

## MESSAGE FROM CHIEF JUDGE JANET DIFIORE

April 5, 2021

Thank you for giving us a few minutes of your time for an update on the latest COVID developments affecting our courts and the justice system.

Last week, we continued with our resumption of jury trials, and for this coming week we have 52 jury trials scheduled to commence across the state.

While we are pleased to be scheduling jury trials in our courthouses once again, I do want to assure everyone that we are keeping an eye on the COVID metrics across the state, and taking a careful and deliberate approach to the expansion of jury trials and other in-person proceedings. We will move forward at a safe and appropriate pace, a pace that balances our operational needs with our responsibility to maintain a safe and healthy environment for our judges and staff and all of our court users.

In the meantime, we are relying on the demonstrated ability of our “virtual” courts to effectively resolve cases and meet the demand for our services. Last week, we commenced 960 virtual bench trials and hearings, and our judges and staff remotely conferenced almost 20,000 matters; settled or disposed of over 4,700 of those matters; and issued over 2,100 written decisions on motions and other undecided matters.

As we have gone about expanding and improving our virtual operations we have benefitted greatly from the expert guidance and recommendations of our Commission to Reimagine the Future of New York’s Courts. And last week, the Commission issued two new reports focused on how we can adapt emerging technologies to improve the delivery and quality of our justice services and facilitate access to justice during the pandemic and beyond.

Both Reports were produced by the Commission’s “Trials Working Group” -- co-chaired by my Court of Appeals colleague, Judge Michael J. Garcia, and Robert J. Giuffra, Jr., Vice Chair of Sullivan & Cromwell -- and by the “Future Trials Subgroup,” led by Richard A. Edlin, Vice Chair of Greenberg Traurig.

The “Report and Recommendations of the Future Trials Working Group” points out that the adoption of remote technology by our courts during the pandemic “greatly advanced the administration of justice and likely saved lives,” allowing our judges and staff to safely manage their dockets and adjudicate disputes during the long months of COVID restrictions. And the Report smartly sets forth a series of principles to help us evaluate emerging technologies based on their potential to advance access, equal justice and efficiency. It also identifies areas of litigation likely to benefit from new technology, and provides an overview of the operational and legal challenges that come with conducting remote trials.

Recommendations for how our courts can improve litigation through evolving technology include:

Exploring potential partnerships with major internet service providers to supply all courtrooms with secure and reliable high-speed wireless internet;

Developing uniform rules governing the use of portable technology by the parties during trials and proceedings;

Implementing our new “Virtual Bench Trial Protocols and Procedures” manual, and developing a similar manual for remote jury trials in order to pilot such trials on a voluntary basis; and

Training judges and court staff on emerging technology developments, and legal issues posed by new forms of evidence.

The Commission’s second report, “Improving and Streamlining the Presentation of Evidence in Court Hearings,” draws on the nationwide experience of courts and lawyers during the pandemic to provide an overview of the legal authority governing different types of remote evidentiary proceedings, and offers an extensive “best practices” checklist for how to safely conduct remote, in-person and hybrid trials and evidentiary hearings during the pandemic.

The quality and productivity of the Commission’s work product has exceeded our highest expectations. This is an extraordinary group of leading judges, lawyers, academics and technology experts, and they have already issued nine separate reports since last June. Each report that the Commission has released is a model of insightful analysis, accompanied by detailed recommendations that have helped our court system successfully navigate the complex challenges presented by the

pandemic, and positioned us to meet the evolving justice needs of New Yorkers well into the future.

We are deeply grateful to the Commission's Chair, Hank Greenberg, for his strong leadership and vision, to his firm, Greenberg Traurig, and to the members of the Commission for their extraordinary service to our courts and the justice system.

Finally, on a truly sad note, I want to take a moment to acknowledge the passing last Wednesday of Paul G. Feinman, Associate Judge of the New York Court of Appeals. Our Court has lost a superb judge, and our entire court family has lost a cherished friend and colleague. Judge Feinman dedicated his entire professional life to public service, from his first job with the Legal Aid Society of Nassau County to his many years as a Law Clerk to Judge Angela Mazzairelli to his distinguished service at every level of our judiciary, starting in the New York City Civil Court and moving up through the Supreme Court, the Appellate Division and up to our state's highest court in June 2017.

At every step of his professional journey, Judge Feinman embodied excellence, integrity and devotion to public service. He cared deeply about our courts, the justice system and the legal profession, and he gave back generously through his leadership and service in so many capacities, including as Chair of the New York State Justice Task Force, working to eliminate wrongful convictions and strengthen the fairness of our criminal justice system; as Past President of the Association of Supreme Court Justices of the State of New York; and as Past President of the International Association of LGBT Judges. Judge Feinman was a nationally recognized champion and role model for LGBT lawyers and judges, and a caring mentor to dozens of judges, lawyers and law students.

We will miss Judge Feinman's valuable contributions at the Court of Appeals. We will miss his wisdom, and we will miss the collegial way in which he approached his work and, of course, we will miss his friendship, personal warmth, good humor and sparkling intelligence. We mourn Judge Feinman's passing, and send our deepest condolences to his husband, Robert Ostergaard, and his family and friends.

So, once again, I thank you for your time, and ask you to continue to remain disciplined in doing all that you can and should be doing to keep yourselves and those around you safe.