

MESSAGE FROM CHIEF JUDGE DIFIORE

April 20, 2020

Thank you for giving me a few minutes to update you on the latest pandemic-related developments affecting our courts and the justice system.

First of all, I want you to know that we are thinking of all of you and hoping that you and your families are staying healthy and safe.

The last weeks have been painful for all of us. The daily death tolls have been hard to process and many of us have experienced the loss of loved ones, friends, neighbors and colleagues. Each life lost to COVID-19 is a tragedy, and we are keeping every soul in our thoughts and prayers.

And, like you, I have been inspired by the heroic and life-saving sacrifices of our health care professionals and our first-responders. We can also take some comfort, solace, and satisfaction in knowing that the difficult and necessary steps we all took to put New York on pause are having a positive effect, helping to reduce the number of new infections, hospitalizations and ICU admissions, critical trends we have watched closely each day, which give us reason to hope that, perhaps, the worst may soon be over.

As Governor Cuomo put it recently, quoting Winston Churchill, this is not the beginning of the end, but it is the end of the beginning. And we are all coming to grips with that reality, the reality that there is still a long way to go, and a lot of work to be done, before we can get back to the normalcy we all crave.

As for our court system, we continue to do everything in our power not only to keep our courts up and running but to gradually and safely expand access to justice for litigants and lawyers across the state.

Last Monday, we began the expansion of our temporary virtual courts beyond the limited category of essential and emergency matters, enabling judges and staff to get back to work on their pending caseloads of tort, commercial, matrimonial, trusts and estates, criminal, family and other important cases.

With the assistance of their administrative and legal staff, our judges all across the state are remotely scheduling and conferencing cases, with lawyers appearing by Skype or telephone. Judges are resolving outstanding issues, addressing discovery disputes and facilitating a significant number of settlements.

We have been carefully monitoring and collecting the data on all of this activity, and I know that you will be pleased to hear that in our first week of expanded virtual operations our judges and professional staff have:

- Conferenced and heard nearly 8,000 matters;
- Settled or disposed of over 2,600 cases, a third of all matters heard; and
- Issued over 1,400 written decisions on motions and other undecided matters, taking advantage of this period to clear our existing backlog of undecided motions.

All in all, a highly productive and encouraging first week of expanded virtual operations, demonstrating the pent-up desire and determination of our judges and staff to get back to work.

We are grateful to everyone who made this temporary adjustment possible. And I will repeat what I have said before: it is hard to believe that in less than a month we were able to create a virtual framework that has enabled our judges and nonjudicial staff across the state to get back to work and to do our part to deliver justice, in this most unusual way, during this most extraordinary time.

It has been inspiring to watch this process unfold:

- Our administrative and supervising judges have provided steady leadership, with a positive attitude and constructive approach to every challenge we have faced;
- Our trial judges and professional staff have enthusiastically embraced, and run with, the virtual court model;
- Our technology staff have performed herculean feats to make it possible for us to go virtual in record time;
- Our Court Clerks and Court Officers, some of whom continue reporting to our courthouses to support virtual operations, have been unwavering in their commitment to our mission; and

- Our partners and stakeholders, in the bar, and especially across our criminal and family justice systems, have been patient, supportive and most cooperative. And, together, we have moved mountains to get this done.

Going forward, we will continue to evaluate and make necessary adjustments to our virtual court model. Our objective, in the short term, is to carefully expand virtual access, keeping in mind the special challenges faced by the self-represented and those lacking the technology to participate in a virtual forum.

In the long term, of course, we want to return to normal operations whenever that becomes possible and appropriate. You can be assured that our efforts in that regard will be calibrated to the evolving nature of the COVID-19 pandemic and the scientific data and guidance we receive from our public health experts, our elected officials and other relevant government authorities.

Our appellate courts have also gone virtual. This past week, the Justices in the Appellate Division, Second Department, successfully presided over virtual arguments, and virtual oral arguments are being scheduled or planned for upcoming sessions in the other Departments.

At the Court of Appeals, my colleagues and I have continued to do the business of the Court, and remote oral argument is being scheduled for our June session. And we look forward to moving our dockets in a positive direction.

And to help our Court carry out its responsibility of overseeing the admission of attorneys to the bar during this unsettled time, I have appointed my colleague, Judge Michael Garcia, to lead a working group focused on ensuring

that the September administration of the bar exam is carried out safely and in accordance with prevailing health and safety guidance. The working group is considering different solutions and contingency plans to reduce hardship to law graduates in the event that it is not feasible to administer the bar exam as scheduled, including a proposal to provide temporary authorization for qualified candidates to engage in the limited practice of law. The group is also considering possible dispensations with regard to law school instructional requirements and the bar admissions process. Shortly, the Court of Appeals will convene in conference to consider these proposals, and details will be announced in the very near future.

Every one of us, at every level, in every position, understands that our efforts to keep the courts up and running in the face of the uncertainty and disruption of this pandemic are extremely important. Lawyers and litigants need to know that their matters are being heard, and the public needs to know that our government institutions are working and that our courts are open and functioning to provide access to justice and uphold the rule of law.

New Yorkers have placed their faith and trust in us. We will live up to their expectations, and we will support and help each other through this incredible moment in history. We are thinking of all of you, and our hope and prayer is that each of you find the strength to stay positive, stay safe, and remain disciplined in protecting yourselves and those around you.

Thank you . . . and please stay tuned for further updates.