

## MESSAGE FROM CHIEF JUDGE DIFIORE

May 11, 2020

I appreciate this few minutes of your time to update you on the latest developments affecting our courts and justice system, and I sincerely hope that you and your family members are staying safe and healthy.

And to all the moms out there, I hope you enjoyed a wonderful Mother's Day. Thank you for your strength in helping your families get through these difficult days.

So, the key indicators we've been watching closely -- the number of new COVID cases, hospitalizations and deaths -- are all moving in the right direction, and here in New York, the virus appears to be in retreat. But it has not been defeated. It remains a dangerous enemy, and one, we are told, is likely to return. We are also told that how dangerous it might be if it does return, and how deep its impact might cut, depends on how prudent, smart and responsible we are now and in the coming weeks and months. We will work toward New York becoming a smart and successful model for the rest of our nation.

As I said last week, our court system is working on parallel tracks: first, we are expanding our virtual court operations and improving our ability to deliver justice services during the pandemic; and second, we are carefully planning for the gradual reopening of our courthouses and the resumption of normal court operations.

And, while not surprised, I am pleased to report that our judges and staff have done an outstanding job of carrying out their professional duties in our new virtual courts. The Appellate Division, First Department's successful transition to a virtual court was on full display this past week. And in our trial courts, judges and staff were busy conferencing pending matters, facilitating a large number of settlements and clearing out our backlog of undecided motions.

We have been carefully monitoring and collecting the data on all of this activity. Through the first four weeks of our expanded virtual operations, our judges and staff have:

- Conducted nearly 40,000 conferences and other court proceedings;
- Settled more than a third of the cases they conferenced; and
- Issued over 9,000 written decisions on pending motions and other matters.

As I mentioned in a prior message, we are particularly focused on taking advantage of this period to resolve our large backlog of undecided motions -- and we have been creative in using our resources to the fullest extent to achieve this goal. We have prioritized the resolution of our pending motions because it will maximize our capacity to meet, head-on, the large surge of new cases we fully expect to be commenced once the restrictions on new filings are lifted. And we thank everyone involved in this effort, particularly our criminal court judges, for their cooperation and support.

We are also expanding our virtual operations in Surrogate's Court to meet the special justice needs of the public brought on by the crisis. Here, in New York City, where the majority of COVID-related deaths have occurred, we are providing additional technology and other operational resources necessary for our Surrogate's Courts to carry out their plan to expeditiously respond to inquiries and process the estates of individuals who have passed away from COVID-related causes.

To complement this effort, I have asked Michael Miller, immediate-Past President of the State Bar Association, and a long-time trusts and estates practitioner, to coordinate a pro bono effort in which surviving family members who cannot afford a lawyer will be represented in Surrogate's Court by volunteer lawyers who will also assist them with related issues and needs. Plans for training attorney volunteers are underway.

I want to thank Michael Miller, and the members of the State Bar, led by President Hank Greenberg, for responding to our call to service, as well as the New York City Bar and the other bar associations assisting in this effort.

Turning to the impact of the pandemic on our criminal justice system, we had expressed our growing concern about the number of individuals who have been arrested for serious crimes and are being held in jail without a review of the charges pending against them by a court or a grand jury. While we remain unable to convene grand juries, last week the Governor issued an Executive Order that enables us to conduct preliminary hearings at which a judge will evaluate the

sufficiency of the evidence supporting the charge or charges filed against a defendant who is being held in custody.

We have conducted the training necessary for our staff and judges, and we have been working with both the prosecutors and the defense bar to schedule these preliminary hearings in our virtual parts. Pursuant to the Governor's Order, all participants at these hearings may appear electronically, and appropriate measures have been authorized to protect the confidentiality of the participants where that is necessary. We look forward to working with our partners in the criminal justice system to provide accused individuals being held in jail with the independent and timely judicial review they are entitled to.

At the same time that we are expanding and refining our virtual operations, we are also assessing how we can safely reopen our courthouses, in order to resume in-person operations.

When will that happen? As I said last week, and it remains the case today, it is still too soon to offer a definitive answer, or to even envision the final, comprehensive plan. But given the Governor's announcement for regional reopenings around the state, our courts will likely track that plan and reopen at different times in different areas of the state.

But whenever and wherever our courts are reopened to in-person operations, you can be certain that we will be operating in a "new normal" where our primary concerns will include mitigation of the risk of community spread of the virus. And working with our Administrative Judges, our professional staff, and our union representatives we will put in place protocols and practices to reduce or stagger courthouse traffic and establish physical distancing; and we will adopt

all other common-sense safety measures to protect ourselves and our court users as best we can.

So how do we do that? We are looking at everything -- everything from relying on remote technology to reduce the number of people entering our courthouses; to requiring the use of face masks; to providing PPE and sanitizing agents; to conducting screening of individuals for symptoms associated with the virus.

Among the many issues we have been working closely on with the Governor's Office is the important issue of antibody testing. Our qualifying UCS personnel have been included in the category of frontline and essential workers who are being given the option of being tested for COVID-19 antibodies, and that process has begun this week, starting with our uniformed staff and other personnel who have been required to report to work and interact with the public. We are grateful for the availability of the antibody testing, and for the Governor's commitment to helping us ensure the health and safety of our Unified Court System personnel and the public we serve.

New Yorkers can rest assured that we are working every day -- and sometimes we're even doubling back and re-crafting the plan we *thought* was good to go -- in order to be ready for our next virtual iteration and for our eventual in-person reopening. We will be ready to support the reopening of our state, provide an increasing range of justice services to our communities and continue in our mission of upholding the rule of law.

In the meantime, we hope and ask that you remain patient, that you remain disciplined in your efforts to protect yourselves and your families . . . and that you stay tuned for further updates. Thank you.