



SEVENTH 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; and

WHEREAS the Courts of the Ninth Judicial District commenced Phase I of the Return to In-Person Operations Plan (“RIOP”) on May 27, 2020, Phase II of the RIOP on June 11, 2020, Phase III of the RIOP on June 25, 2020 and anticipate commencing Phase IV of the RIOP on July 9, 2020 (Attachment A - Highlights and Summaries) ; is hereby

ORDERED that effective immediately the following rules be put into effect in the Ninth Judicial District until rescinded.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

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 June 18, 2020 and pursuant to Administrative Order AO/127/20 (“Evictions matters in which all parties are represented by counsel shall be eligible for calendaring for virtual settlement conferences”)**. All other eviction proceedings are stayed; no eviction orders shall be signed or served. Further reference is made to the Administrative Order

AO/68/20 signed by the Chief Administrative Judge 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 by the Governor on 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 the County of their residence and any adjoining County. * effective March 16, 2020, *nunc pro tunc*.
4. The Return to In-Person Operations Plan ("RIOP") (Phase I) implemented on May 27, 2020, the RIOP (Phase II) implemented on June 11, 2020, **the RIOP (Phase III) implemented on June 25, 2020, the RIOP (Phase IV) to be implemented on July 9, 2020** and any RIOP plans 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 Ninth Judicial District Administrative effective April 6, 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.
6. Occupancy of ALL courtrooms and meeting rooms in Court Facilities and other rooms where court functions occur shall be limited to the lesser of **25** people or $\frac{1}{2}$ the posted room occupancy per code unless the necessary parties in an action require that more than **25** people be in a courtroom. Notwithstanding the above, in all instances the maximum occupancy of any space in the courthouse shall be limited to $\frac{1}{2}$ the posted room occupancy. To the greatest extent possible, all room occupants shall remain six feet apart.
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 deadlines established per judicial directive (including those contained in scheduling orders, service dates and "local rules") that occur on or after June **30**, 2020 and during the pendency of this Administrative Order shall be extended for a period of **30** 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, 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 with regard to statutory deadlines and time frames.

10. 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.
11. 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 and any amendments thereto).

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 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. 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 June 23, 2020 and pursuant to Administrative Order AO/131/20 (“Foreclosure matters in which all parties are represented by counsel shall be eligible for calendaring for both initial and follow-up virtual settlement conferences”)**. Further reference is made to Administrative Order AO/68/20 signed by the Chief Administrative Judge 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 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 that is greater than 30 days.
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 other matters

determined to be essential after application by the Assigned 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 until further order." 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. **A Grand Jury will be impaneled in each County on July 13, 2020 and thereafter pursuant to the schedule established in the Amended Annual Order pursuant to Chief Administrative Judge Lawrence Marks AO/130/20.**
5. The Accessible Magistrate procedure (for Adolescent Offenders and Juvenile Offenders) currently in place shall continue.

D. Treatment Courts/OSP

1. Treatment courts and Opioid Stabilization Parts will be handled by the Assigned Judge and reference is made to Paragraph (1)(j) of the Phase IV RIOP Summary.
2. Pursuant 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."
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 Assigned Judge to the Supervising Judge. The Supervising Judge, in consultation with the Administrative Judge, shall permit a matter to proceed if warranted.
3. 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 **30** days from the date the order is scheduled to expire, unless the order is terminated or modified by the Assigned Judge. To the extent practicable, the Assigned Judge shall issue an amended order and the lawyers and pro-se litigants notified.
4. All cases involving a youth that is currently in detention shall be reviewed by the Assigned 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

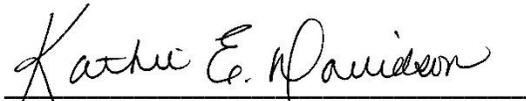
1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing 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 is 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 Assigned 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. **Arraignments may be heard in person or virtually pursuant to approved virtual arraignment plans.**
2. Preliminary hearings. In-custody defendants should appear virtually unless otherwise ordered by the Presiding Judge after appropriate application by one of the parties. The Centralized Part shall remain a backup for courts that are closed.
3. Criminal and Civil Bench Trials and Hearings. These must be scheduled one at a time. In-custody defendants should appear virtually unless otherwise ordered by the Presiding Judge after appropriate application.
4. Pleas and sentences may be scheduled for in-custody defendants if sentence would result in the release of the defendant, matter shall be heard in-person but defendant shall appear virtually.
5. In-person arraignments on appearance tickets written before June 1, 2020, may be scheduled.
6. In-person pleas and sentences for out of custody defendants, so long as the sentence does not include incarceration.

7. Courts may schedule in-person motion argument.
8. Courts may schedule in-person Town Code Violations
9. Judges may hold in-person appearances regarding appeals
10. Judges may hear in-person small claims , civil and dangerous dog matters.
11. Judges may hold in-person appearance ticket or criminal summons returns where the court is notified of a request for an arraignment by either the prosecution or the defense.
12. Housing matters (Landlord/Tenant and evictions) may proceed in accordance with Judge Marks' Administrative Order AO 127/20 and for the purposes of Alternative Dispute Resolution (ADR) and settlements where all parties are represented by counsel.
13. Lockouts shall be brought to the Centralized Part.

Dated: July 8, 2020
White Plains, New York



Hon. Kathie E. Davidson
Administrative Judge
Ninth Judicial District

Distribution:
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