



**FIFTH AMENDED ADMINISTRATIVE ORDER
NINTH 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 in the midst of an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, COVID-19 is known to be a highly infectious disease, and there is much community concern that large gatherings of people can result in greater public exposure to possible contagion or “community spread”; and

WHEREAS, on a daily basis, in courts across the State, hundreds if not thousands of people representing a broad cross-section of the community gather to conduct business in large groups in close proximity to one another,

WHEREAS the Courts of the Ninth Judicial have commenced Phase I of the Return to In-Person Operations Plan on May 27, 2020 (The highlights of the RIOP are included in Attachment A hereto); is hereby

ORDRED that effective immediately the following rules be put into effect in the Ninth Judicial District until rescinded.

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 pursuant to this Order (Attachment B). “Essential Staff” shall refer to non-judicial staff as designated by the District Executive.

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

1. Until further Administrative Order or Executive Order, pending eviction proceedings are stayed; no eviction orders shall be signed or served. Reference is made to Administrative Order AO/68/20 signed by the Chief Administrator of the Courts on March 16, 2020, Executive Order 202.8 signed by the Governor on March

20, 2020 , **Executive Order 202.14 signed by the Governor on April 7, 2020 and Executive Order 202.28 signed May 7, 2020** with regard to eviction matters.

2. Until further Administrative Order or Executive Order, no default judgments shall be granted **where, pursuant to CPLR 3215, the default occurred after March 16, 2020. Furthermore, no default judgment requiring the defendant's notice pursuant to CPLR 3215(g) shall be granted, unless the application was heard prior to March 17, 2020 and proper notice was given.**
3. All Family Court and all County Court Judges are cross-assigned to the County and Family Courts in all counties of the District. **All City Court Judges are cross-assigned to all County*, City, Town and Village Courts in County of their residence and any adjoining county. * effective March 16, 2020 nunc pro tunc.**
4. The Virtual Courtroom Protocol (attached hereto) established for the Ninth Judicial District effective April 6, 2020 remains in full force and effect and all provisions of this Fifth Amended Administrative Order shall be read in conjunction with the Virtual Courtroom Protocol **and any subsequent amendments thereto.**
5. Essential Court proceedings **shall be heard by either the Assigned Judge or the Designated Judge (as contained in Attachment B) and will occur virtually.**
6. Non-Essential proceedings shall be heard by the Assigned Judge and will occur virtually.
7. 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.
8. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
9. **Only Essential Staff may report to the courthouse for work. All judges and Chambers staff should report to the courthouse. Any requests for exemptions must be discussed with the Administrative Judge.**
10. **All deadlines established per judicial directive (including those contained in scheduling orders, service dates and "local rules") that occur on or after March 17, 2020 and during the pendency of this Administrative Order shall be extended for a period of 90 days from the date of the stated deadline, unless otherwise directed by the Assigned Judge or agreed upon by the parties (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 and Executive Order 202.14 signed by the Governor on April 7, 2020 with regard to statutory deadlines and time frames.**
11. 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.

12. All vouchers submitted pursuant to County Laws § 722-b(4); 722(c), and **Judiciary Law § 35(8)** are deemed approved pursuant to the Amended Orders signed by the Administrative Judge of the Ninth Judicial District dated March 20, 2020, April 1, 2020 and April 21, 2020.
13. “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 signed by the Administrative Judge of the Ninth Judicial District March 20, 2020.
14. **Initial requests to schedule a virtual hearing on an application to postpone a Felony Hearing for “good cause” shall be made to the Hon. Barry E. Warhit, Supervising Judge of the Criminal Parts Ninth Judicial District by e-mail to VirtualWestchesterCountyCityCourt@nycourts.gov, with copy to bwarhit@nycourts.gov and mberjam@nycourts.gov**
15. **All filings shall be pursuant to AO/111/2020 and any amendments thereto signed by the Chief Administrative Judge of the Courts on May 15, 2020.**

B. Supreme Civil

1. All non-essential matters **shall be addressed by the Assigned Judge and appropriately scheduled.**
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 other matter determined to be essential after application by the Assigned Justice or Designated Justice to the Administrative Judge.
3. 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.
4. 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, as extended by Executive Order 202.14 signed by the Governor on April 7, 2020 and Executive Order 202.28 signed by the Governor on May 7, 2020.

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 greater than 30 days.**
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 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.

3. "Grand juries set to be impaneled within term six 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/113/20 signed by Deputy Chief Administrative Judge Vito Caruso on May 16, 2020.
4. 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 **Assigned Judge**.
2. **Pursuant to the memorandum of Chief Administrative Judge Lawrence Marks dated April 30, 2020, "Problem-solving courts may conduct virtual court conferences with counsel, court staff, service providers, and where practicable clients via Skype for Business."**
3. **The Assigned Judge may make application to the Coordinating Judge of Treatment Courts to have a matter deemed essential. The Coordinating Judge of Treatment Courts, after consultation with the Administrative Judge, shall permit a matter to proceed if warranted.**

E. Family Court

1. **All non-essential matters shall be addressed by the Assigned Judge and appropriately scheduled.**
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 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. Judges are required to immediately bring to his/her Supervising Judge's attention any Permanency Planning Hearings that pursuant to existing Federal or State Law require a determination that the matter be deemed essential so as to provide a timely calendar date.
4. All remand/removal/placement orders issued in the Ninth Judicial District under Family Court Act Articles 3, 6, 7, 8 and 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.

5. **All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge or Designated Judge, at a minimum, at least once every fourteen days.**

F. Surrogate's Court

1. **All non-essential matters shall be addressed by the Assigned Judge and appropriately scheduled.**
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 contained in Administrative Order AO/99/20 signed by the Chief Administrative Judge of the Courts on May 15, 2020 and other matters as determined to be essential after application by the Surrogate to the Administrative Judge.

G. City Court

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 greater than 30 days.**
2. **All non-essential Civil matters shall be addressed by the Assigned Judge and appropriately scheduled.**
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 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.

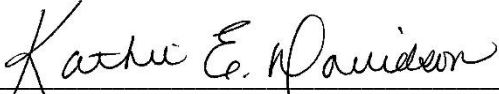
H. Town and Village Courts

1. All non-essential matters are administratively adjourned until a date on or after June 15, 2020 for defendants not in custody and for civil matters. **With regard to defendants in custody, misdemeanor cases shall be reviewed by the Assigned Judge and, if necessary, the Assigned Judge may have a conference with counsel on the matter. If after that conference, counsel is requesting that a matter be heard, such request to be heard shall be brought by counsel to the Designated Judge in the Centralized Part. All matters involving a defendant in custody shall be adjourned to a date no later than June 5, 2020.**
2. "Essential matters" include 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 Special Counsel. Special Counsel, in consultation with the Administrative Judge, shall permit a matter to proceed if warranted.

3. **All arraignments shall be heard in the Centralized Arraignment Part. After hour arraignments will be done virtually in accordance with the approved distributed plans. All requests to amend virtual arraignment plans shall be brought to Special Counsel who shall review and request approval and notification to proceed, notification of approval will come from Special Counsel.**
4. **Town and Village Judges may virtually hear after-hour requests for search warrants, arrest warrants and administrative warrants and Judges shall maintain a log as previously directed.**

Dated: May 28, 2020
White Plains, New York



Hon. Kathie E. Davidson
Administrative Judge
Ninth Judicial District

Distribution:
HON. VITO CARUSO