

MESSAGE FROM CHIEF JUDGE JANET DIFIORE

July 20, 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'd like to start this week's update by reminding everyone that during the pandemic our courts have never been closed, and our judges and professional staff have never stopped delivering justice. In the New York City Criminal Court alone, we have arraigned more than 19,000 defendants and conducted an additional 34,000 criminal proceedings since March. And, statewide, our judges and staff have conferenced over 130,000 non-essential matters and settled or disposed of more than a third of that number.

And now that we have implemented all responsible measures to mitigate the spread of COVID-19 in our courthouses, we have a

constitutional obligation to gradually transition back to in-person operations, as we are doing now all across the state, highlighted by a bench trial of a murder case in Nassau County that started last week, and several other trials, suspended in March, that are now resuming:

- A jury trial of a first-degree rape case in Cortland County, in the 6th Judicial District, which resumes today;
- A jury trial of a murder case in Bronx Supreme Court, scheduled to resume on July 28th;
- And a medical malpractice jury trial in Suffolk County, scheduled to resume on July 27th.

In addition, Grand Juries were empaneled and began operating in every county outside New York City last week.

And last week, in the New York City Criminal Court, our judges presided over matters in which in-person appearances by counsel and defendants were calendared, and that effort resulted in a significant number of dispositions and other substantive action to move cases forward. What we have seen is that when attorneys and defendants

personally appear before a judge, there is a significant increase in the rate of pleas and dispositions, confirming how important it is for us to continue with the safe and gradual restoration of in-person plea and sentencing proceedings; conferencing of felony cases; preliminary hearings involving defendants being held on felony complaints; and grand jury operations, which are scheduled to resume in New York City on August 10th under Phase 4.

So, while virtual proceedings will continue to play an important role for us in limiting courthouse traffic, we are unwavering in our commitment to move forward, safely and responsibly, with in-person appearances in order to carry out our constitutional mission of fairly and speedily resolving cases, including those involving the constitutional rights of accused individuals, many of whom have been incarcerated since early in the pandemic.

The public rightly expects, and must have confidence, that our courts are being faithful to our mission: doing justice, upholding the rule of law and responsibly standing against the disruption of the pandemic.

We are also moving ahead with the safe and limited resumption of in-person proceedings in the New York City Housing Court. Last Monday, as an important step to reduce the large number of people who come to our courthouses to file papers in person, we introduced our NYSCEF e-filing system to the New York County Housing Court, and by August 10th, we will introduce e-filing to the Kings County Housing Court.

We have also moved three of our busiest trial parts from the cramped Kings County Housing Court, located at 141 Livingston Street, to more spacious courtrooms in the Kings County Supreme Court building, located at 320 Jay Street. And starting next Monday, July 27th, we will use those larger and safer courtrooms to resume in-person bench trials for pre-pandemic matters where both sides are represented by counsel. Importantly, for lawyers and litigants who cannot appear in person for public health reasons, we are not only offering, but we are strongly encouraging, the option of virtual bench trials.

I want to take this opportunity to thank Judge Anthony Cannataro, our Administrative Judge for the New York City Civil Court,

and our Civil Court and Housing Court Judges and professional staff, for their dedication to delivering justice in this very busy and challenging court. Their extraordinary work includes the start of virtual bench trials in automobile no-fault claims in Queens Civil Court, which began last Thursday, and the planned resumption, in August, of citywide Small Claims Court operations, with a strong emphasis there, as well, on virtual operations in the area of pretrial mediation.

And now, for an update on the bar exam. Several weeks ago, I reported that the planning had been finalized, and the Board of Law Examiners was ready to administer, a socially distanced bar exam on September 9th and 10th, provided “that new public health concerns do not preclude us from moving forward as planned.”

Unfortunately, due to the surge in COVID-19 cases around the country and the resulting public health risks, travel restrictions and quarantine requirements affecting the many out-of-state candidates who sit for the New York exam, it has become unsafe and impracticable to administer the exam in September.

The Court of Appeals, working with the Presiding Justices of the Appellate Division over the past few months, developed a contingency plan to ameliorate the effects of a postponement. The first part of the plan is a temporary program authorizing eligible law graduates to practice law under the supervision of a New York attorney. This will enable law graduates who are employed, or who obtain employment in New York, to move forward with their careers and practice law until they are formally admitted to the bar.

In addition, I have convened a Working Group on the Future of the Bar Exam, led by former Court of Appeals Judge, Howard Levine. I have tasked the Working Group, as its first and immediate priority, with promptly reviewing and recommending whether New York should participate in the online bar exam being offered by the National Conference of Bar Examiners in October. The group is also considering whether New York should adopt an emergency diploma privilege in lieu of the bar exam or whether we should take any other immediate measures designed to ameliorate the difficulties faced by our 2020 law graduates.

For the longer term, the Working Group will conduct a comprehensive evaluation of how New York presently assesses the competency of law graduates, including the efficacy of the current Uniform Bar Exam, and make recommendations for what the bar examination process should look like in the future.

For additional information and future updates, the web sites for the Board of Law Examiners, the Court of Appeals, and the Appellate Divisions are most helpful.

In closing today, I want to tell you how grateful both Judge Marks and I are to everyone, for your support and cooperation as we continue to navigate the unprecedented challenges of this pandemic.

Let's stay unified, and let's continue to support each other in carrying out our respective roles and missions and in fulfilling our shared responsibilities to the public, and let's leave no doubt that our work is dedicated to supporting and promoting the rule of law.

So, thank you for your time today. We hope that you remain disciplined in keeping yourself and those around you safe, and that you stay tuned for additional updates.