

**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: November 18, 2020

Re: Updated Operating Protocols for Nassau County Courts

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For the past many months, the Unified Court System, and by extension, the Nassau County Courts, has permitted the gradual increase of in-person proceedings in conjunction with the Governor's un-Pause New York Plan. The courts have re-opened in different phases that mirrored the Governor's plan. Foot traffic in the courthouses was gradually increased to correspond with an improvement in the metrics measuring the spread of Coronavirus. In recent weeks, however, those metrics have changed, demonstrating an increased spread of the virus and indicating the need to once again reduce foot traffic in the courthouses to protect the health and safety of litigants, lawyers, courts staff and judges.

As you may be aware, Chief Administrative Judge Lawrence Marks signaled the start of this process with his November 13, 2020 memorandum suspending new Jury Trials and new Grand Juries throughout New York State effective Monday, November 16, 2020. Judge Marks further directed that all future Bench Trials and Evidentiary Hearings (excluding Family Court) will be conducted virtually unless otherwise approved. The November 13, 2020 memo is incorporated by reference herein. This memorandum is intended to provide enhanced guidance on the implementation of that memo and the updating Operating Protocols for the Courts in Nassau County.

Please be aware that the Administrative Judge may, based on local conditions, enact more restrictive operational protocols deemed appropriate by the Administrative Judge.

This Plan should be considered an update to the Return to In-Person Operations Plan effective October 19, 2020 and to Judge Marks' Memorandum "Revised Pandemic Procedures in

the Trial Courts” dated November 13, 2020. Commencing Monday, November 23, 2020 all court operations in the Tenth Judicial District, Nassau County shall be conducted pursuant to this Plan.

## I. Courthouse Operations

### A. Scheduling

1. Any “In-Person” calendar times shall be staggered where possible and appropriate.
2. No more than 50% of the number of courtrooms in a facility will be in use at the same time. Any conflict will be resolved by the Chief Clerk working with the Chambers of the Supervising Judge.
3. No more than 50% of the Judges/referees/magistrates of one court type may hold In-Person calendars at any one time.
4. In each court, there shall be a maximum of 10 cases/proceedings scheduled in-person per hour.

B. Occupancy of all courtrooms shall be limited to the lesser of 10 people or ½ the posted room occupancy per code. An exception shall be granted for ongoing Jury Trials, ongoing Bench Trials, or ongoing Grand Juries currently in progress (in those instances, occupancy shall be limited to the lesser of 25 people or ½ the posted room occupancy per code). Any exceptions that were previously granted to the occupancy limits are rescinded until further notice.

C. The number of non-judicial staff reporting to the Courthouse shall be reduced at the discretion of the Administrative Judge to the minimum number necessary to ensure safe operation and to ensure sufficient “remote” staff is available to replace the staff reporting to the courthouse in the event there is a workplace Coronavirus exposure. All staff not reporting to the courthouse shall work remotely.

D. All current safety measures and protocols will continue. Court managers and PPE Compliance Coordinators shall take steps to enhance monitoring and compliance with all safety measures including social distancing at all times.

## II. Court Proceedings

A. No new prospective Trial Jurors (criminal or civil) will be summoned for jury service until further notice. Pending Criminal and Civil jury trials will continue to conclusion.

B. No new prospective Grand Jurors will be summoned for Grand Jury service until further notice. Existing grand juries, pursuant to Section 190.15 of the Criminal Procedure Law, may continue until completion of their term or work. Thereafter, only upon application of the appropriate District Attorney to the Administrative Judge.

C. Notwithstanding any other provision herein, where an In-Person proceeding involves an incarcerated individual, that individual shall appear virtually utilizing electronic means unless the presiding Judge orders otherwise after appropriate application is made.

D. Matters that may be heard In-Person (or a hybrid of In-Person and virtual) provided that the Presiding Judge first finds that it is unlawful or impractical to conduct the proceeding virtually:

1. Matters as designated in Exhibit A
2. Family Court Act Article 10 Evidentiary Hearings

3. Permanency Hearings
  4. Criminal Preliminary Hearings
  5. Pleas and Sentences
  6. Arraignments
- E. Matters that may be heard In-Person (or a hybrid of In-Person and virtual)
1. Treatment Court and Judicial Diversion appearances where the presiding Judge determines, in consultation with Supervising Judge, that an appearance in an acute case is necessary to protect the health and safety of a defendant.
  2. Any proceeding involving a self-represented litigant(s) where the presiding Judge determines that holding the proceeding via Microsoft Teams denies the self-represented litigant(s) meaningful access to the proceeding and where the presiding Judge determines that the matter can be heard In-Person consistent with all OCA safety protocols.
- F. All other matters must be heard virtually using Microsoft Teams, including but not limited to:
1. Bench Trials in Civil and Criminal cases. (For compelling reasons, the presiding Judge may forward a request for permission to conduct a Bench Trial In-Person to the Administrative Judge. If deemed appropriate, the Administrative Judge will forward the request to the Deputy Chief Administrative Judge, whose permission is required if the matter is to be held In-Person.)
  2. Evidentiary Hearings in Civil and Criminal Cases. (For compelling reasons, the presiding Judge may forward a request for permission to conduct a hearing In-Person to the Administrative Judge. If deemed appropriate, the Administrative Judge will forward the request to the Deputy Chief Administrative Judge, whose permission is required if the matter is to be held In-Person.)
  3. Motion arguments
  4. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20)
  5. ADR where both parties are represented by counsel and counsel will be present.
  6. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program
  7. Small Claims Assessment Review proceedings.

Thank you for your continued cooperation, patience and flexibility. Stay Safe and Healthy.

## Exhibit A

- A. Criminal matters
  - 1. arraignments
  - 2. bail applications, reviews and writs
  - 3. temporary orders of protection
  - 4. resentencing of retained and incarcerated defendants
  - 5. essential sex offender registration act (SORA) matters
  
- B. Family Court
  - 1. child protection intake cases involving removal applications
  - 2. juvenile delinquency cases involving remand placement applications, or modification thereof
  - 3. emergency family offense petitions/temporary orders of protection
  - 4. orders to show cause
  
- C. Supreme Court
  - 1. MHL applications for an assisted outpatient treatment (AOT) plan
  - 2. emergency applications in guardianship matters
  - 3. temporary orders of protection (including but not limited to matters involving domestic violence)
  - 4. emergency applications related to the coronavirus
  - 5. emergency Election Law applications
  - 6. extreme risk protection orders (ERPO)
  
- D. Civil/Housing matters
  - 1. applications addressing landlord lockouts (including reductions in essential services)
  - 2. applications addressing serious code violations
  - 3. applications addressing serious repair orders
  - 4. applications for post-eviction relief
  
- E. Surrogate's Court - Any matter involving an individual who passed away due to COVID-related causes.