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UNIFIED COURT SYSTEM
SUFFOLK COUNTY
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WARREN G. CLARK, Esq.
District Executive

MEMORANDUM

TO: Suffolk County Legal Community

FROM: Hon. Andrew A. Crecca, District Administrative Judge 

DATE: August 19, 2020

RE: Return to In-Person Operations in the 10th Judicial District, Suffolk County - Phase 4.1

As the courts continue their phased-in reopening, I want to provide you with an important update. On August 17, 2020, the Courts in Suffolk County entered into Phase 4.1 of the return to in-person operations. This phase builds upon our reopening efforts to date by providing for enhanced in-person operations in all courts throughout the District, the continued use of virtual technology where we have found it to be appropriate and preferred, and the commencement of civil and criminal jury trials.

As in Phase IV, no more than 50% of the courtrooms in a courthouse will be used for in-person proceedings at the same time, and occupancy of every courtroom in the District will be kept at or below 25% of its maximum capacity. Staffing levels in our buildings will remain at or below 80% of total staff, and employees must adhere to the Self-Assessment and Thermal Temperature Screening Protocol set forth by OCA. We will maintain the protocols currently in place to maintain proper social distancing in the courthouses and screen visitors in accordance with memoranda from OCA.

Listed below are matters that will be presumptively heard in-person as well as those that will be presumptively heard virtually. Please keep in mind, however, that the ultimate decision on how a matter is heard is at the discretion of the presiding Judge.

A. Matters Presumptively In-Person

1. Superior Civil
 - a. Trials
 - b. Evidentiary hearings
 - c. Inquests
 - d. All appearances and conferences where at least one party is self-represented
 - e. Essential Matters

2. Superior Criminal (County Court)

- a. Trials
- b. Evidentiary hearings
- c. Non-custodial arraignments
- d. Waivers of indictment, pleas and sentences for defendants not in custody
- e. Motion arguments
- f. Treatment Court and Judicial Diversion cases where the Judge determines that an appearance is necessary to protect the health and safety of a defendant
- g. Grand Jury proceedings
- h. Instances where the defendant can not be located or communicated with
- i. Essential Matters

3. Family Court

- a. All evidentiary hearings (priority given to matters filed first)
- b. Child support proceedings
- c. Permanency hearings
- d. FCA Article 10 consents, admissions and surrenders
- e. Essential Matters

4. Surrogate's Court

- a. Citations and Show Cause orders
- b. Bench trials
- c. Evidentiary hearings
- d. All appearances and conferences where at least one party is self-represented
- e. Essential Matters

5. District Court Civil

- a. Bench trials
- b. Evidentiary hearings
- c. Small claims matters, including small claims arbitration
- d. Out of custody arraignments on Town Code violations
- e. Essential Matters

6. District Court Criminal

- a. Trials
- b. Preliminary hearings
- c. Evidentiary hearings
- d. Appearance Ticket arraignments
- e. Vehicle & Traffic appearances
- f. Pleas and sentences for defendants at liberty
- g. Motion arguments
- h. Arraignments of defendants accused of a violation of any provision of Article 31 of the Vehicle and Traffic Law (VTL 1190 et seq.)
- i. Treatment court where the Judge determines that an appearance is necessary to protect the health and safety of a defendant
- j. Essential Matters

B. Matters Heard Presumptively Virtually

1. Superior Civil

- a. All conferences, including foreclosures, where all parties are represented by counsel
- b. Motion arguments where all parties are represented by counsel
- c. Mental Hygiene Law proceedings pertaining to a hospitalized adult
(Chief Administrative Judge Lawrence Marks' AO/72/20)
- d. All other proceedings not listed in (A)(1) above

2. Superior Criminal

- a. Conferences
- b. Pleas and sentences where the defendant is incarcerated
- c. Felony examinations
- d. Argument on motions
- e. Bench trials, on consent
- f. All other proceedings not listed in (A)(2) above

3. Family Court

- a. Conferences
- b. Juvenile Delinquency proceedings
- c. Person In Need of Supervision proceedings
- d. Adoptions
- e. Appearance calendars
- f. All other proceedings not listed in (A)(3) above

4. Surrogate's Court

- a. Conferences where all parties are represented by counsel
- b. Motion arguments where all parties are represented by counsel
- c. Adoptions
- d. All other proceedings not listed in (A)(4) above

5. District Court Civil

- a. Conferences
- b. Motion arguments
- c. All other proceedings not listed in (A)(5) above

6. District Court Criminal

- a. Conferences
- b. Pleas and sentences where the defendant is incarcerated
- c. All other proceedings not listed in (A)(6) above

C. Jury Trials

In light of the successful experience impaneling Grand Juries statewide in Term 8, the District will conduct both civil and criminal trials on a pilot basis beginning September 8, 2020. Among other operational considerations in place to protect the health

and safety of all participants, jurors will be summoned on a staggered basis, courtrooms will be arranged to maximize social distancing, jurors will be required to wear face masks, and the courts will provide enhanced cleaning services and make sanitizing stations and wipes available. Following the completion of a jury trial, whether Civil or Criminal, the District will review the jury trial protocol with the presiding judge, lawyers, and to the extent possible, jurors, to determine what portions of the protocol should be modified.

Suffolk plans include expanding upon the District's initial Pilot Jury Trial programs, with the continuation of both criminal and civil petit jury trials pursuant to the following schedule. For Civil Jury Trials, juror summonses will be mailed in Term 10 (commencing September 8, 2020) for trials to be held in Term 11 (commencing October 5, 2020). For Criminal Jury Trials, juror summonses will be mailed in Term 11 and for trials to be held in Term 12 (commencing November 2, 2020).

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

D. Court Specific Implementation

With regard to our various courts, Phase 4.1 will be implemented as follows:

1. Supreme Court. Approximately one-half of the courtrooms will be open daily for selective in-person appearances in both Central Islip and Riverhead, and all in-person appearances will continue to be scheduled in a staggered manner to avoid overcrowding. Foreclosure matters will proceed pursuant to the protocols established in the Memorandum of Judge Marks, dated July 24, 2020, and the accompanying administrative order (AO/157/20). Civil ADR calendars will continue to be conducted on a daily basis. In matrimonial matters, Judges will continue conducting most conferences virtually but will continue to conduct in-person hearings and other proceedings. Virtual conferences are being utilized in all cases including those involving self-represented litigants. The Matrimonial Mediation Center is open and conducting virtual mediations on existing cases with plans to take new referrals starting in September 2020. Small Claims Assessment Review (SCAR) proceedings will be held virtually.

2. County Court. Each criminal part will operate both virtually and in-person. In addition, no more than 50% of these Parts will be used for in-person proceedings on a daily basis. The courtrooms being utilized for in-person proceedings are located on multiple floors and are apart from each other to avoid overcrowding and maintain appropriate distancing.

The previously approved Grand Jury Plan will be followed, and it is anticipated that two Suffolk County Grand Juries will remain in effect until further notice.

3. Family Court. No more than 50% of the courtrooms will be used to conduct in-person proceedings in Central Islip and Riverhead, with all other Parts operating virtually. All courtrooms are configured to handle matters both virtually and in-person.

Custody/visitation and guardianship cases will be calendared. Judges, Referees, and Magistrates will be assigned designated days for in-person appearances and will conduct the remainder of appearances virtually.

4. District Court. The criminal parts will continue to conduct both in-person and virtual proceedings. Courtroom D11, or a similar courtroom, will be utilized for desk appearance ticket ("DAT") calendars to maximize social distancing. These DAT appearances will be staggered to avoid overcrowding at any particular time. In addition, all of the District Court Judges will continue with designated calendar days for in-person appearances. Scheduling will be done in such a manner that there will not be more than 50% of the courtrooms open and no more than 50% of the courtrooms open on any floor in District Court.

The outlying District Courts located in Ronkonkoma, Lindenhurst, Huntington Station, Hauppauge and Patchogue will continue to hear essential matters in-person and non-essential matters virtually. Housing matters may proceed pursuant to the protocol established in the Memorandum from Chief Administrative Judge Lawrence Marks, dated August 12, 2020, and pursuant to Administrative Order AO/160/20. This order allows eviction matters commenced prior to March 17, 2020 to resume with important caveats, including the requirement that the court hold a status or settlement conference for residential eviction matters prior to taking any further steps. Please note that AO/160/20 continues to suspend eviction proceedings commenced on or after March 17, 2020, whether residential or commercial, nonpayment or holdover.

5. Surrogate's Court. The Court will continue to handle both virtual and in-person matters on a selective basis. The in-person matters will be limited to hearings and trials that cannot be conducted virtually, and such other matters as deemed appropriate by the Court.

6. Town and Village Courts. Town and Village Courts will continue to hear all matters as in Phase IV. Phase 4.1 expands in-person proceedings to allow Judges to hold in-person arraignments on all Appearance Tickets, without date limits. Judges may also hold in-person arraignments and calendar town ordinance cases. They may also calendar parking tickets for conferences and dispositions.

E. Default Judgments

Please also be advised that continuing in Phase 4.1, 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 (10th Judicial District, Suffolk County's AO 45-20).

I will remain in touch regarding any further changes in our plans as they continue to evolve. Please know that I greatly appreciate all of your ongoing support and cooperation throughout this process and am here to assist you in any way I can.