



[No. 5AOAO2020-49]

**SECOND AMENDED ADMINISTRATIVE ORDER  
FIFTH JUDICIAL DISTRICT**

Pursuant to the authority vested in me, and in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System, I hereby order that effective immediately the following rules be put into effect in the Fifth Judicial District until rescinded by further order of this Court. This Order supersedes all prior District Administrative Judge's Orders to the extent that any provisions contained herein differ or are inconsistent with said prior Orders.

As hereinafter used, "Assigned Judge" shall refer to the judge assigned to hear the case on and before March 16, 2020. "Designated Judge" shall refer to the judge assigned to hear the case by the Administrative Judge or his designee on or after March 17, 2020. "Essential Staff" shall refer to chambers staff of Designated Judges, chambers staff of additional judges as designated by the Administrative Judge and non-judicial staff as designated by the District Executive.

**A. General matters and matters applicable to more than one case type**

1. Pending eviction proceedings are stayed; no eviction orders shall be signed or served. Reference is made to Executive Order 202.8 signed by the Governor on March 20, 2020 with regard to eviction matters and prior Administrative Orders 5AO2020-44 and 5A2020-45.
2. No default judgments shall be granted.
3. All Family Court and all County Court Judges are cross-assigned to the County and Family Courts in all counties of the District.
4. All Court proceedings will occur in the Central locations described in Attachment A and presided over by the judges assigned by the Administrative Judge or his designee.
5. Maximum occupancy of ALL courtrooms, waiting rooms and meeting rooms in Court Facilities and other rooms where court functions occur conform to current recommendations, which is the lesser of 10 people or ½ the posted room occupancy per code. All room occupants shall remain six feet apart.
6. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein and shall be strictly limited to the candidates only and any necessary state or federal officials.

7. After 5:00 PM on March 16, 2020 only Designated Judges and Essential Staff may report to the courthouse for work unless approved by the Administrative Judge.
8. All deadlines established per judicial directive (including those contained in scheduling orders, service dates and "local rules") that occur during the pendency of this Administrative Order shall be extended for a period of 90 days from the date of the stated deadline, unless further application is made (reference is made to Administrative Order AO/71/20 signed by the Chief Administrative Judge of the Courts on March 19, 2020 as it relates to civil litigation. Further reference is made to Executive Order 202.8 signed by the Governor on March 20, 2020 with regard to statutory deadlines and time frames.
9. All Temporary Orders of Protection issued in any criminal or civil matter that has expired or is due to expire on or after March 19, 2020 "shall be extended under the same terms and conditions until the date the matter is re-calendared, unless the order is sooner terminated or modified by a judge or justice of the court that issued the order" pursuant to Administrative Order AO/73/20 signed by the Chief Administrative Judge of the Courts on March 19, 2020.
10. All vouchers submitted pursuant to County Law § 722-b(4) and Family Court Act §§ 243(c), 245(c) are deemed approved. Reference is made to Administrative Order No. 5AO2020-48 signed by the Fifth District Administrative Judge on March 20, 2020.
11. "All individuals seeking legal representation pursuant to Article 18-B of the County Law shall be deemed eligible, regardless of financial ability to obtain counsel" pursuant to the Order No. 5AO2020-48 signed by the Administrative Judge of the Fifth Judicial District on March 20, 2020.

**B. Supreme Civil**

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (to be determined by the Assigned or Designated Judge - Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned dates).
2. All civil trials that have commenced may continue.
3. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter and any other matter determined to be essential after application by the Assigned Justice or Designated Justice to the Administrative Judge.
4. All Mental Hygiene Law proceedings in which a party is confined to a hospital or other facility shall be conducted with appearances by means of remote audiovisual technology or telephone pursuant to Administrative Order AO/72/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020.
5. All foreclosure proceedings are stayed; no foreclosure auctions shall be scheduled or held. Reference is made to Executive Order 202.8 signed by the Governor on March 20, 2020 with regard to foreclosures.

### **C. Superior Court Criminal Cases**

1. Any trial in which jeopardy has attached will continue.
2. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (for defendants not in custody) or on or after April 15, 2020 (for defendants in custody). The adjourned date shall be determined by the Assigned or Designated Judge - Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned date.
3. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter and as amended hereafter and any other matters determined to be essential after application by the Assigned Judge or Designated Judge to the Supervising Judge. The Supervising Judge, in consultation with the Administrative Judge, shall permit a matter to proceed if warranted.
4. "Grand juries set to be impaneled within terms four and five of the courts for the year 2020 shall be postponed." Currently seated grand juries "may continue, upon application of the appropriate district attorney to the administrative judge" pursuant to Administrative Order AO/77/20 signed by Deputy Chief Administrative Judge Vito Caruso on March 21, 2020.
5. The Accessible Magistrate procedure (for Adolescent Offenders) currently in place shall continue.

### **D. Treatment Courts/OSP**

1. Treatment courts and Opioid Stabilization Parts will be handled by the designated City Court Judge or the designated County Court Judge in counties with no City Court.
2. Treatment courts will continue to the extent appearances are deemed essential in acute cases by the designated judge after application to the Coordinating Judge of Treatment Courts. The Coordinating Judge of Treatment Courts, after consultation with the Administrative Judge, shall permit a matter to proceed if warranted. All calendars and appearances shall be staggered so as to comply with room occupancy requirements as stated above.
3. Essential Staff designated to work in these Courts shall be responsible for notifying attorneys or pro-se defendants of the adjourned dates.

### **E. Family Court**

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (to be determined by the Assigned or Designated Judge - Essential

Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned dates).

2. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter and as amended hereafter, and any other matters determined to be essential after application by the Designated Judge to the Supervising Judge. The Supervising Judge, in consultation with the Administrative Judge, shall permit a matter to proceed if warranted.
3. All remand/removal/placement orders issued in the 5th Judicial District under Family Court Act Articles 3, 6, 7, 8 and 10 and all temporary orders of supervision, orders of supervision, suspended judgments and adjournments in contemplation of dismissals (ACDs) under Family Court Act Article 10 that are due to expire while this Administrative Order is in effect, shall be deemed extended under the same terms and conditions for a period of 90 days from the date the order is scheduled to expire, unless the order is terminated or modified by the Designated Judge or Assigned Judge. To the extent practicable, the Designated Judge or Assigned Judge shall issue an amended order and the lawyers and pro-se litigants notified.

#### **F. Surrogate's Court**

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (to be determined by the assigned or designated judge - Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned dates).
2. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and other matters as determined to be essential after application by the Surrogate to the Administrative Judge.

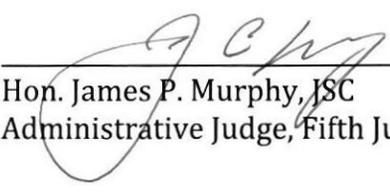
#### **G. City Court**

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (for defendants not in custody and for civil matters) or on or after April 15, 2020 (for defendants in custody). The adjourned date shall be determined by the Assigned or Designated judge - Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned date.
2. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter and any matter deemed to be essential after application by the Designated Judge to the Supervising Judge. The Supervising Judge, in consultation with the Administrative Judge, shall permit a matter to proceed if warranted.

## H. Town and Village Courts

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (for defendants not in custody and for civil matters) or on or after April 15, 2020 (for defendants in custody). The adjourned date shall be determined by the Assigned or Designated Judge - Town and Village staff shall be responsible for notifying attorneys or pro-se litigants/defendants of the adjourned dates.
2. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter and any matter deemed to be essential after application by the Designated Judge to the Supervising Judge. The Supervising Judge, in consultation with the Administrative Judge, shall permit a matter to proceed if warranted.
3. Any matter scheduled prior to 5:00 PM on March 16, 2020 shall be adjourned to a date on or after April 30, 2020 using the Court notification system. Town and Village personnel should post a sign indicating that defendants should check back with the Court after April 30, 2020.
4. After hours arraignments shall be heard by the CAP judge in counties with a CAP court according to the approved CAP Plan.
5. In a County without a CAP Part or if the CAP Part becomes unavailable for any reason, after hours arraignments shall be conducted in the authorized Town or Village Court. The Town or Village Judge shall attempt to obtain defense counsel and make a record thereof. If no defense counsel is available, then the judge shall conclude the arraignment. Any urgent matter (ex. Preliminary Hearing) shall be scheduled at the Central location established in each county. If no urgent matters need to be scheduled, the case shall be adjourned for at least 45 days or to the next court date thereafter.

Dated: March 28, 2020  
Syracuse, New York

  
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Hon. James P. Murphy, JSC  
Administrative Judge, Fifth Judicial District

Distribution:  
HON. VITO CARUSO