



TWELFTH AMENDED ADMINISTRATIVE ORDER
THIRD JUDICIAL DISTRICT

Pursuant to the authority vested in me, in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System and after consultation with the Chief Administrative Judge and the Deputy Chief Administrative Judge and

WHEREAS, New York State and the nation are now amid an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS the Courts of the Third Judicial District commenced Phase I of the Return to In-Person Operations Plan ("RIOP") on May 26, 2020, Phase II of the RIOP on June 11, 2020, Phase III of the RIOP on June 25, 2020, Phase IV of the RIOP on July 9, 2020 and Phase 4.1 of the RIOP on August 10, 2020; it is hereby

ORDERED that effective immediately the following rules be put into effect in the Third Judicial District until rescinded:

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

1. **Until further Administrative Order or Executive Order, eviction matters may proceed pursuant to the protocol established in the Memorandum from Chief Administrative Judge Lawrence Marks dated October 9, 2020 and pursuant to Administrative Order AO/231/20. Further reference is made to Executive Order 202.67 signed by the Governor on October 4, 2020 and the CDC Agency Order filed on September 1, 2020.**
2. **Until further Administrative Order or Executive Order, default judgments shall not be granted where, pursuant to CPLR 3215, the default occurred after March 16, 2020. Notwithstanding the foregoing, a Judge presiding over a matter wherein a party has defaulted may grant a default judgment where, after inquiry, the Judge determines that (a) the defaulting party has received actual notice of the action or proceeding; (b) the failure of the defaulting party to respond to the action or proceeding is not due to the COVID-19 pandemic; and (c) the granting of the default judgment is not contrary to any statute, Executive Order or Administrative Order. Note: Executive Order 202.67 extends the toll on statutes of limitations (first set forth in EO 202.8 on March 20, 2020 and later extended) through November 3, 2020. Default judgments may be**

governed by the suspension of “any specific time limit for the commencement, filing or service of any legal action, notice, motion or other process or proceeding, as described by the procedural laws of the state.” A judgment adverse to the party seeking relief (plaintiff, petitioner, moving party, etc.) may be granted if a party fails to proceed with the action or appear in court.

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. The Return to In-Person Operations Plan (“RIOP”) (Phase I) implemented on May 26, 2020, the RIOP (Phase II) implemented on June 11, 2020, the RIOP (Phase III) implemented on June 25, 2020, the RIOP (Phase IV) implemented on July 9, 2020, the RIOP (Phase 4.1) implemented on August 10, 2020, (with the updated RIOP to be effective October 19, 2020) and any RIOPs for any subsequent phases are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the RIOP.
5. The Virtual Courtroom Protocol enacted by the Third Judicial District Administrative Order signed on April 3, 2020, to the extent not inconsistent with the RIOP, remains in full force and effect and all provisions of this Administrative Order shall be read in conjunction with the Virtual Courtroom Protocol and any subsequent amendments thereto. A district-wide transition from Skype for Business to Microsoft Teams was implemented and will be completed by October 19, 2020. The Virtual Courtroom Protocol shall be modified to reflect the use of Microsoft Teams commencing October 19, 2020.
6. **Occupancy of all courtrooms shall be limited to the number of seats as marked by the District Office. Notwithstanding the above, in all instances the maximum occupancy of any space in the courthouse shall be limited to the number of seats as marked by the District Office. A Chief Clerk or Judge may apply to the Administrative Judge for an exception for a specific courtroom or court proceeding. The Chief Clerk must be able to demonstrate that 1) the proposed occupancy limit does not exceed the number of seats as marked by the District Office and that 2) social distancing can be maintained with the proposed occupancy limit.**
7. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
8. All Staff shall report to the courthouse as determined by his/her supervisor. All Judges and Chambers’ staff should report to the courthouse. Any requests for exemptions must be discussed with the Administrative Judge.
9. All filings shall be pursuant to the Administrative orders signed by the Chief Administrative Judge of the Courts (AO/111/2020, AO/114/20, AO/115/20, AO/149/20, AO/209A/20 and any amendments thereto).
10. **The Judges should encourage or require, to the greatest extent possible, the use of virtual technology in matters that occur off court premises (depositions, discovery, etc.). Such language should be included in any scheduling orders.**

B. Supreme Civil

1. 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.
2. Until further Administrative Order or Executive Order, foreclosure matters may proceed pursuant to the protocol established in the Memorandum from Chief Administrative Judge Lawrence Marks dated July 24, 2020 and pursuant to Administrative Order AO/157/20 dated July 23, 2020. **Further reference is made to Executive Order 202.28 signed by the Governor on May 7, 2020, Executive Order 202.64 signed by the Governor on September 18, 2020, Executive Order 202.67 signed by the Governor on October 4, 2020, and the Laws of New York 2020, Chapters 112 and 126.**

C. Superior Court Criminal Cases

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order, whichever is later. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that is greater than 30 days.
2. Grand Juries shall be empaneled in each County pursuant to Administrative Order 130/2020 signed on June 22, 2020 and updated July 21, 2020 and pursuant to the amended 3rd Judicial District Assignment Book.
3. **Jury trials shall be conducted in each County pursuant to the individual plan reviewed by the Administrative Judge and pursuant to the 3rd Judicial District Civil Jury Trials Plan dated August 10, 2020 and the 3rd Judicial District Criminal Jury Trial Pilot Plan dated August 18, 2020 approved by the Deputy Chief Administrative Judge.**
4. **Each County, in consultation with the Sheriff, shall develop a plan for the imposition of intermittent sentences.**

D. Treatment Courts/OSP

1. Treatment Courts and Opioid Stabilization Parts will be handled by the Assigned Judge and reference is made to Paragraph (C)(2)(f) of the **Summary of the Updated RIOP to be effective October 19, 2020.**
2. Virtual conferences are encouraged (reference is made to Administrative Order AO/87/20 of Chief Administrative Judge Lawrence Marks dated May 1, 2020). Problem-solving Courts may conduct virtual court conferences with counsel, court staff, service providers, and, where practicable, clients.

E. Family Court

1. All matters shall be addressed by the Assigned Judge and appropriately scheduled. Virtual calendars are encouraged.

2. Judges should ensure that all Permanency Planning Hearings are timely scheduled and heard pursuant to existing Federal or State Law. Difficulties in scheduling the hearings should immediately be brought to the attention of the Supervising Judge.
3. All cases involving youth that are currently in detention shall be reviewed by the Assigned Judge, at a minimum, at least once every fourteen days.
4. No new S (PINS), F (Support), P (Paternity), or U (UIFSA) warrants may be issued unless approved by the Supervising Judge. Only D (Juvenile Delinquent) warrants may be issued in the discretion of the Assigned Judge.

F. Surrogate's Court

All matters shall be calendared consistent with all Administrative Orders and Executive Orders at the discretion of the presiding Surrogate. Virtual calendars are encouraged.

G. City Court

All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order, whichever is later. For defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that is greater than 30 days.

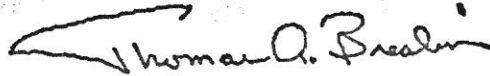
H. Town and Village Courts

Town and Village Courts are authorized to do the following:

1. In-person arraignments 24/7, including on appearance tickets – scheduled one at a time (virtual arraignments may continue for those that were previously approved, only if all parties consent)
2. In-person small claims proceedings – scheduled one at a time (not virtual); no default judgment may be awarded to Claimant.
3. In-person civil proceedings, except summary proceedings– scheduled one at a time (not virtual)
4. In-person dangerous dog proceedings – scheduled one at a time (not virtual)
5. In-person preliminary hearings and pre-trial hearings - scheduled one at a time (not virtual)
6. In-person conferences on criminal cases – scheduled one at a time (virtual, if approved and all counsel and parties consent)
7. In-person Town or Village code violation proceedings – scheduled one at a time (not virtual)
8. Guilty pleas, reduced pleas and fine assessments by mail on vehicle and traffic matters (see UCS DCJA Form 1.0 explaining options to litigants and providing prosecutor's contact information)
9. Decide motions and other matters that may be decided on papers, except summary proceedings

10. In-person Residential Summary Proceedings (both holdover and nonpayment) may proceed pursuant to the protocol established in the Memorandum and Administrative Order (AO/231/20) from Chief Administrative Judge Lawrence Marks dated October 9, 2020 (not virtual). (The Petition may be filed, filing fee collected, settlement conference held when both parties are represented by counsel, and a hearing may be held on the question of whether Respondent is a "covered" person adversely effected by COVID-19. If Respondent is found to be a "covered" person, the matter is stayed until January 1, 2021. If Respondent is not found to be a "covered" person, then a hearing on the merits may be held, but any warrant or judgment that may be granted shall be stayed until January 1, 2021 if the Respondent is found to be "suffering financial hardship during the COVID-19 disaster". No default judgment may be awarded in favor of the Petitioner.)
11. Commercial Summary Proceedings may proceed in the normal course pursuant to AO/231/20.
12. Processing of payments, issuance of receipts, lifting of suspensions, depositing of monies, submitting CDRs and TSLED reports, preparation and submission of the monthly Comptroller's Report

Dated: October 15, 2020



Hon. Thomas A. Breslin
Administrative Judge
Third Judicial District

Distribution:
HON. VITO CARUSO

AO/3JD/20/116