

MESSAGE FROM CHIEF JUDGE DIFIORE

May 4, 2020

Thank you for a few minutes of your time as we bring you up to date on the latest COVID-19 developments affecting our courts, and our justice system.

As we turn the page from April to May, I hope that you and your families are doing well and staying safe and healthy. I can only imagine how anxious you all are to emerge from the shadow of this pandemic. I know that I am as well. And I know that many of you have been wondering and asking when it might be safe to re-open our courthouses and get back to work.

The short answer is that it's too soon to know, and that we are not yet in a position to formulate any final or even long-term plan.

Governor Cuomo confirmed last week that New York is making progress in the battle against COVID-19, flattening the curve and reducing the number of new cases, hospitalizations and deaths, although the rate of decline in all categories, particularly the still-staggering number of New Yorkers who are losing their lives on a daily basis, has been slower than any of us would like.

The Governor also indicated that the planning and the process for re-opening our state has begun and that New York will follow the CDC guidelines, which provide, as one requirement, that states may consider re-opening after new COVID hospitalizations have declined for 14 days. The Governor also suggested that there is likely to be a staged or gradual re-opening, depending

upon all the attendant economic and public health considerations across the state.

What does this mean for our court system? It means that any plan we put in place will track the Governor's safe and prudent re-opening of the state. As to the details of our plan, the honest answer is that we don't know yet what those details will entail. What we do know is that our services are absolutely essential, and that as the economy re-starts and businesses re-open, there will be a corresponding action by the courts. And we remain acutely aware that so much of what we do, whether it's conducting jury trials or screening the public at magnetometers, depends on, and requires, face-to-face interaction with many different stakeholders and constituencies, which, of course, poses a risk of community spread.

That said, the time has come, and we have begun to plan. We are working within the CDC re-opening guidelines, and adopting them in ways that are relevant to the court system; we are considering all the possible scenarios and timetables for a safe, phased-in re-start of our work; and we are determined to move forward in ways that are fully consistent with the latest public health guidance and closely coordinated with our partners in government. While we can't predict the future, I can confidently say that the New York State Unified Court System will be ready to safely re-open when called upon to do so.

And the key to our future success in safely re-opening lies in a responsible, patient, flexible and perhaps even bold approach. And our flexibility at every level will perhaps be the most important component of our success, for as we

have seen, this virus is an unpredictable and opportunistic enemy that will lead us around so long as we allow that to happen.

So, while we are indeed working every day to plan for the future, today's thoughtful plan may be in tomorrow's scrap pile. And that is why your patience and understanding, along with your help and constructive guidance, is so important to us.

So, we will continue to work on parallel tracks: planning our "re-opening," while also improving and expanding our virtual court operations, which have been extremely busy and productive. With each passing day, our judges and staff are conferencing more matters, settling more cases and making good progress toward our goal of clearing out our entire backlog of undecided motions.

Effective today, we have also expanded our virtual operations to allow new motions, responsive papers to previously filed motions, and new applications (including post-judgment applications) to be e-filed in pending cases, either through our NYSCEF e-filing system or through a new electronic document delivery system created for those courts and jurisdictions where e-filing is not available. This is an important step that will allow lawyers and self-represented litigants to pursue relief in pending matters and enable our judges to move cases closer to final disposition or trial. Information has been posted on our website on how to file motions in those courts and jurisdictions that are not part of our current e-filing system.

Also effective today, judges in our civil, matrimonial and family courts have been authorized to refer matters to virtual ADR, and judges in our problem solving courts have been authorized to conduct virtual court conferences with counsel, court staff and service providers.

On other important fronts, we are also paying close attention to the difficulties facing Spring 2020 law graduates who may be prevented from taking the bar exam in a timely manner because of public health constraints. Last week, we announced that qualified law graduates will be authorized to temporarily engage in the limited practice of law under the supervision of an experienced attorney in good standing. I want to thank our working group, led by my Court of Appeals colleague, Judge Michael Garcia, which has been studying these issues and coordinating our efforts with the four Departments of the Appellate Division and the law school community.

The problem of seating everyone who wants to take the September bar exam has been an agonizing one. Because of the pandemic, seating capacity for the September administration will be sharply limited. As a result, applications to sit for the exam will be available initially to graduates of New York State law schools taking the exam for the first time. After this initial registration period is over, we will assess available seating in accordance with public health guidance, and if it is feasible and safe to do so, we will open the application process to additional candidates. Information about this process is available for your review on the New York Board of Law Examiners' website.

I think that I can safely assume that we are all experiencing similar reactions to this unimagined public health crisis: concern for our families and loved ones, concern for our future, and at times, even concern for our ability to withstand the pressures that this pandemic has caused. Not only can we handle the pressure, we can triumph over this pandemic. And I want to thank all of our judges, our professional staff and the entire legal community for the support and solidarity they have offered to all New Yorkers throughout this challenging period. We will emerge from this awful pandemic -- and we will emerge better, stronger and more resilient than ever before.

So, please stay disciplined in keeping yourselves and your families safe and healthy. And be patient. I know it is sometimes difficult to practice patience, particularly at a time like this, but patience, along with careful, deliberate forward movement, will be a small price to pay to ensure the best possible outcome in a very uncertain world.

Thank you for your time and attention, and please stay tuned for additional updates.