marks, effective May 4, 2020. EDDS is a digital document delivery system that enables attorneys and unrepresented users to file and respond to motions, in PDF format, to courts and county clerks via a UCS portal. As courts begin to return to in-person operations, EDDS will become available for new matters.

The system is an effective and efficient means for document sharing much of the time. However, as with other virtual and remote remedies currently being utilized, it presumes the user has access to the necessary equipment – an email address, a computer, reliable Wi-Fi and possibly a scanner and printer – as well as the technical proficiency to utilize that equipment. As stated earlier, those who are least likely to have the tools and know-how to participate in EDDS are often going to be those in the most desperate straits, at a time when the availability of legal services is compromised.

Advocates for the unrepresented, particularly New York City-based consumer debt and tenants' rights groups, raised multiple concerns about EDDS. Advocates also voiced similar concerns regarding unrepresented court users' access to EDDS in family, matrimonial and guardianship proceedings. The primary objection to EDDS is that mandatory emailing, e-filing, and virtual notarizations may pose insurmountable challenges for those who do not have legal representation. The court system promptly responded to these concerns. By Administrative Order 115/20, unrepresented parties are exempt from EDDS and may file, serve and be served by non-electronic means unless they provide written notification to the court and all parties that they wish to file, serve and be served electronically. Unrepresented parties are likewise not required to participate in the New York State Courts Electronic Filing System (NYSCEF).

Impact of COVID-19 on Unrepresented Populations

In the best of times, the unrepresented are disadvantaged. In this unparalleled and unpredictable era, the inherent disadvantages are exacerbated by additional challenges which include:

- Lack of awareness that courts are available and open for business.
- Limited understanding of what constitutes essential, emergency and non-essential matters currently being addressed in our courts.
- Myriad technology barriers such as:
 - Lack of access to computers; public sites where patrons can use computer equipment, such as libraries, are closed.
 - Lack of internet access for financial or geographic reasons.
 - Lack of a smart phone or sufficient “minutes” on the usage plan.
- Adequacy of information provided on NYCOURTS.gov homepage and other court websites.
- Adequacy of signage at court buildings advising court users where to seek help when they

cannot get into the courthouse.

- Language access options and alternatives, including Braille.
- Access for those with physical impairments and other disabilities.
- Inability to pay filing fees for essential/emergency applications at a time of COVID-19 related financial hardship.

Pursuant to Judge Marks' administrative order, the sole video conferencing platform approved for court matters (largely because of security encryption issues and privacy concerns) is Skype for Business. Nearly everyone has access to a working telephone, but smart phones, computers and other modern communication devices are not universal, and the clear and present concern is that those in desperate need of access to our courts may be excluded. While that protocol does not require the user to obtain a Skype for Business account or a standard Skype ID, a user will need, at a minimum, a working telephone to participate. Full participation requires a smart phone or a computer and an internet network with sufficient bandwidth that is connected to a webcam and a microphone.

With these procedures and protocols, the court system has aptly served many of the emergency and essential needs of the public during this crisis. Throughout the state, however, many court users lack access to high capacity internet service. Although this issue is more prevalent in rural parts of the state, many court users in urban and suburban settings face similar obstacles.

Existing Resources

The Office for Justice Initiatives (OJI) maintains a vibrant Access to Justice program that provides assistance through Help Centers, volunteer lawyer and non-lawyer programs, Do-It-Yourself (DIY) document assembly programs and other technological tools, and programs designed to address the legal needs of older adults and other vulnerable New Yorkers. OJI also works to secure stable and adequate funding for civil and criminal legal service programs.

The COVID-19 pandemic required OJI to temporarily suspend all court-based volunteer programs as of March 11, 2020. Help Centers were closed statewide on March 17. OJI has been referring citizens to LawHelpNY.org, a website providing information on county-by-county legal resources. OJI is currently developing new pro bono attorney and law student programs to serve unrepresented court users.

In addition to the OJI effort, additional services are being provided on a local level. For example, inside New York City, the Family Court continues to work with community groups and advocacy agencies, like Sanctuary for Families and Her Justice, which utilize volunteer lawyers to help unrepresented court users. They also assist in the filing of petitions and provide advocacy in the virtual courts for those seeking temporary orders of protection. Family Court continues to expand the number of available virtual parts to address the unfortunate rising number of child welfare cases and other essential matters, including child support. As of June 24, there are a total of 25 virtual parts. Legal Information for Families Today (LIFT) has also partnered with the court to

respond to unrepresented litigants' requests for modifications to child support orders. The Civil Court established a Virtual Help Center specifically for Housing Court litigants, and New York City Housing Court Judges have begun scheduling and hearing virtual conferences in pending eviction cases where both sides are represented by counsel. The Surrogate's Courts, which have existing systems for assisting unrepresented court users, distributed updated website and contact information to county legal assistance programs and pro bono services. Richmond County Surrogate's Court created YouTube videos to assist with guardianship proceedings, as well as form templates and plain language informational sheets for unrepresented litigants.

Outside New York City, the 3rd Judicial District has established a new virtual and in-person Help Center in Albany Surrogate's Court to respond to inquiries and, where appropriate, to refer unrepresented court users to legal service providers. The Help Center at Albany Family Court is also assisting unrepresented court users with family law matters. The 4th Judicial District has established an in-person virtual "kiosk" at each open courthouse location that permits public entry to the courthouse to seek the assistance of a clerk or to file a petition without having to physically interact at the court's petition window. The 5th Judicial District posted easy-to-understand Skype for Business instructions on its homepage website. The 6th Judicial District posted helpful information regarding court consolidation. The 7th Judicial District coordinated with the Volunteer Legal Services Project of Monroe County to establish a Virtual Help Center. In the 8th Judicial District in Erie County, Supreme Court and Surrogate's Court Help Centers are operating remotely. The District's home page provides a link for "Covid-19 and Free Legal Assistance." The 8th JD coronavirus information link is included at the top of each county's website. Signs posted on closed courthouses provided special phone contact information for unrepresented litigants. The 9th Judicial District's website includes links to its Virtual Help Center and new Domestic Violence Legal Service Provider information sheet. The District also established designated space in each of its five counties for litigants to attend virtual court appearances from the courthouse. The 10th Judicial District's websites contain helpful links to legal and other informational resources for unrepresented court users. (See Appendix C for a regional compendium of initiatives).

Additionally, the Division of Technology mailed informational notices to litigants with pending cases to advise about future court appearances.

Language Access

As the transition to virtual courtrooms began, the Office of Language Access (OLA) contacted the Chief Clerks and District Executives, stressing the importance of providing interpreters (staff or per diem) and providing information on requesting remote interpreting. Although UCS has successfully provided interpreting services, navigating language translation virtually presents challenges.

A special challenge arises in connection with the Deaf or hard of hearing community. While interpreters in the spoken languages can interact through purely audible means, Deaf court users and their interpreters must be visible to each other at all times. That, of course, generally

eliminates the phone-only alternative. OLA is developing a protocol for working with interpreters for the Deaf and hard of hearing in the virtual courtroom. Additionally, it recommended that UCS explore technological equipment and applications to facilitate and enhance virtual participation by the Deaf or hard of hearing community.

Another challenge OLA and the ADA office are exploring is the fact that many deaf users are lip readers, a skill they obviously cannot employ where ordinary facial masks are used. UCS has provided transparent face shields for all UCS employees who have returned to their work sites, which may be helpful in this regard.

Court Users with Disabilities

Under the Americans with Disabilities Act (ADA), the UCS is required to provide reasonable accommodation, regardless of whether proceedings are conducted in-person or remotely. Aside from any legal requirement, the UCS has long embraced as a moral obligation its duty to accommodate those who need special or unique assistance to fully participate in court proceedings. For example, a social distancing rule in the courtroom may need to be modified if a person with disabilities needs a personal care attendant nearby.

Granted, virtual proceedings may, in some cases, actually benefit individuals with disabilities who have difficulty traveling. On the other hand, in a virtual proceeding, the court has limited ability to control who is present, and judges must be mindful—and this is true in all virtual proceedings—of privacy considerations. The OCA Advisory Committee on Access for People with Disabilities recommends that judges avoid asking unnecessarily intrusive medical questions unless directly relevant to the case.

Older Adults

According to the Center for Disease Control (CDC), older adults, particularly those 65 years and older, and people of any age who have serious underlying medical conditions, are at higher risk for severe illness from COVID-19 and suffer higher mortality rates. Research also reveals that socially isolated older adults are more susceptible to physical and mental health illnesses and often die sooner than those who are socially connected. Thus, social distancing is problematic for this age group.

As noted by Hon. Deborah Kaplan, “the required isolation of older adults is of particular concern since those who may be subject to elder mistreatment in the home are confined there, potentially without access to support.” Indeed, Justice Kaplan noted that “a recently published Research Letter by The American Geriatrics Society, reports that “there has been a massive increase in reports of elder abuse during the pandemic” (Elder Abuse in the COVID-19 Era, JAGS 00:1-2 2020) (see Appendix D). Moving forward, the court must develop protocols that maximize access to the courts by older adults.

Recommendations

“What happens when innovations designed to make the justice system better are not developed with the most vulnerable in mind?”

National Legal Aid and Defender Association

As we return to in-person court operations, we are cognizant that our “new normal” will continue to involve the use of virtual operations. Ensuring meaningful access to justice during and after this pandemic requires a careful balancing of legal and health issues. We are mindful that, while providing enhanced in-person access for unrepresented court users through a designated space would in many cases offer optimal service, the public health risk of increased foot traffic into court facilities cannot be discounted. From the immediate and longer-range perspectives, a combination of virtual and in-person access is a prudent course of action. Some of those remedies will require a coordinated technological effort that cannot be undertaken overnight. However, there are a number of steps we can and should immediately take to enhance access to justice and to upgrade existing court-based services.

Immediate Objectives

Planning

- The Office for Justice Initiatives will provide guidelines to support courts in developing policies and implementation plans for serving unrepresented court users. Plans will include training designated staff to coordinate services.
- Court leaders are encouraged to consult with experts to enhance virtual court operations for unrepresented court users including
 - Brennan Center for Justice
See, <https://www.brennancenter.org/our-work/research-reports/courts-responses-covid-19-crisis>
 - National Center for State Courts (NCSC)
See, <https://www.ncsc.org/>
 - National Council of Juvenile and Family Court Judges (NCJFCJ)
See, <https://www.ncjfcj.org/covid-19-resources-and-updates/>
 - Self-Represented Litigants Network
See, <https://www.srln.org/>
- Judicial Districts are encouraged to convene local interdisciplinary stakeholder work groups to draft protocols to enhance access for unrepresented court users in specific targeted areas, i.e., family, housing, consumer debt, matrimonial and Surrogate’s matters.

All Judicial Districts have Administrative Judge-led local access to justice teams spearheaded by the NYS Permanent Commission on Access to Justice. Some teams have recently been reconvened. We recommend that all local access to justice collaboratives reconvene as soon as practicable to ensure optimal access to justice in these challenging times.

The Office for Justice Initiatives, the Office of the Statewide Coordinating Judge for Matrimonial Cases, and the Judicial Committee on Elder Justice are available to facilitate and support regional and statewide work groups.

At the Courthouse

- Post plain language informational signs on the doors of all courts clearly explaining, in the most widely spoken languages, how to navigate virtual and in-person proceedings.
- Develop and post informational materials describing in plain language the types of legal matters courts are and are not addressing during this public health emergency, and the types of matters for which a party may appear in person at a local courthouse.
- Provide a location in each court where unrepresented litigants may participate in virtual proceedings.
- Where possible, provide a location in each court where notary services are provided for unrepresented litigants.
- Establish protocols for both efficient and safe interpreter/language access.
- Consider the appropriateness of social distancing practices for litigants who must appear in court with their children or other individuals.

Virtual Proceedings and Electronic Filing

All courts should:

- Ensure that phone-in accessibility is available on every Skype call involving unrepresented litigants. UCS has created toll-free call in numbers for all Skype calls.
- Work with the OCA Advisory Committee on Access for People with Disabilities to develop training for judges, court staff and attorneys to best address virtual proceedings for court users with disabilities.
- Work with the Office of Language Access to provide training for judges, interpreters, court staff and attorneys on how to navigate virtual proceedings where interpreters are used.

Websites

- Regularly update the CourtHelp plain language website in order to clearly communicate evolving operational changes, promote better understanding of protocols and enhance access for unrepresented court users and the general public.

- Ensure that all courts maintain websites with complete, clear, concise and up-to-date information in plain language. All courts should have a well-publicized public information telephone number that is answered and an email address for public inquiries that is responded to.
- The Office for Justice Initiatives will develop plain language fact sheets to provide the general public with essential information for accessing local courts and resources.
- Court websites should provide clear and concise rules and procedures for courthouse visitors.
- Court websites should provide clear instructions and information for requesting interpreters and ADA accommodations.
- Relocate the “NEED HELP” button on the NYCOURTS.gov COVID-19 webpage so that it is easily visible on mobile devices and computers.

Outreach

- Embrace multiple means for communicating with unrepresented users, including utilizing the court system’s new NY-ALERT portal to provide targeted emergency information on regional court operations.
- Widely disseminate the new UCS Guidelines for handling requests for disability accommodations. These procedures are intended to simplify and to expedite the application process for providing appropriate disability accommodations.
- Utilize OCA social media (especially Facebook and Twitter) to disseminate information on the availability and accessibility of courts, as well as details on connecting with volunteer legal service providers including bar associations and LawHelp.
- Take advantage of the OCA podcast program, *Amici*, to reach out to unrepresented users through podcast platforms, including *SoundCloud*, *TuneIn*, *Stitcher* and *iTunes*.
- Partner with local government leaders, such as state Senate and Assembly representatives, local County leaders, Borough Presidents and community boards to provide court information to the public.
- Partner with media outlets to keep the public well-informed about court operations.
- Take advantage of connections created in the last two years through the UCS Faith Leaders community initiative to reach local communities to provide information on court access.

Long Term Objectives

- To the extent possible, UCS should establish a means to identify unrepresented litigants, their case types, and maintain contact information.
- Where possible, courts should be in contact with unrepresented court users with pending matters to provide updates and information on local resources available for unrepresented litigants, e.g., LawHelp, CourtHelp, NYSBA Pro Bono Network, City Bar Justice Center, NYCLA pro bono program, etc.
- Establish uniform and consistent information on Judicial District website main pages.
- Create a brief, plain language online tutorial on how to access court matters virtually. The video should be posted on both the UCS website and the court system's YouTube channel.
- Create a brief video tutorial on how to use DIY programs remotely.
- Provide web-based information about publicly available resources to assist with obtaining free or low-cost access to technology.
- Convert judicial administrative orders into plain language to enable the public to better understand them.

Appendix A: Working Group Members

New York City Self-Represented Court Users Committee

- Hon. Edwina G. Mendelson, Deputy Chief Administrative Judge for Justice Initiatives, and Office for Justice Initiatives
- Hon. George J. Silver, Deputy Chief Administrative Judge for New York City Courts
- Hon. Jeffrey S. Sunshine, Statewide Coordinating Judge for Matrimonial Cases
- Hon. Anthony Cannataro, Administrative Judge, Civil Court of the City of New York
- Hon. Anne-Marie Jolly, Deputy Administrative Judge, NYC Family Court
- Hon. Deborah Kaplan, Administrative Judge, Civil Matters, First Judicial District
- Hon. Matthew D’Emic, Administrative Judge, Criminal Matters, Second Judicial District
- Hon. Doris M. Gonzalez, Administrative Judge, Civil Matters, Twelfth Judicial District
- Hon. Peter J. Kelly Surrogate, Queens County
- Hon. Ellen M. Spodek, Supreme Court Justice, Civil Branch, Kings County
- Hon. Charles Troia, Acting Supreme Court Justice, Richmond County
- Paul Lewis, Esq., Chief of Staff, Office of the Chief Administrative Judge
- Linda Dunlap-Miller, Chief of Staff, Office of Deputy Chief Administrative Judge George J. Silver
- Anthony R. Perri, Esq., Deputy Counsel, Criminal Justice, Counsel’s Office
- Denis Reo, Esq. Chief Clerk, Supreme Court, Civil Branch, New York County

Courts Outside of New York City

- Deputy Chief Administrative Judge Vito C. Caruso
 - Chief of Staff Scott Murphy, Esq.
 - Deputy Chief of Staff Jennifer DiLallo

- Third Judicial District Administrative Judge Thomas A. Breslin
 - District Executive Beth Diebel (Retired)
 - Acting District Executive Christy Bass
- Fourth Judicial District Administrative Judge Felix J. Catena
 - District Executive Joanne B. Haelen
- Fifth Judicial District Administrative Judge James P. Murphy
 - District Executive Donald C. Doerr
- Sixth Judicial District Administrative Judge Eugene D. Faughnan
 - District Executive Porter L. Kirkwood
- Seventh Judicial District Administrative Judge Craig J. Doran
 - District Executive Ronald W. Pawelczak
- Eighth Judicial District Administrative Judge Paula L. Feroletto
 - District Executive Andrew B. Isenberg
- Ninth Judicial District Administrative Judge Kathie E. Davidson
 - District Executive James M. McAllister
- Tenth Judicial District Administrative Judge Norman St. George (Nassau)
 - District Executive Paul Lamanna
- Tenth Judicial District Administrative Judge C. Randall Hinrichs (Suffolk)
 - District Executive Warren G. Clark
- New York State Court of Claims
 - Honorable Richard E. Sise, Presiding Judge
 - Chief Clerk Eileen F. Fazzone

- Office of Justice Court Support (Town and Village Courts)
 - Nancy Sunukjian, Director
- Office for Justice Initiatives (OJI)

Appendix B: Consultants

- Center for Court Innovation
- Civil Legal Advice and Resource Office (CLARO)
- Feerick Center for Social Justice
- Fund for Modern Courts
- JustFix NYC
- Legal Information for Families Today
- New York City County Clerks
- New York City Law Department
- New York State Permanent Commission on Access to Justice
- New Yorkers for Responsible Lending
- Office of Court Administration (OCA) Advisory Committee on Disability Access
- Office of Court Administration (OCA) Office of Language Access
- Weinberg Center for Elder Justice

Correspondence

- **Economic Justice: Letter, April 15, 2020**
New Yorkers for Responsible Lending
- **Debtors Concerns: Letter, May 11, 2020**
Brooklyn Volunteer Lawyers Project
Fordham Law School's Feerick Center for Social Justice
The Legal Aid Society
Manhattan Legal Services, Inc.
Mobilization for Justice, Inc.
New York County Lawyers Association
Queens Volunteer Lawyers Project
St. John's University School of Law Consumer Justice for the Elderly: Litigation Clinic

- **Tenants Concerns: Letter, May 14, 2020**
The Bronx Defenders, Civil Action Practice
Bronx Solidarity!
Brooklyn Defender Services
Brooklyn Tenant Lawyers Network
CAMBA Legal Services, Inc.
Catholic Migration Services
Communities Resist
DC37 Municipal Employees Legal Services
Goddard Riverside Law Project
Housing Conservation Coordinators, Inc.
Housing Court Answers
JASA/Legal Services for Elder Justice
The Legal Aid Society
Legal Services NYC
Lenox Hill Neighborhood House
Make the Road New York Mobilization for Justice
Neighborhood Defender Service of Harlem
New York Legal Assistance Group
NMIC Legal Services
Part of the Solution
RiseBoro Community Partnership
Teamsters Local 237 Legal Services Plan
Urban Justice Center
Volunteers of Legal Service

Appendix C: Local Responses

New York City Courts

NYC Family Court:

- A resource rich website (<http://ww2.nycourts.gov/COURTS/nyc/family/index.shtml>) that provides easy-to-access information, with a special tab for “individuals not represented by an attorney,” a clear listing of email addresses, hours of operation and type of devices required for virtual interaction with the court.
- Various phone lines are staffed with clerks to respond to questions and to assist unrepresented litigants with filing petitions and with obtaining orders of protection.
- LIFT has partnered with Family Court to respond to telephone requests from unrepresented litigants seeking modifications to orders of child support, most likely due to loss of employment or funds based on the COVID-19 pandemic.

NYC Civil Court:

- The website provides detailed information and guidance in plain language (<http://nycourts.gov/courts/nyc/civil/index.shtml>)
- In-person assistance is available in all five NYC counties: Courthouse staff is available to greet and direct visitors; designated staff respond to voicemails and email inquiries.
- Clear online instructions available for starting a case on Skype: https://www.nycourts.gov/courts/nyc/SSI/images/CORONA/Skype_Instructions.pdf

NYC Housing Court

- In all five counties, NYC Housing Court Virtual Help Centers are staffed with court employees to answer questions and/or help fill out forms.
- Designated staff collect contact information when follow up is required.
- Emergency filings are accepted by email through several community partners.
- Website provides clear instructions for participating in proceedings via Skype: https://www.nycourts.gov/courts/nyc/SSI/images/CORONA/Skype_Instructions.pdf

NYC Criminal Court

- In-person assistance is available in all five NYC counties: Courthouse staff is available to greet and direct visitors; designated staff respond to voicemails and email inquiries.
- Designated staff collect contact information when follow up is required.

First Judicial District (New York County)

- The New York County Supreme Court - Civil Term website provides links to information regarding DIY forms and legal referral services in English and Spanish. In-person help is available. Designated staff collect contact information when follow up is required.
- New York County Surrogate's Court maintains an informative website (<http://ww2.nycourts.gov/courts/1jd/Surrogates/index.shtml>).
- Through the Surrogate's Virtual Help Center, court employees are available to answer questions and to help fill out forms. Designated staff collect contact information when follow up is required.
- The New York County Clerk's website provides a telephone number. Designated staff answer phone inquiries.

Second Judicial District (Kings County)

- The Kings County Supreme Court - Civil Term website provides information on COVID-19 mask requirements. Courthouse staff is available to greet and direct visitors; designated staff respond to voicemails and email inquiries.
- The Kings County Supreme Court - Criminal Term website includes the UCS coronavirus protocol poster and provides directions on accessing the CourtHelp website, DIY Forms page and EDDS. Designated staff collect contact information when follow-up is required.
- The Kings County Surrogate's Court website provides a phone number and email address for inquiries; designated staff respond to inquiries and collect contact information when follow-up is required.
- The Kings County Clerk's website provides information on court accessibility, with email and phone contact information. Designated staff collect contact information when follow-up is required. The website also provides directions on accessing the CourtHelp website, DIY Forms page and EDDS.
- *Red Hook Community Justice Center*
Despite its doors being closed to the public, staff continue to conduct confidential "wellness checks" with current and former clients to assess and respond to public benefits, mental health, safety and food security needs. Clinical staff also offering counseling, case management services and referrals to social service providers.

Eleventh Judicial District (Queens County)

- The Queens County Supreme Court - Civil Term has a resource rich website and operates a Virtual Help Center. Designated staff collect contact information when follow-up is required.
- The Queens County Supreme Court - Criminal Term has added a link to the NYCOURTS.gov coronavirus page and provides telephone contact information.
- The Queens County Surrogate's Court operates a Virtual Help Center staffed with court employees who respond to inquiries. The website provides telephone and email contact

information. Designated staff collect contact information when follow-up is required.

- The Queens County Clerk's website provides a special notice regarding the temporary relocation of court facilities and an email address for general inquiries.

Twelfth Judicial District (Bronx County)

- In Bronx County Supreme Court - Civil Term, unrepresented litigants may physically enter the courthouse and receive in-person assistance for essential matters. A judge is always present to hear emergency applications. Appropriate signage and floor markings enforce social distancing and the usage of masks. The court's Help Center is operating virtually with remote staff responding to email inquiries, answering phone calls, and mailing paper copies of forms and documents to litigants who lack internet access.
- Bronx County Surrogate's Court is responding to inquiries virtually via telephone and email and is distributing informational cards.
- The Bronx County Clerk's website provides the UCS COVID-19 poster in English and Spanish.

Thirteenth Judicial District (Richmond County)

- Richmond County Surrogate's Court website includes clear contact information and concise, plain language details on facilities and to submit filings. The website also includes links for informational YouTube videos to assist with guardianship proceedings, mock form templates and plain language informational sheets geared for use by unrepresented court users.
- Richmond County Clerk has posted a link for COVID-19 filing instructions and contact information on its independent website.

NOTE: In all five counties of New York City, Supreme Court - Criminal Term websites provide phone or email contact information.

Courts Outside New York City

Third Judicial District (Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan and Ulster counties)

- The 3rd Judicial District has established a new virtual and in-person Help Center in Albany Surrogate's Court to respond to inquiries and, where appropriate, to refer unrepresented court users to legal service providers.
- The Help Center at Albany Family Court is assisting unrepresented court users with family law matters.

Fourth Judicial District (Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, St. Lawrence, Schenectady, Warren and Washington counties)

- An in-person virtual "kiosk" at each open courthouse location permits public entry to the courthouse to seek the assistance of a clerk or to file a petition without having to physically interact at the court's petition window.
- Kiosks are set up in a private room near the entrance to the building. Users are greeted remotely upon entry via video-conference equipment.
- Clerks from any 4th JD courts assist users remotely with locating the proper petition, submitting that petition using a scanner for review by a "duty judge" and filing the document should the matter be deemed essential. Most forms are fillable and have been loaded onto the kiosk computer and can be easily filled out and submitted to the clerk's office virtually from this location.
- Website links include virtual courtroom protocols, Skype instructions, and a listing of all consolidated courts with addresses, telephone numbers and email addresses.

Fifth Judicial District (Herkimer, Jefferson, Lewis, Oneida, Onondaga and Oswego counties)

- The website includes an informative section: "Virtual Court Room Procedures-Joining Skype for Business Q&A."
<https://www.nycourts.gov/LegacyPDFS/courts/5jd/Joining-Skype-ForBusiness-QA.pdf>
- Phone numbers are designated for emergency matters.

Sixth Judicial District (Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga and Tompkins counties)

- The website includes links for court consolidation, a list of designated locations for emergency proceedings and administrative and operational orders.

Seventh Judicial District (Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates counties)

- A Virtual Help Center has been established in collaboration with the Volunteer Legal Services Project of Monroe County.
- Three law librarians are participating in the new “Ask a Law Librarian” initiative.
- The website includes contact phone numbers for the respective consolidated courts.

Eighth Judicial District (Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming counties)

- The website includes contact phone numbers for all consolidated courts in the 8th Judicial District and contact information for virtual chambers, a link for COVID-19 related legal assistance, and a face mask requirement notice.
- Supreme Court and Surrogate’s Court Help Centers are operating remotely.
- The District’s home page provides a link for “Covid-19 and Free Legal Assistance.”
- A coronavirus information link is included at the top of each county’s website.
- Signs posted on closed courthouses provide special phone contact information for unrepresented litigants.
- Court staff has been provided with information from a number of civil legal service providers about where to get help.
- The District’s Local Access to Justice Team (led by the Permanent Commission on Access to Justice) has continued to hold stakeholder meetings throughout the health crisis.
- The District has assembled a group of high-ranking local stakeholders to address unlawful constructive evictions in the Western New York region.

Ninth Judicial District (Dutchess, Orange, Putnam, Rockland and Westchester counties)

- The website includes links to the virtual courtroom protocol, administrative orders, Skype instructions, virtual court contact information and free legal service providers.
- A coronavirus information link is provided on each county’s and each court’s website.
- A Virtual Help Center has been established, staffed by a librarian and a Supreme Court Help Center representative, to respond to inquiries by phone and e-mail.
- The District has designated space in each of its five counties for litigants to attend virtual court appearances from the courthouse.
- The website includes a link to the District’s new Domestic Violence Legal Service Provider information sheet.
https://www.nycourts.gov/LegacyPDFS/courts/9jd/pdfs/9th_JD_Legal_Services_Providers_for_DV_5-3-20.pdf
- In collaboration with local faith leaders, Westchester County is launching a pilot program to connect unrepresented court users to free legal assistance. The local pro bono network, Legal Services of the Hudson Valley, Pace Women's Justice Center and LIFT, Inc. will be participating in the pilot program. A similar program is being developed with local public libraries.

Tenth Judicial District (Nassau County)

- The website has a link for “Important Operational Modifications and Contact Information Concerning COVID-19” that includes: administrative orders containing information on “essential” matters and available remedies, addresses and phone numbers for all consolidated emergency proceedings, COVID-19 requirements poster, and a link to the CourtHelp website.
- Help Centers are staffed to field calls to the direct number, as well as the OCA 800 number.
- After hours 800 number calls are forwarded to the Chief Clerks from each court.

Tenth Judicial District (Suffolk County)

- COVID-19 information is consolidated on the district website under a “What’s New” section. <http://ww2.nycourts.gov/courts/10jd/suffolk/index.shtml>
- A link provides valuable information for filing Extreme Risk Protection Orders. <https://www.nycourts.gov/LegacyPDFS/courts/10jd/suffolk/PDF/ExtremeRiskProtectionOrders.pdf>
- The website includes phone and email contact for Coronavirus Emergency Inquiries. It also provides an individual emergency numbers on the respective County Court, District Court, Family Court, Supreme Court, and Surrogate’s Courts webpages.
- The Suffolk County Probation Department is assisting persons in remotely drafting petitions in non-domestic violence matters if assistance is needed.
- A link on “Video and Telephonic Orders of Protection Requests” is provided. <https://www.nycourts.gov/LegacyPDFS/courts/10jd/suffolk/PDF/ACCESS.pdf>
- The District has a link to its “COVID-19 Legal Help” summary on its Community Outreach page, that is specifically designed to provide helpful resources to people who may be facing a legal crisis without an attorney. <https://www.nycourts.gov/LegacyPDFS/courts/10jd/suffolk/PDF/COVID-A2J-Legal-Resources.pdf>

COURT OF CLAIMS

- The website includes emergency contact phone numbers for the general public and for employees, a link for NYCOURTS.gov COVID-19 page, and a link for the Court of Claims Administrative Order for pending matters.
- The Court's emergency phone number is answered by a court attorney who is regularly assigned to work on unrepresented matters.
- Judges' phone numbers are posted on the website and are answered by chambers staff using softphones.

TOWN AND VILLAGE COURTS

- Town and Village Court are preparing for a limited return to in-person operations in the Mohawk Valley, the Southern Tier, the Finger Lakes and the North Country (areas in the 3rd, 4th, 5th, 6th, 7th and 8th JDs).
- The 9th JD created a public page with contact information for Special Counsel to the Town & Village Courts. Calls from the public that require assistance are addressed via phone or email.

DIVISION OF TECHNOLOGY (DoT)

- Established a Virtual Resource Center for use by the general public, as well as by jurists and non-judicial staff.

Appendix D: Access for Older Adults



STATE OF NEW YORK
UNIFIED COURT SYSTEM
FIRST JUDICIAL DISTRICT
SUPREME COURT, CIVIL BRANCH

60 CENTRE STREET
NEW YORK, NY 10007-1474
(646) 386-5567
FAX (212) 401-9037

LAWRENCE K. MARKS

Chief Administrative Judge

GEORGE J. SILVER

Deputy Chief Administrative Judge
New York City Courts

DEBORAH A. KAPLAN

Administrative Judge for Civil Matters
First Judicial District

MEMORANDUM

TO: Hon. Edwina G. Mendelson, Deputy Chief Administrative Judge, Office for Justice Initiatives, and Chair, NYC Unrepresented Court Users Committee

FROM: Hon. Deborah A. Kaplan, Administrative Judge, Supreme Court, New York County Civil Branch, and Chair, New York State Judicial Committee on Elder Justice

DATE: May 5, 2020

RE: Suggestions Regarding Access to Justice for Older Court Users in the Time of COVID-19

As we are well aware, COVID-19 is particularly harmful to older adults, with more severe illness and higher mortality among adults aged 65 and older, and among those with comorbid conditions including diabetes and cardiovascular disease, which are more common among older adults.

The impact of social distancing is also problematic for older adults inasmuch as research reveals that socially isolated older adults are likely to be sicker and die sooner than those who are socially connected. Indeed, prior to the current public health crisis, isolation of older adults was a growing health epidemic. According to AARP, more than 8 million adults age 50 and older are affected by isolation, and the health risks of prolonged isolation are equivalent to smoking 15 cigarettes a day.

Isolation is usually the result of multiple causes. These might include poor physical and mental health, poorly designed communities or living in a rural area, limited resources, language challenges, an inadequate social support or network or major life transitions such as loss of a loved one or retirement. Now, however, older adults are forced to isolate themselves and this limits their access to medical care, interactions with family and friends, community centers and the court, if court services are needed. While this court does not track the age of litigants, anecdotally it seems that a fair number of older adults who contact the court or bring an action are unrepresented.

Currently, the required isolation of older adults is of particular concern since those who may be subject to elder mistreatment in the home are confined there, potentially without access to support. Places where older adults convene, such as senior centers, churches and synagogues are not open, resulting in older adults not only having less access to the community, but also the community having far fewer, if any, opportunities to assess the older adult's well-being, or lack thereof. A recently published Research Letter by The American Geriatrics Society, reports that "there has been a massive increase in reports of elder abuse during the pandemic." (Elder Abuse in the COVID-19 Era, JAGS 00:1-2 2020)

Notably, given that many older adults have savings and/or receive monthly income from social security and/or a pension, the possibility exists that unemployed family members and others may try to financially exploit the older adult. In addition, older adults are often susceptible to scams and financial exploitation. The Research Letter, referenced above, goes on to provide that, "[w]ith numerous shelter-in-place orders in effect to promote social distancing during the COVID-19 era, and the increased dependency of older adults on others, the potential for elder abuse is all the more heightened, particularly since perpetrators of abuse are often close relations, and as more strangers opportunistically strive to take advantage of the fearful situation to exploit older adults for financial gain."

Furthermore, according to the Research Letter, "[f]rom the beginning, coronavirus has inspired ageist thoughts and comments given its predilection toward harming older adults. As the consequences of necessary social distancing increase, ageist views will continue to rise to the surface, potentially leading to tragic and unjust utilitarian conversations about 'the needs of the many versus the needs of the few.'"

What does this all mean for the court system? What have we been doing and what more can we do?

- Since mid-March, my office has participated in a weekly call with elder justice colleagues, including, Adult Protective Services, Cornell’s New York City Elder Abuse Center (NYCEAC), the Governor’s Office to Combat Domestic Violence, JASA, Kings County District Attorney’s Office, Legal Aid Society, NYC Dept for the Aging, NYC Sheriff’s Office, NYPD, Safe Horizons and the Weinberg Center for Elder Justice.
- The goal of these meetings is for agencies to keep each other apprised of how service provision is evolving during the pandemic, share what they are hearing from the field regarding what is going on in situations involving elder abuse and other issues impacting on older New Yorkers, and discuss how best to coordinate a response in the time of COVID-19.
- We have participated in a conference with Futures Without Violence and the National Council of Juvenile and Family Court Judges (NCJFCJ) about how courts and communities are managing elder abuse cases and facilitating access to the courts and advocacy for older adults.

Going forward, to ensure that older adults, especially those who are unrepresented, have access to and information about our courts, we suggest the following:

- We should make certain that court information is widely shared with elder justice colleagues, including, in addition to those already listed above with whom we meet weekly, CaringKind — The Heart of Alzheimer’s Caregiving; Connect Legal Advocacy Help Line; Greater New York Hospital Association; Mount Sinai Hospital: Elder Abuse/Neglect Program; NYC Family Justice Centers Sage-Advocacy & Services for LGBT Elders and Womankind.¹
- There should also be directed outreach to social service agencies such as Meals on Wheels and Catholic Charities.
- Information about the courts focused on older adults should be included in PSAs, on local news tickers or crawlers, be available to those working Senior Citizens hotlines and included in emails and regular mail, e.g., circulars and newsletters, sent by elected officials. Notably, many older adults may be isolated at home or in a care facility, but regularly check their mail.
- Not only should AOs be shared, but there should also be a plain language explanation accompanying each order.
- In Guardianship cases, guardians should be encouraged to reach out on a more frequent basis to their clients and report back to the court. Guardians should make sure that each client has a reliable way to communicate — either a landline or a cellphone, has access to medications, doctors and food, and that no unauthorized individuals are in the home.

¹ Please note that the New York State Judicial Committee on Elder Justice regularly shares court information with its members, many of whom are included in the above lists.

- We concur with the suggestion previously put forth by committee members that there be a dedicated telephone number and email account established for unrepresented litigants to contact the court. We would add that the person assigned to handle these calls should understand the challenges which may impact older adults. While not all adults experience significant cognitive or physical decline with age, many will show at least small declines; others may have more substantial impairments, and the court must make efforts to ensure that the person communicating with the older adult is sensitive to these potential issues. (Of course, using a phone may not be an option for some older adults who are sheltering in place with an abuser, and/or who may have more difficulty using the telephone due to a hearing impairment or limited English proficiency.)
- Expand the use of the Remote Temporary of Order Protection program. This program, a pioneering initiative launched in 2016, enables domestic violence and elder mistreatment victims to obtain a TOP via videoconference when traveling to or appearing in court would pose an undue hardship or risk of harm to victims. Currently, this program is only operational in family court, but there is no reason why it cannot be expanded.
- Expand technology and protocols to allow cases involving older adults to be heard virtually, even after the court resumes normal operations.
- The portion of the Virtual Court Portal that is for the public should have easier to read font and instructions in plain language.

I look forward to working with you on initiatives affecting unrepresented older adults and other unrepresented.