

**OFFICE OF THE ADMINISTRATIVE JUDGE**  
10<sup>TH</sup> Judicial District - Nassau County



**MEMORANDUM**

To: Nassau County Legal Community  
From: Hon. Norman St. George, District Administrative Judge  
Date: August 14, 2020  
Re: Return to In-Person Operations for Nassau County-Phase 4.1

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As the Nassau County Courts' Return to In-Person Operations Plan evolves, I will continue to provide periodic updates detailing how In-Person Operations will expand in a manner that strives to ensure the health and safety of all individuals who enter our Courthouses. As always, Nassau County's Legal Community has my sincere thanks for their patience with the Return to In-Person Operations process and for their tremendous cooperation throughout the process.

The Nassau County Courts have been approved to begin another expansion of In-Person Operations. Phase 4.1 of the Return to In-Person Operations commences on Monday August 17, 2020. The highlight of Phase 4.1 will be the return of jury trials in Nassau County.

**GENERAL PROVISIONS**

*Operational Considerations:*

For Phase 4.1, all of the General Safety Protocols previously implemented, including Cleaning and Sanitizing regimens that were designed to help protect the health and safety of all individuals coming into the Courthouses in Nassau County, will remain in effect and be enhanced during the implementation of Phase 4.1. Masks must be worn at all times by anyone entering any Courthouse. All visitors to any Courthouse shall be screened by Court Officers for potential Covid-19 infection, including thermal temperature screenings, as established in the protocols developed by the Office of Court Administration.

## In-Person and Virtual Matters

1. The following matters shall be presumptively heard In-Person. However, upon application by any of the parties, the Assigned Judge may agree to allow the matter to proceed virtually based on the circumstances presented.
  - a. Supreme Court
    - i. Trials
    - ii. Evidentiary Hearings
    - iii. Inquests
    - iv. All appearances and conferences where at least one party is self-represented
    - v. Essential Matters
  - b. County Court (Incarcerated Defendants shall appear virtually, unless otherwise directed by the Judge)
    - i. Trials
    - ii. Evidentiary Hearings
    - iii. Non-custodial arraignments
    - iv. Waivers of Indictment, Pleas and Sentences for non-custodial defendants
    - v. Motion arguments
    - vi. Treatment Court and Judicial Diversion where the Judge determines that an appearance is necessary to protect the health and safety of a defendant
    - vii. Grand Jury proceedings (commencing on or after July 13, 2020)
    - viii. Essential Matters
  - c. Family Court
    - i. All Evidentiary Hearings (priority given to matters filed first)
    - ii. Child Support proceedings
    - iii. Permanency Hearings
    - iv. Article 10 Consents, Admissions and Surrenders
    - v. Essential Matters
  - d. Surrogate's Court
    - i. Citations and Show Cause orders
    - ii. Bench Trials
    - iii. Evidentiary Hearings
    - iv. All appearances and conferences where at least one party is self-represented
    - v. Essential Matters
  - e. District Court - Civil
    - i. Bench Trials
    - ii. Evidentiary Hearings
    - iii. Small claims matters, including the small claims arbitration program.
    - iv. Essential Matters
    - v. Desk Appearance Tickets

- f. District Court - Criminal (Incarcerated Defendants shall appear virtually, unless otherwise directed by the Judge)
  - i. Bench Trials
  - ii. Evidentiary Hearings
  - iii. Desk Appearance Tickets Arraignments
  - iv. Vehicle & Traffic Appearances
  - v. Pleas and Sentences for non-custodial defendants
  - vi. Motion arguments
  - vii. Treatment Court where the Judge determines that an appearance is necessary to protect the health and safety of a defendant.
  - viii. Essential Matters
2. The following matters shall be presumptively heard virtually. However, upon application by any of the parties, the Assigned Judge may agree to allow the matter to proceed In-Person based on the circumstances presented.
  - a. Supreme Court
    - i. All conferences, including preliminary conferences, compliance conferences, and foreclosures where all parties are represented by counsel
    - ii. Motion arguments where all parties are represented by counsel
    - iii. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20)
    - iv. All other proceedings not listed in (1)(a) above
  - b. County Court
    - i. Conferences
    - ii. Waivers of Indictment, pleas and sentences where the defendant is incarcerated
    - iii. Felony Exams/Preliminary Hearings
    - iv. All other proceedings not listed in (1)(b) above
  - c. Family Court
    - i. Conferences
    - ii. Juvenile Delinquency Proceedings
    - iii. Person In Need of Supervision Proceedings
    - iv. Adoptions
    - v. Appearances calendars
    - vi. All other proceedings not listed in (1)(c) above
  - d. Surrogate's Court
    - i. Conferences where all parties are represented by counsel
    - ii. Motion Arguments where all parties are represented by counsel
    - iii. Adoptions
    - iv. All other proceedings not listed in (1)(d) above
  - e. District Court - Civil
    - i. Conferences

- ii. Motion arguments
- iii. All other proceedings not listed in (1)(e) above

f. District Court - Criminal

- i. Conferences
- ii. Pleas and sentences where the defendant is incarcerated
- iii. All other proceedings not listed in (1)(f) above

3. Jury Trials

- a. Petit Civil Jury Trials in Supreme Court will be conducted in October according to the written protocols developed by the Administrative Judge in consultation with the Deputy Chief Administrative Judge for the Courts Outside New York City.
- b. In light of the success and positive feedback regarding the impaneling of Grand Juries in Nassau County during Phase Three of the Return to In-Person Operations, Petit Criminal Jury trials in the County Court will commence in November.

i. Civil Jury Trials

- 1. Summonses for Civil Jury Trials may be mailed in Term 10.
- 2. Civil Jury Trials shall commence in Term 11.
- 3. Following the completion of a Civil Jury Trial, the District shall review the jury trial protocols with the presiding Judge, lawyers, and to the extent possible, the jurors, to determine if any part of the protocols should be modified.

ii. Criminal Jury Trials

- 1. Summons for Criminal Jury Trials may be mailed in Term 11
- 2. Criminal Jury Trials shall commence in Term 12.
- 3. Following the completion of a Criminal Jury Trial, the District shall review the jury trial protocols with the presiding Judge, lawyers, and to the extent possible, jurors, to determine if any part of the protocols should be modified.

- c. Prior to the scheduling of any case for trial and again immediately prior to jury selection, there shall be a robust effort to resolve the case through settlement or plea.

- 4. All virtual matters shall be held via Skype for Business. Included in the Skype for Business invitation is a call-in number for lawyers and litigants that do not have access to Skype for Business video. In the event that a self-represented litigant is unable to access Skype for Business, arrangements shall be made at the courthouse for the litigant to appear virtually.

5. Commercial and Residential Eviction matters may proceed pursuant to the protocols established in the Memorandum from Chief Administrative Judge Lawrence Marks dated August 12, 2020 and pursuant to Administrative Order AO/160/20. A copy of the Memorandum and Administrative Order are attached.
6. Foreclosure matters may proceed pursuant to the protocols 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.
7. Default Judgments shall not 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.
8. ADR shall be conducted virtually (Chief Administrative Judge Lawrence Marks' AO/87/20).
9. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program will occur virtually.
10. Small Claims Assessment Review ("SCAR") proceedings shall be conducted virtually.



Lawrence K. Marks  
Chief Administrative Judge

25 Beaver Street  
New York, N.Y. 10004  
(212) 428-2100

MEMORANDUM

August 12, 2020

To: Hon. George J. Silver  
Hon. Vito C. Caruso

From: Lawrence K. Marks *LM*

Subject: Revised Procedure for Addressing Residential and Commercial  
Eviction Proceedings

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In light of recent revisions in statewide restrictions on the filing and prosecution of eviction matters in New York State arising during the course of the COVID-19 public health emergency, attached please find a copy of AO/160/20 (Attachment A), which amends the temporary protocol for handling of those proceedings in several significant respects. In brief: (1) eviction proceedings filed on or after March 17, 2020 continue to be suspended; (2) cases filed before March 17 may proceed; (3) residential eviction cases filed before March 17 – including cases where a warrant of eviction has already issued but not been executed – must be conferenced before a judge before any further action is taken, and no outstanding or new residential warrants of eviction may be executed prior to October 1, 2020; and (d) commercial evictions may proceed without a conference. The order is described in further detail below.

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1. Effective August 13, 2020, eviction matters commenced prior to March 17, 2020 may be resumed, with certain important caveats:

(a) Further proceedings in particular matters (both commercial and residential) may continue to 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,” set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.<sup>1</sup>

(b) Commercial Matters: A stay of commencement and enforcement of commercial eviction matters against certain tenants (including those “facing financial hardship due to the COVID-19 pandemic”), initiated by Governor

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<sup>1</sup> Executive Order 202.55 extended this suspension through September 4, 2020.

Cuomo's Executive Order 202.28, remains in effect through August 19, 2020. Commercial eviction matters may otherwise proceed in the normal course (subject to paragraph 1[a]).

(c) Residential Matters: Prior to any further proceedings in any residential eviction matter commenced prior to March 17 – including matters in which judgments and warrants of eviction have issued and been delivered to enforcement agents (but not yet executed) – the court must hold a status or settlement conference to address a range of subjects related to the case and COVID-19 concerns, including the availability of relief under the New York Tenant Safe Harbor Act (L. 2020, c. 127) and other state or federal edicts.

- After holding such a conference, the court may take whatever further steps it deems appropriate, including deciding any pending motion, entertaining other applications, or allowing the matter to move forward in the normal course (subject to paragraph 1[a]).
  - No residential eviction may take place prior to October 1, 2020 or – in the event of a future state or federal moratorium on evictions – such later date or dates set forth in law.
2. Eviction proceedings commenced on or after March 17 – whether residential or commercial, nonpayment or holdover– shall continue to be suspended.
  3. Filing and service of documents in eviction proceedings continue to be governed by AO/121/20. Consequently, initiating documents by represented petitioners must be filed through NYSCEF or mail only at this time. (Unrepresented parties may file papers in person.)
  4. Eviction proceedings should be conducted remotely whenever the court deems it appropriate for the health, safety and convenience of participants.
  5. Commencement papers in commercial and residential eviction proceedings must continue to include the form notice indicating that respondent-tenants may be eligible for an extension of time to respond to the complaint.
  6. Eviction matters within the City of New York shall be governed by AO/160/20 and the procedures set forth in New York City Civil Court DRP 213.
  7. Administrative Order AO/127/20 is superseded.

Please distribute this memorandum and attachments to judges and non-judicial staff as you deem appropriate.

Attachment

cc: Hon. Anthony Cannataro

**Attachment A**



**ADMINISTRATIVE ORDER OF THE  
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

[corrected 8/13/20]

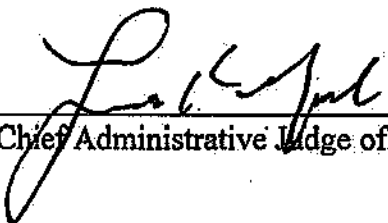
Pursuant to the authority vested in me, at the direction of the Chief Judge, and consistent with the Governor's determination approving the easing of restrictions on commerce imposed due to the COVID-19 health emergency, I hereby direct that, effective August 13, 2020, notwithstanding the terms of any prior administrative order, the following procedures and protocols shall apply to the conduct of residential and commercial eviction matters before the New York State courts:

1. Commercial Eviction Matters Commenced Prior to March 17, 2020: Commercial eviction matters commenced prior to March 17, 2020 may proceed in the normal course, subject to the following:
  - a. Consistent with Executive Order 202.28, as modified by Executive Order 202.48, "[t]here shall be no initiation of a proceeding or enforcement of ... an eviction of any ... commercial tenant, for nonpayment of rent ... rented by someone that is eligible for unemployment insurance or benefits under state or federal law or otherwise facing financial hardship due to the COVID-19 pandemic" for a period of sixty days beginning on June 20, 2020.
  - b. Further proceedings in commercial eviction matters 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," set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.
2. Residential Eviction Matters Commenced Prior to March 17, 2020: Effective August 13, 2020, residential eviction matters commenced prior to March 17, 2020 may proceed as follows:
  - a. Prior to conducting any further proceedings in any pending residential eviction matter filed prior to March 17, 2020, the court must initiate a status or settlement conference. This requirement shall apply in all matters at any stage of the eviction process, including any matter where a warrant of eviction has issued and been delivered to an enforcement agent but has not been executed.
  - b. At the conference, the court shall review the procedural history of the matter; confirm compliance with notice requirements; inquire into the effects, if any, that the COVID-19 pandemic has had upon the parties; review any special relief under state or federal law to which the parties may be entitled in light of the pandemic, including the New York Tenant Safe Harbor Act (L. 2020, c. 127); refer unrepresented parties to local

civil legal service providers and housing counseling agencies; assess any pending and anticipated motions; approve briefing schedules proposed by stipulation of the parties; and use best efforts (including referral to alternative dispute resolution) to resolve any outstanding issues.

- c. Following the conference, the court may take such further steps as it deems appropriate, including allowing the matter to proceed. If the court directs an eviction to proceed following the conference, the eviction shall be scheduled or rescheduled to take place no sooner than October 1, 2020.
  - d. Further proceedings in residential eviction matters 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,” set forth in Executive Orders 202.8, 202.14, 202.28, 202.38, 202.48, and 202.55.
  - e. In ordering relief in any residential eviction matter, the court should remain particularly mindful of additional prohibitions on evictions that may be commanded by executive order, state statute, or federal law.
3. **Continued Suspension of Eviction Matters Commenced After March 16, 2020:** Eviction proceedings commenced after March 16, 2020 shall, upon the filing of a petition (if no answer is filed thereafter) or the filing of an answer, be suspended until further order. Notwithstanding the foregoing, eviction matters in which all parties are represented by counsel shall be eligible for calendaring for virtual settlement conferences.
  4. **Filing and Service:** Filing and service of process in eviction proceedings shall continue as set forth in Administrative Order AO/121/20.
  5. **Notice to Respondent Tenant:** Petitions in eviction proceedings pursuant to Article 7 of the Real Property Actions and Proceedings Law shall continue to include a Notice to Respondent Tenant in the form attached as Exh. 1a (if filing within the City of New York) or Exh. 1b (if filing outside the City of New York).
  6. **Remote Proceedings:** Eviction proceedings should be conducted remotely whenever appropriate.
  7. **Essential Matters:** This order shall not affect procedures for the filing and service of essential matters.
  8. **New York City:** In addition to the applicable provisions of this Administrative Order, eviction matters before the New York City Housing Court shall also be governed by DRP 213 of the Civil Court of the City of New York.

9. This order supersedes Administrative Order AO/127/20, and further supersedes the provisions of any other Administrative Order inconsistent with its terms.

  
\_\_\_\_\_  
Chief Administrative Judge of the Courts

Dated: August 13, 2020

AO/160A/20

**NOTICE TO RESPONDENT TENANT**

**DURING THE CORONAVIRUS EMERGENCY, YOU  
MIGHT BE ENTITLED BY LAW TO TAKE ADDITIONAL  
DAYS OR WEEKS TO FILE AN ANSWER TO THIS  
PETITION.**

**PLEASE CONTACT YOUR ATTORNEY FOR MORE  
INFORMATION.**

**IF YOU DON'T HAVE AN ATTORNEY, PLEASE CALL**

**718-557-1379**

**OR VISIT**

**[www.nycourts.gov/evictions/nyc/](http://www.nycourts.gov/evictions/nyc/)**

**AVISO A INQUILINO DEMANDADO**

**DURANTE LA EMERGENCIA DEL CORONAVIRUS,  
ES POSIBLE QUE USTED TENGA DERECHO POR LEY  
A TOMAR DÍAS O SEMANAS ADICIONALES  
PARA PRESENTAR UNA RESPUESTA  
A ESTA PETICIÓN**

**POR FAVOR CONTACTE A SU ABOGADO PARA MAS  
INFORMACIÓN.**

**SI USTED NO TIENE UN ABOGADO, LLAME AL**

**718-557-1379**

**O VISITE**

**[www.nycourts.gov/evictions/nyc/](http://www.nycourts.gov/evictions/nyc/)**

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**[www.nycourts.gov/evictions/outside-nyc/](http://www.nycourts.gov/evictions/outside-nyc/)**

**FOR MORE INFORMATION.**

**AVISO A INQUILINO DEMANDADO**

**DURANTE LA EMERGENCIA DEL CORONAVIRUS,  
ES POSIBLE QUE USTED TENGA DERECHO POR LEY  
A TOMAR DÍAS O SEMANAS ADICIONALES  
PARA PRESENTAR UNA RESPUESTA  
A ESTA PETICIÓN**

**POR FAVOR CONTACTE A SU ABOGADO PARA MAS  
INFORMACIÓN.**

**SI USTED NO TIENE UN ABOGADO, VISITE  
[www.nycourts.gov/evictions/outside-nyc/](http://www.nycourts.gov/evictions/outside-nyc/)**