

MESSAGE FROM CHIEF JUDGE JANET DIFIORE

September 14, 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.

With each passing week, our judges and professional staff continue to make forward progress in delivering our services, both virtually and in-person. Last week, we began our first jury trial pilots in Suffolk, Schuyler and Erie Counties where five new jury trials got underway, four civil and one criminal. And I'm pleased to report that the jury selection process went smoothly, all five trials started on schedule and the jury in the Suffolk County civil trial reached a verdict on Friday afternoon.

In the coming week, our jury trial pilots expand to:

- St. Lawrence, Saratoga and Washington Counties in the 4th Judicial District;

- Onondaga County in the 5th District;
- Broome County in the 6th District
- Westchester County in the 9th District;
- And in Suffolk County, two additional trials, one civil and one criminal, are scheduled to begin.

Now, why are we describing these jury trials as “pilots”? We describe them as pilots because we are using them as an opportunity to carefully examine and study every phase of the process in order to frame the most effective protocols and best practices to safeguard everyone’s health and safety as we pursue in-person jury trials on a larger scale.

And New York is not alone in our efforts. The federal courts and the state courts in other jurisdictions have begun, or are now planning, a restart of their jury trial operations. As the judicial branch of government, our solemn obligation is to restore the constitutional right to a trial by jury as soon as it is safe and responsible for us to do so – and that is exactly what we are doing in the New York State courts.

Now, last week we moved into Term 10 in our trial courts, with thousands of grand jurors once again reporting for service in our courthouses, and the selection process went smoothly with more than 30 grand juries empaneled across the state, including 17 in New York City alone. And important to note, the percentage of grand jurors who reported for service in Term 10 was higher than it was for Term 9, and it was very close to the turnout levels we would see in the days before COVID, demonstrating the clear desire of New Yorkers to perform their civic duty and their expectation that our courts and the justice system should, indeed, be functioning as normally as possible. And we thank all those New Yorkers, across the state, who have faithfully reported for service.

Elsewhere, I'm pleased to report that our Administrative and Supervising Judges, our trial judges and our professional staff are working hard every day to improve virtual operations and increase virtual bench trials, hearings and conferences. And Judge George Silver, our Deputy Chief Administrative Judge for the New York City Courts, has done an excellent job in reaching out to institutional defendants in the insurance and health care sectors to inform them of the different virtual options available to help jump start the resolution of pending

tort and medical malpractice lawsuits, including virtual bench trials, virtual summary trials and virtual ADR.

Of course, our long-term priority remains the gradual and prudent resumption of in-person operations. And as we move down this path during the fall and winter months, one of the keys to our progress will be our discipline in consistently implementing the extensive safety and security measures that we have put in place in our courthouses across the state.

This point was brought home very clearly to me last week during the September session of the Court of Appeals, when an attorney scheduled for in-person oral argument in our Court registered a body temperature that exceeded the recommended threshold while being screened for entry in the courthouse lobby and had to be turned away. While the last-minute cancellation of that argument and the need to reschedule the appeal was, of course, extremely disappointing and inconvenient for everyone involved, the more important point here is that the screening process worked exactly as it is intended to work, placing health and safety above all else.

And what this incident at the Court of Appeals underscores is that we're all going to have to live with, and become accustomed to, a certain amount of daily disruption and inconvenience as part of our "new normal." And you know what? That's o.k. It's o.k. because at the end of the day this is a small price to pay in order to safeguard the health and safety of every one of us as we press on in our responsibility to safely restore services for the benefit of all New Yorkers. And this leads me straight to the next topic I'd like to raise: the critical issue of access to justice.

Next Monday, I will be presiding over the 11th annual Public Hearing on Civil Legal Services in New York. And while most of this year's presenters will be appearing virtually, I will be joined in-person at Court of Appeals Hall in Albany by our Chief Administrative Judge, Larry Marks, the four Presiding Justices of the Appellate Division -- Rolando Acosta, Alan Scheinkman, Elizabeth Garry and Gerald Whalen -- and New York State Bar Association President Scott Karson.

It is our hope and expectation that this year's public hearing, which will be webcast live on the court's website starting at 1:00 P.M., will help us to document and understand the nature and extent of the

“access gap” we are facing as a result of the added complications caused by the pandemic, and provide us with helpful recommendations for future action to ensure that all New Yorkers have access to needed legal services during and in the aftermath of the ongoing crisis.

As the economic consequences of COVID-19 have increased and intensified the serious legal problems facing low-income New Yorkers, we have intensified *our* efforts to ensure access to the courts for these individuals and their families. Judge Edwina Mendelson, our Deputy Chief Administrative Judge for Justice Initiatives, has kept us focused on the changing needs of unrepresented litigants during the pandemic, including the important priority of providing safe and appropriate courthouse space and other mechanisms to allow litigants who lack the technology needed to access our virtual courts to obtain the services they need.

And our Administrative Judges have led their teams in working effectively and creatively to further expand access to justice in their communities. Last week, for example, we opened the Monroe County “Special COVID Intervention Part,”-- or SCIP -- in the Seventh Judicial District. The goal of SCIP is to provide a fair and efficient procedure for

the parties in eviction proceedings, a procedure that includes ADR options, and in the case of low-income tenants facing eviction, on-site access to legal counsel, emergency rent assistance and other critical services provided by government agencies and nonprofits. The key to SCIP, of course, is connecting tenants with legal counsel prior to their scheduled court appearances, which not only ensures protection of their rights in court but often enables the parties to reach fair settlements without the time and expense of formal court proceedings.

On its first day of operations, 40 cases were scheduled in the SCIP and every tenant who appeared was screened and given the opportunity to access available resources and services. We are grateful to Administrative Judge Craig Doran for his role in developing this innovative model and for leading the coalition of community organizations, legal service providers, government agencies and court attorney volunteers that have all come together in impressive fashion to help address the enormous complications and impact created by the surge in COVID-related eviction cases. Thank you to all of them.

And thank you to all of you for your time today, and please do remain disciplined in doing all that you can and should be doing to keep yourselves and those around you safe.