

MESSAGE FROM CHIEF JUDGE JANET DIFIORE

June 15, 2020

Thank you for a few minutes of your time as we once again update you on the latest COVID developments affecting our courts and the justice system.

Last Wednesday, June 10th, was a milestone day for our court system, as judges and designated staff returned to their assigned courthouses in the five boroughs of New York City after the City met the Governor's established safety benchmarks for Phase 1 of economic reopening.

During this initial phase, the vast majority of court business is being conducted virtually to minimize courthouse traffic, and usage of courthouse areas is limited to judges' chambers, clerks' offices and back offices. For unrepresented litigants who lack the technology to access our virtual services, we have set aside courthouse space where they can safely access essential services. In addition, new matters may now be filed by mail in those courts that are not approved for NYSCEF e-filing.

Additionally, as of this past Friday, June 12th, five of our upstate regions have entered Phase 3 of the state's economic reopening in the Finger Lakes, Central New York, Mohawk Valley, Southern Tier and North Country. So, as a result of this progression, on Wednesday, June 17, our courts in the 5th, 6th and 7th Judicial Districts will begin hearing an expanded number of in-person matters in our courthouses, including:

- child support proceedings;
- selected plea and sentencing proceedings for defendants at liberty;
- preliminary hearings in criminal cases for defendants being held in jail on felony complaints;
- arraignments of defendants who have been issued desk appearance tickets; and
- a limited number of bench trials, in civil matters.

And because we expect an increase in courthouse traffic during Phase 3, we will employ staggered scheduling of court appearances, court calendars and courtroom usage in order to limit and control the number of people in our courthouses and ensure that no more than half of our courtrooms are being used at any given time. Finally, in order to support the increased services, there will be a modest increase in nonjudicial staffing levels.

Also last week, the 3rd, 9th and 10th Judicial Districts moved into Phase 2 of our return to in-person operations, which have been reported to be running smoothly, and we are pleased at the steady forward progress being made all across the state.

And throughout this period of change and transition, our judges and court staff have been remarkably productive, remotely scheduling and conferencing thousands of cases each week and conducting virtual hearings; resolving discovery disputes; narrowing disputed issues; settling cases; referring matters to virtual ADR; and managing their dockets and moving cases closer to final resolution.

As we go forward, we will continue to follow the Governor's framework for the staged reopening of the economy, based on the public health metrics that we can readily monitor as we gradually increase the level of in-person operations. With so many unknowns surrounding COVID-19, this is the safest way to move the courts forward, mindful of the highly contagious nature of the virus and our commitment to re-establish our in-person presence within the bounds of responsible public health protocols.

We will remain disciplined, responsible and consistent in following the new safety measures and operational protocols designed to protect the health of our judges, staff and court visitors. And this, of course, will be our new normal, featuring virtual technology and staggered scheduling to limit the number of people in our courthouses, together with screening, personal distancing, use of face masks and PPE, regular sanitizing and all the other best practices that must now become a regular part of our personal routines.

And now, turning to an important topic that has been on everyone's mind - the shocking and senseless death of George Floyd at the hands of the police in Minnesota. And even as we struggled to process the killing of Mr. Floyd, our pain has been compounded by the racist and abhorrent images posted on Facebook by one of our own court employees.

Our courts, above all institutions, have a solemn obligation to lead the way in ensuring that every person is treated with equal justice, with dignity, and with respect. And we must lead by example.

That is why last week I asked Jeh Johnson, a distinguished attorney and Partner at the law firm of Paul Weiss, and former Secretary of Homeland Security and General Counsel for the Department of Defense in the Obama administration, to serve as Special Advisor on Equal Justice in the Courts. Secretary Johnson has been engaged to conduct a thorough, independent review of our court system's internal policies, practices and operations, focused on identifying and eliminating issues of institutional racism.

I have asked Secretary Johnson to evaluate everything we do, from how we investigate claims of discrimination, to how we train and educate our judges and court staff on bias issues, to how we go about appointing and promoting judicial and nonjudicial officers and employees.

A report with the Secretary's findings and recommendations for necessary change will be submitted by October 1. I have begun to assemble an Advisory Group, led by Judge Troy K. Webber, Associate Justice of the Appellate Division, First Department, and Judge Shirley Troutman, Associate Justice of the Appellate Division, Fourth Department -- our great co-chairs of the Franklin H. Williams Judicial Commission. The Advisory Group will assist Secretary Johnson and ensure the full cooperation and support of all facets of the Unified Court System and provide reliable access to all of our resources and personnel, so that he may conduct a thorough and complete examination of how we deal with issues involving bias and institutional racism.

I want to thank Secretary Johnson for agreeing to take on this important assignment, and thank the many individuals and organizations who immediately reached out to assist, as well as others who will be participating in this critical

effort to ensure that the New York State courts are doing everything possible to meet the highest standards of fairness, equity and inclusiveness.

We are in the midst of incredibly challenging times, and while we are making a good deal of progress in our gradual and deliberate return to in-person court operations our optimism must be tempered by caution. And in order to maintain our forward progress, we're going to have to remain patient and disciplined in protecting ourselves, in meeting our responsibilities to each other, and in keeping everyone around us safe and healthy. I am confident that our leadership team, our judges, our professional staff and our stakeholders and court users are up to that task.

Thanks again for your time and attention. Please stay safe, remain disciplined in keeping yourself and everyone around you safe, and stay tuned for additional updates.