

MESSAGE FROM CHIEF JUDGE JANET DIFIORE

September 28, 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.

I start today with a progress report on our jury trial pilots outside New York City, where 46 civil and criminal jury trials had been scheduled through Friday, and I'm pleased to report that ten of those trials have been completed, five are in progress, twenty-four resulted in settlements or plea agreements, and seven were adjourned. And, for this coming week, we have scheduled another five jury trials, three criminal and two civil, in Oneida, Saratoga, Suffolk, Tompkins and Westchester Counties.

As I indicated last week, we are surveying jurors and attorneys at the conclusion of these pilot trials and I'm pleased to report that their feedback and suggestions have been very encouraging and helpful. The

only significant incident to date involved a Suffolk County trial where the defendant's wife tested positive for COVID last week, leading us to suspend the trial to allow for quarantining and contact tracing among the affected individuals.

I want to thank Judge Vito Caruso, our Deputy Chief Administrative Judge for the Courts Outside New York City, our Administrative and Supervising Judges, our judges presiding over these jury trial pilots, our Chief Clerks, and our professional staff for the meticulous preparation that has supported our ability to carry out these trials. They have proven that with careful planning, and by being disciplined about implementing and maintaining the necessary safeguards, it is possible to safely conduct jury trials notwithstanding the complex logistics and public health challenges.

We are also grateful to all of the participants in these trials for their cooperation and, of course, to the thousands of New Yorkers who have reported for jury duty and demonstrated both their desire to see our courts fully functioning and their confidence in our ability to safeguard their health and safety.

In New York City last week, we took an important step toward our goal of resuming in-person jury trials by mailing out petit jury summonses in connection with the first civil jury trial pilot scheduled to begin there in mid- to late-October.

As we restart in-person jury trials in New York City, and gradually increase the number of jury trials outside the City, priority number one for us will be maintaining an environment where everyone – jurors, lawyers, litigants, witnesses, judges, staff and court visitors -- feel comfortable about the safety of our courthouses.

And to help us stay disciplined and vigilant in complying with all of the health and safety protocols we have put in place, we have designated PPE Compliance Coordinators in all of our courthouses and made them responsible for making sure that we have adequate PPE supplies on hand, that PPE is properly distributed and made available as needed and that all of our judges and professional staff are properly wearing and using PPE, including face masks.

As we enter the Fall and Winter seasons, when the transmission of viruses traditionally increases, it is incumbent upon us to lead the way in responsibly following best health and safety practices in our public courthouses, particularly as we gradually restore jury trials and other in-person services that will bring a measured increase in the number of people entering our buildings.

At the same time that we are working to safely expand in-court operations, we remain laser-focused on expanding our virtual capacity in order to meet the full demand for our services, reduce our pending caseloads and limit courthouse density. Starting tomorrow, we will be taking an important step in our journey as a virtual court system when we will begin hearing a limited number of virtual bench trials and hearings in matrimonial matters in the Supreme Court in Kings, New York, Richmond, Westchester and Ontario Counties.

These virtual trials and hearings will be conducted using the Microsoft Teams platform and our NYSCEF e-filing system, which will allow lawyers and litigants to upload, in advance, witness and evidence lists, and in real time, documents that can be marked for identification and moved into evidence by the judge. During the course of the trials

and hearings, documents and evidence will be shared on-screen and remain visible to the attorneys, parties and witnesses participating in the proceedings.

We will be closely monitoring the progress of this pilot program, in anticipation of expanding virtual trials and hearings to other courts and case types across the state. I want to thank Judge Jeffrey Sunshine, our Statewide Coordinating Judge for Matrimonial Cases, and Jeff Carucci, our NYSCEF Director, for their leadership in developing and piloting a model approach for how we can take virtual trials and proceedings to scale in the New York State courts.

Turning now to the critical topic of access to justice, last Monday we held our 11th annual Public Hearing on Civil Legal Services in New York at Court of Appeals Hall in Albany. Not surprisingly, the focus of this year's hearing was on the serious challenge of meeting the civil legal needs of low-income New Yorkers who face eviction, domestic violence, loss of employment, consumer debt and a host of other pandemic-related legal problems, legal problems that, notwithstanding the heroic efforts of legal service providers and the pro bono Bar, are having a disproportionate impact on families and communities of color.

On the positive side of the equation, the hearing revealed that the public health crisis has been an impetus for positive innovation among many organizations, including the New York State courts. We heard from presenters who indicated that the use of remote technology and other innovative solutions in our courts has been a positive development for many low-income litigants, enabling them to avoid the expense, inconvenience and child care challenges of traveling to court in person, and in the case of domestic violence victims, saving them from the emotional trauma of having to face their abusers in court.

We also heard about the impending surge of evictions and other pandemic-related cases that threaten to swamp our courts and the legal services community, as well as the “digital divide” facing so many litigants who lack the necessary technology to access services in our virtual courts, something that we are keenly aware of, and working on, with the help and assistance of many, including Judge Edwina Mendelson, our Deputy Chief Administrative Judge for Justice Initiatives.

And I want to take this opportunity to thank Judge Mendelson and her staff for organizing last Friday’s live, virtual roundtable

program, which reviewed the Family Court's response to the pandemic and analyzed the implications of virtual representation in that busy and important court. I want to thank the other program participants -- Judge Jeanette Ruiz, Administrative Judge of New York City Family Court, Judge Craig Doran, Administrative Judge of the Seventh Judicial District, and Hank Greenberg, Chair of our Commission to Reimagine the Future of the New York Courts -- for making sure that, in our effort to respond to the imperatives of the pandemic, we do not overlook the possible drawbacks of virtual proceedings.

Fairness and access are at the heart of our mission, and it is what we strive to achieve at all times in order to earn the people's trust and uphold the rule of law.

Thank you for your time today. Please stay safe and remain disciplined in doing all that you can and should be doing to keep yourselves and those around you safe.