



### **THIRD AMENDED ADMINISTRATIVE ORDER NINTH JUDICIAL DISTRICT**

Pursuant to the authority vested in me, and in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System, I hereby order that effective immediately the following rules be put into effect in the Ninth Judicial District until rescinded.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 chambers staff of Designated Judges, chambers staff of additional judges as designated by the Administrative Judge and non-judicial staff as designated by the District Executive.

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

1. Pending eviction proceedings are stayed; no eviction orders shall be signed or served. Reference is made to Executive Order 202.8 signed by the Governor on March 20, 2020 with regard to eviction matters.
2. No default judgments shall be granted.
3. All Family Court and all County Court Judges are cross-assigned to the County and Family Courts in all counties of the District.
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 Third Amended Administrative Order shall be read in conjunction with the Virtual Courtroom Protocol.**
5. All Essential Court proceedings will occur **virtually** from the locations described in Attachment A and presided over by the judges listed in Attachment B unless otherwise approved by the Administrative Judge.
6. 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.
7. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
8. After 5:00 PM on March 16, 2020 only Designated Judges and Essential Staff may report to the courthouse for work unless approved by the Administrative Judge. **After 9:00 AM on April 13, 2020, entrance to the courthouse by Chambers Staff and Judges shall be by permission of the Administrative Judge or his/her designee.**

9. All deadlines established per judicial directive (including those contained in scheduling orders, service dates and “local rules”) that occur during the pendency of this Administrative Order shall be extended for a period of 90 days from the date of the stated deadline, unless further application is made **or the parties agree otherwise** (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 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 vouchers submitted pursuant to County Law § 722-b(4) are deemed approved pursuant to the Orders signed by the Administrative Judge of the Ninth Judicial District dated March 20, 2020 and April 1, 2020
12. “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 dated March 20, 2020.

## **B. Supreme Civil**

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (to be determined by the Assigned or Designated Judge - Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned dates).
2. All civil trials that have commenced may continue.
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 other matter determined to be essential after application by the Assigned Justice or Designated Justice to the Administrative Judge.
4. 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.
5. 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 with regard to foreclosures.

## **C. Superior Court Criminal Cases**

1. Any trial in which jeopardy has attached will continue.

2. For Defendants not in custody, all non-essential matters are administratively adjourned to a date on or after **May 30, 2020 or to another date selected by the Assigned Judge in consultation with the District Attorney and Defense Attorney. With regard to defendants in custody, all matters are administratively adjourned to May 7, 2020 or to another date selected by the Assigned Judge in consultation with the District Attorney and Defense Attorney. Prior to May 7, 2020 each Assigned Judge shall review each case in which a defendant is in custody. In no event shall the matter be adjourned to a date that is more than 30 days from the date the matter is reviewed by the Judge.** Essential Staff or Chambers Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned date.
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 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.
4. "Grand juries set to be impaneled within terms four and five 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/77/20 signed by Deputy Chief Administrative Judge Vito Caruso on March 21, 2020.
5. 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 designated City Court Judge or the designated County Court Judge in counties with no City Court.
2. Treatment courts will continue to the extent appearances are deemed essential in acute cases by the designated judge after application to the Coordinating Judge of Treatment Courts. The Coordinating Judge of Treatment Courts, after consultation with the Administrative Judge, shall permit a matter to proceed if warranted.
3. Essential Staff designated to work in these Courts shall be responsible for notifying attorneys or pro-se defendants of the adjourned dates.

#### **E. Family Court**

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (to be determined by the Assigned or Designated Judge - Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned dates).
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.

#### **F. Surrogate's Court**

1. All non-essential matters are administratively adjourned until a date on or after April 30, 2020 (to be determined by the assigned or designated judge - Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned dates).
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 other matters as determined to be essential after application by the Surrogate to the Administrative Judge.

#### **G. City Court**

1. For Defendants not in custody, all non-essential matters are administratively adjourned to a date on or after **May 30, 2020 or to another date selected by the Assigned Judge in consultation with the District Attorney and Defense Attorney. With regard to defendants in custody, all matters are administratively adjourned to May 7, 2020 or to another date selected by the Assigned Judge in consultation with the District Attorney and Defense Attorney. Prior to May 7, 2020 each Assigned Judge shall review each case in which a defendant is in custody. In no event shall the matter be adjourned to a date that is more than 30 days from the date the matter is reviewed by the Judge.** Essential Staff shall be responsible for notifying attorneys or pro-se litigants of the adjourned date.
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 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 May 30, 2020 for defendants not in custody and for civil matters. With regard to defendants in custody, all matters are administratively adjourned to May 7, 2020 or to another date selected by the Designated Judge in consultation with the District Attorney and Defense Attorney. Prior to May 7, 2020, the Designated Judge shall review each case in which a defendant is in custody. In no event shall the matter be adjourned to a date that is more than 30 days from the date the matter is reviewed by the Judge.** Town and Village staff shall be responsible for notifying attorneys or pro-se litigants/defendants of the adjourned dates.
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 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. Any matter scheduled prior to 5:00 PM on March 16, 2020 shall be adjourned to a date on or after April 30, 2020 using the Court notification system. Town and Village personnel should post a sign, phone message, and on the court website, indicating that defendants should check back with the Court after April 30, 2020.
4. All arraignments shall be heard in the Centralized Arraignment Part. After hour arraignments will be done virtually upon approval of submitted plans and notification to proceed from Special Counsel.

Dated: April 15, 2020  
White Plains, NY

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HON. KATHIE E. DAVIDSON  
Administrative Judge  
Ninth Judicial District

Distribution:  
HON. VITO CARUSO