

MESSAGE FROM CHIEF JUDGE DIFIORE

June 1, 2020

Thank you for your time today to update you on the latest COVID developments affecting the courts and the justice system.

As we enter the month of June, it appears that New York is steadily recovering from the COVID pandemic and carefully emerging into our “new normal,” guided by Governor Cuomo’s regional, phased-in plan for the economic reopening of the state.

We are, of course, supporting and following that plan. Last week, judges, chambers staff and designated court personnel returned to their assigned courthouses in the Capital District, Mid-Hudson and Long Island regions after those areas had met the seven metrics for Phase 1 reopening.

Over the last two weeks, we have now restored in-person courthouse operations in every region outside New York City. And I am pleased to report that this process has gone smoothly. It is, clearly, a “new normal” for all of us in the courts, a new normal defined by reduced courthouse traffic, personal distancing, face coverings and a host of operational and safety measures designed to prevent the spread of the virus. As I mentioned last week, we are accepting new lawsuits and other court filings via NYSCEF or regular mail in those regions that have reopened. And in New York City, new matters are being commenced in those courts that use NYSCEF, including, as of today, our Surrogate’s Courts. And we are very pleased to reach these first benchmarks.

As you would expect, we have been preparing our plan for expanded Phase 2 of court operations, and we are now able to proceed with that plan after Governor Cuomo indicated on Friday that five upstate regions -- Central New York, Finger Lakes, Mohawk Valley, North County and the Southern Tier -- had met the public health metrics for transition to Phase 2.

As a result, our courts in the Fifth, Sixth and Seventh Judicial Districts will begin Phase 2 operations on Wednesday, June 3rd, followed on Friday, June 5th, by most of the counties in the Fourth Judicial District.

Our shift into Phase 2, which is taking place in consultation with our judges, union representatives and court stakeholders, will allow for a measured increase in courthouse activity and staffing. Under Phase 2, the vast majority of non-essential matters will continue to be handled virtually, with appropriate exceptions allowed for in-person appearances at the court's discretion. Importantly, during Phase 2 we will begin to handle a limited number of essential matters in person, primarily in Family Court. More details on Phase 2 will be made available very shortly. We believe that this incremental approach to increasing in-person court operations will enable us to control the flow of people and mitigate the ongoing risk of COVID transmission.

So, as of today, New York City is the only region in the state that has not yet met the benchmarks for reopening, but we know that the City is making steady progress toward that goal, and the Governor has suggested that June 8th is a realistic date for New York City to reopen. We have been carefully planning and preparing for Phase 1, and we will be ready for the safe return of judges and court staff to our courthouses throughout the five boroughs.

As we progress toward fuller in-person court operations in New York City and across the state, we will employ all of the operational best practices and safety measures in our power to prevent the spread of COVID-19, including: continued use of virtual technology to reduce courthouse traffic; staggered scheduling; COVID screening; personal distancing; facemasks and other PPE; sanitizing agents; regular cleaning; acrylic barriers -- and anything else that we think of, that can be reasonably and responsibly implemented, to achieve priority number one: protecting the health and safety of our judges and professional staff; the lawyers, litigants and court users who come through our courthouses on a daily basis; and, of course, the public we all serve.

We know that no single one of these measures is a silver bullet, but we do know that if we are disciplined, responsible and consistent in following all of the safety practices we implement, we will do our part to prevent a resurgence of the virus while continuing the critical work of the largest, busiest and most complex court system in the country.

This week, I will be in Albany with my colleagues for the June session of the Court of Appeals. We will preside from a socially distanced bench, and we will hear oral argument by lawyers appearing in person, with appropriate safety protocols in place, and by lawyers appearing remotely by videoconference. While the courtroom will be closed to the general public, oral argument can be viewed live, as always, on the Court of Appeals' website. I want to thank my colleagues, and especially the Clerk of the Court, John Asiello, and his dedicated staff, and my colleague Associate Judge Paul Feinman and his staff, for their flexibility and perseverance throughout this pandemic. Our shift to virtual operations has

enabled the Court of Appeals to efficiently and effectively carry on with the critical work of hearing and deciding appeals and motions at the state's high court.

Two weeks ago, I reported that we were partnering with the New York State Bar Association on a project to provide free legal representation in our Surrogate's Courts to thousands of financially disadvantaged individuals and families who lost their loved ones as a result of the pandemic. Our joint call to service has been met with an overwhelming response -- 630 lawyers have volunteered as of Friday! -- demonstrating what we know to be the noble spirit and generosity of the legal profession in time of need.

A virtual training program for these attorneys was prepared by a committee of Surrogate's Court Judges, senior staff and experienced T&E practitioners, and pro bono representation will get underway this week, complemented by our introduction, today, of e-filing in the New York City Surrogate's Courts. This marks an important development that will make the court process more efficient and user-friendly for both attorneys and clients. I want to thank the Judges and staff in the Surrogate's Courts for facilitating and supporting this pro bono project, and Jeffrey Carucci, our Statewide E-Filing Coordinator, and his staff, for completing all of the necessary programming and training in record time.

And we owe a debt of gratitude to Michael Miller, former President of the State Bar, for leading this project, and to all of the local bar associations and volunteer attorneys around the state who have responded to the crisis with an incredible spirit of generosity and service that has, frankly, been inspiring to watch.

So, as you've just heard, we are making a lot of progress in our return to a new state of normal in the courts and the justice system. But, of course, there is a long road and a lot of hard work ahead of us. The only thing predictable about COVID-19 has been its unpredictability. Until we have a vaccine, or a better understanding of the virus, the smart approach, which we will continue to pursue, is to be prudent and incremental in expanding our in-person services.

As we move forward, we will undoubtedly be called upon to make difficult choices, and there will likely be some detours and even, I suspect, some setbacks. But if we stay unified and show the same discipline, resilience and compassion for each other that enabled New York to flatten the curve of infections and deaths, I do believe that we will not only get through this but that we will emerge stronger and better than before.

Finally, like all of you, I have been following the demonstrations across the country protesting the death of George Floyd. There is great sadness and anger everywhere. Our system of justice serves all of our people and we understand that to earn their trust and confidence our courts must be open and functioning, and that we must allow the legal process to unfold in a calm and orderly manner. If we do so, I believe that the same unity and compassion that have defined our response to the pandemic will carry us all through this difficult moment -- and that justice will be served.

So, thank you once again for your time and attention. Please stay tuned for additional updates, stay safe, and remain disciplined to protect yourself and all those around you.