

## MESSAGE FROM CHIEF JUDGE JANET DIFIORE

August 24, 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.

Our efforts to gradually and responsibly restore in-person operations in our courthouses continue to go well in courts across the state. And while the number of in-person proceedings, hearings and trials conducted so far has been limited, the overall experience has been positive and encouraging.

Grand juries are now operating smoothly in every county of the state, grand jury summonses have gone out for the next term of court that begins on September 8th, and the first petit jury summonses went out last week in the Fourth, Sixth, Seventh, Eighth Judicial Districts and Suffolk County. A limited number of civil and criminal trials have been scheduled on a pilot basis in those jurisdictions, beginning in September. We will proceed carefully, of course, closely monitoring all

aspects of these trials in order to ensure compliance with health and safety protocols and refine our practices for safely selecting and seating jurors.

The right to a trial by jury is one of the pillars of our justice system, and we have an obligation to restore this fundamental right as soon as it is prudent and responsible to do so. And we believe that we are at that point now in many areas of the state. We have worked tirelessly to retrofit our facilities and implement extensive safety measures in preparation for the return of jurors and spent countless hours learning, and planning, for how we can safely conduct jury trials based on the specific conditions present in and around each courthouse.

We will also re-start jury trials on a pilot basis in other courts, including courts in New York City, pursuant to the regional, phased-in approach that has guided our statewide restoration of in-person operations. We will do so upon approval of local proposals that are individualized and specifically tailored to the conditions in and around the particular court and that prioritize social distancing, use of personal protective equipment, cleanliness and the creation of an environment where everyone -- jurors, lawyers, litigants, witnesses, judges, staff and

all other participants -- feels comfortable and confident about the safety of our courthouses.

Now, to be clear, our commitment to incrementally restoring in-court operations and restarting jury trials does not mean that we have any intention of returning soon to the kind of courthouse density that existed before the arrival of COVID-19. Obviously, that would not be a rational or responsible approach on our part. What we *are* doing is pursuing a number of strategies to limit courthouse traffic in the future.

Foremost among these strategies is the expansion of e-filing, particularly to high-volume courts like the New York City Housing Court, and we have prioritized new procedures and protocols in that court for all of the obvious reasons, including the Court's history of heavy in-person filings. I'm pleased to report that as soon as October 5th e-filing will be in place in the Housing Court citywide, when Queens and Staten Island come online.

Another strategy being pursued is the reconfiguring and streamlining of the pretrial litigation process for civil matters in order to avoid unnecessary in-court appearances. Under the direction of Judge George Silver, our Deputy Chief Administrative Judge for the New York

City courts, we are in the process of finalizing a uniform citywide preliminary conference form that will be piloted in September, with the express goal of identifying pre-trial issues that can be resolved by the parties on consent or through virtual court conferences.

We are also managing the flow of people in our courthouses through technology, including a new tool that allows court staff to send group text messages to attorneys and litigants notifying them of when their cases are ready to be heard, so that they can wait in more spacious areas of the courthouse, or even outside of the courthouse, instead of congregating in crowded courtrooms waiting for their cases to be called.

Again, to be clear, the great majority of our cases will continue to be heard virtually for the foreseeable future. And we are working around the clock to expand access to our virtual courts and ensure that they operate as efficiently and effectively as possible.

And deserving of special mention in this regard are our problem-solving courts, including the many drug treatment, mental health, veterans and community courts that provide specialized justice services to litigants in our communities. While the pandemic has intensified the

problems facing many treatment court participants, and in some cases adversely affected their care systems, we are fortunate that our treatment court judges, coordinators, case managers and stakeholders have adjusted their operations and found new and innovative ways to connect with and support these individuals.

Our treatment court judges and staff have leveraged remote technology to assess and admit new participants, monitor compliance and progress, connect participants with needed services and even conduct a number of virtual graduations. To take just one example of the outstanding work that is being done in our treatment courts, Judges Frederick Arriaga and Joseph Gubbay of the Brooklyn Treatment Court and their staff have conducted over 425 virtual hearings -- all on the record -- since the beginning of May.

And the judges and professional staff in all of our treatment courts across the state deserve our thanks and appreciation for their dedication and resourcefulness in providing justice services during the pandemic. Our appreciation extends to the many stakeholders who work collaboratively with us to serve this unique litigant population. And a special mention is in order for our Chief of Policy and Planning,

Judge Sherry Klein Heitler and her terrific staff, who coordinate, service and support the 300-plus treatment courts across the state.

Turning now to a brief update on our appellate courts, my colleagues and I at the Court of Appeals will hear oral argument in person at Court of Appeals Hall during our September session. Of course, appropriate health and safety protocols, including COVID screening, face coverings and social distancing by judges and counsel in the courtroom will be followed. And I'm pleased to report that all four Departments of the Appellate Division have scheduled in-person, along with remote, oral argument for their September Terms, with all proceedings live-streamed publicly on the website of each of our appellate courts. And, of course, the full panoply of health safety protocols will be in effect in all locations.

Now for an update on the bar exam. As you may recall, the Board of Law Examiners decided last month to cancel the in-person administration of the bar exam planned for early September, and New York has moved to an online bar exam scheduled for October 5th and 6th.

The Board of Law Examiners has been working diligently to arrange reciprocity agreements to allow eligible candidates who sit for the exam in qualifying jurisdictions to transfer their scores from the October bar exam to New York. The transferability of exam scores between reciprocal jurisdictions, including the nearby jurisdictions of New Jersey, Connecticut and Massachusetts, is a positive step that will help reduce the hardship and uncertainty facing the 2020 class of law graduates. Affected candidates are encouraged to visit the Board's web site for eligibility information and an updated list of reciprocal jurisdictions.

Today, I want to close by thanking the members of our court family for their hard work and professionalism. I also want to thank the many lawyers in the public and private sectors and the members of our stakeholder agencies who appear in our courts every day for their help and support of our efforts to deliver justice during this difficult period. We very much appreciate your service and support.

So, thank you, again, for giving us a few minutes of your time, and please do stay well and remain disciplined in keeping yourselves and all those around you safe.