

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

**March 22, 2021**

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.

I am pleased to report that we are re-starting civil and criminal jury trials across the state today. As you know, we had to put jury trials on pause last November in response to the resurgence of COVID-19, but now with the improved COVID metrics, and the continuing distribution of the vaccine, we are able to safely begin the gradual expansion of in-person operations, including jury trials, in our courts.

In New York City, we have 26 jury trials -- 19 civil and 7 criminal -- that are scheduled to begin in all five counties this week. And outside the City, we have scheduled a total of 27 trials -- 18 criminal and 9 civil -- that are set to begin today in all of our Judicial Districts across the

state, from Suffolk County in the east all the way to the Eighth Judicial District out west.

Each jury trial that is commenced will move forward pursuant to a plan that has been specifically tailored to the conditions that are present in the courthouse where the case is scheduled to be heard, but priority number one is the same in each of the plans: the creation and maintenance of a safe environment that instills confidence in jurors, staff, lawyers, witnesses and all other court users. And that means disciplined adherence to established protocols like COVID screening, social distancing, strict cleaning regimens and disciplined use of PPE.

Now, we know from experience that a fair number of cases scheduled for trial will resolve before a jury can be seated. There are settlements and plea bargains that are negotiated. And that is an expected and normal outcome, reminding us of how important our trial capacity is to the effective management of our dockets. In anticipation of some settlements and plea bargains, our Administrative Judges been working diligently to make sure that there are back-up cases standing by and ready to go to trial. In this way we hope to avoid down time in our trial parts and make sure that we are not wasting the valuable time

of prospective jurors who have reported to our courthouses for service. Further, as you would expect, we have made a point of prioritizing criminal trials that involve defendants who are detained, pretrial, awaiting their day in court.

And as we did last Fall, we will interview jurors and attorneys at the conclusion of each trial in order to get their feedback and suggestions on whether and how we can further improve our safety protocols and the efficiency of our jury trial operations.

I want to thank Deputy Chief Administrative Judges Vito Caruso and George Silver, and all of our Administrative Judges, and their professional staff, for laying the groundwork for the safe re-start of petit jury trials in the New York State courts. I also want to thank all of our justice partners and stakeholders, including the District Attorneys and Defense Bar, for their support and cooperation.

The right to a trial by jury is one of the keystones of our justice system, and so we are pleased to see that all of the participants in the system are moving forward once more to resume jury trials across the

state, and we remain hopeful that this time there will be no pauses or postponements. So, let's keep our fingers crossed.

In the meantime, as you know, we continue to lean heavily on our virtual courts to carry out the majority of our business, and those courts are busy. Last week, our judges and staff remotely conferenced and heard over 23,300 matters, settled or disposed of nearly 5,300 of those matters, and issued over 2,300 written decisions on motions and other undecided matters. In addition, 1,147 virtual bench trials and evidentiary and fact-finding hearings were commenced last week across the state.

It was a year ago this week that we began the incredible transformation of our court system from an in-person operating model into a functioning virtual model capable of meeting the broadest possible demand for our services. And while our judges and professional staff have done a remarkable job of meeting the demand over the last year, there is no question that this public health crisis has taken a heavy toll on our dockets and caused significant backlogs in some of our courts, especially in our Housing Courts and in our Family Courts.

In Supreme Court, we are fortunate that our pending docket of civil matters has increased only modestly from the beginning of 2020 through the end of January 2021. And while the lion's share of the credit goes to our judges and staff for their growing proficiency with virtual operations, it must be acknowledged that Supreme Court benefits from a number of advantages that facilitate efficient case processing, including the widespread availability of electronic filing, well-developed ADR programs, and perhaps the key factor, litigants in Supreme Court are overwhelmingly represented by counsel, which allows for easier access to and participation in virtual court proceedings.

The picture looks dramatically different in our Housing and Family Courts. Not only are we facing large backlogs in those courts, but we are expecting large increases in new filings when the existing moratoria on evictions are lifted, and in response to reported increases in family violence, neglect and abuse of children, child support, and custody and visitation issues due to the economic hardships and social restrictions caused by the pandemic.

Furthermore, we are mindful, and certainly we are concerned, that these courts, the Housing and Family Courts, are courts with historically large numbers of unrepresented litigants, individuals and families who require more time and attention from court staff, and who we know from experience have a difficult time accessing the digital technology necessary to fully participate in virtual proceedings.

So, without any doubt, we are facing unprecedented challenges in these high-volume courts that provide critical, vital justice services to children and families and millions of low-income New Yorkers. And in order to tackle the backlogs and move cases to resolution, we will have to find bold and creative ways to reallocate and leverage our limited resources and staffing levels in order to serve, with equal care, attention and dignity, every category of litigant that comes through our system.

We are taking a hard look at all responsible options at our disposal, and we are working to ensure that we provide these critically important courts with the resources they need to meet the increased demand for their services. This is a challenge, and our work in meeting this challenge will require all of us to be proactive and flexible in

coming up with responsive solutions, from reconfiguring our operations and transferring cases to take advantage of available capacity to reallocating existing resources and staff to meet the needs where they are most urgent.

Our work is cut out for us, and I know it won't be easy, but I want to reiterate what I said in the State of Our Judiciary on March 2nd: I have every confidence in the ability of our judges and professional staff to meet these challenges because we have demonstrated, by every measure, that we know how to do this work. And thanks to the lessons learned from carrying out our successful "Excellence Initiative," we know how to tackle backlogs and move cases through our system with appropriate speed and purpose, we know how to use ADR to reduce our caseloads on the front end, and now we know how to leverage the power of technology to further increase our efficiency and expand access to our services.

And most of all, we know that our judges and staff are committed, dedicated and ready to do what needs to be done for the good of our system, and for the good of the litigants, lawyers and court users who need our services, now more than ever.

So, I conclude today's Monday Message on a hopeful note, and with great confidence. And I once again thank you for your time, and ask you to remain disciplined in doing all that you can and should be doing to keep yourselves and those around you safe.