



TWELFTH AMENDED ADMINISTRATIVE ORDER
7th 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 continue to be in the midst of an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, while a steadily increasing number of New Yorkers have received a COVID-19 vaccine and the metrics regarding the rate of infection show continued improvement across the state, there is still 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 have reason to and potentially gather to conduct business in large groups in close proximity to one another; and

WHEREAS the Courts of the 7th Judicial District commenced Phase I of the Return to In-Person Operations Plan (“RIOP”) on May 18, 2020 (May 20, 2020 for Cayuga County), Phase II of the RIOP on June 3, 2020, Phase III of the RIOP on June 17, 2020, Phase IV of the RIOP on July 1, 2020, Phase 4.1 of the RIOP on August 10, 2020, the Updated RIOP on October 19, 2020, the Updated Operating Protocols Effective November 23, 2020, the Updated Operating Protocols Effective December 9, 2020, the Updated Operating Protocols Effective February 22, 2021, and the Updated Operating Protocols to be Effective April 26, 2021 (Attachment – Highlights, Summaries & Protocols); it is hereby

ORDERED that effective immediately the following rules be put into effect in the 7th Judicial District until rescinded.

- A. General matters and matters applicable to more than one case type
 1. Until further Administrative Order or Executive Order, residential eviction matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge Lawrence Marks dated October 9, 2020, November 17, 2020, and December 30, 2020 and pursuant to Administrative Orders AO/231/20, AO/268/20, AO/340/20 and AO/37/21. Further reference is made to the Tenant

Safe Harbor Act (Ch. 127, L. 2020), the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (Ch. 381, L. 2020), the CDC Agency Order filed on September 1, 2020, and any applicable Executive Orders issued by the Governor.

2. Default judgments may be granted pursuant to CPLR 3215 provided that the granting of the default judgment is not contrary to any statute, Executive Order or Administrative Order.
3. The Return to In-Person Operations Plan (“RIOP”) (Phase I) implemented on May 18, 2020 (May 20, 2020 for Cayuga County), the RIOP (Phase II) implemented on June 3, 2020, the RIOP (Phase III) implemented on June 17, 2020, the RIOP (Phase IV) implemented on July 1, 2020, the RIOP (Phase 4.1) implemented on August 10, 2020, the Updated RIOP implemented on October 19, 2020, the Updated Operating Protocols implemented on November 23, 2020, Updated Operating Protocols implemented on December 9, 2020, the Updated Operating Protocols effective February 22, 2021 and the Updated Operating Protocols to be effective on April 26, 2021 and any further updated operating protocols are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the protocols.
4. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
5. 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. The terms of such orders shall be extended either through the Division of Technology or as addressed by each Court.
6. The Judges should encourage or require, to the greatest extent possible, the use of virtual technology in matters that occur off court premises (depositions, discovery, etc.). Such language should be included in any scheduling orders.

B. Supreme Civil

1. 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.
2. Until further Administrative Order or Executive Order, foreclosure matters may proceed pursuant to the protocol established in the memoranda from Chief Administrative Judge Lawrence Marks dated July 24, 2020, October 22, 2020, December 31, 2020, and March 15, 2021 and pursuant to Administrative Orders AO/157/20 dated July 23, 2020, AO/232/20 dated October 22, 2020, AO/341/20 dated December 31, 2020, and AO/95/21 dated March 15, 2021. . Further reference is made to the COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (Ch. 381, L. 2020).

3. All Foreclosure Auctions must adhere to the 7th Judicial District Foreclosure Auction Plan.

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 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. The Youth Part arraignment procedure is as follows:
For all counties, during regular court hours, Youth Part arraignments shall be conducted by the designated Youth Part Judge from the courthouse.
In Livingston, Ontario, Seneca, Wayne and Yates Counties, after-hours Youth Part arraignments shall be held at the CAP before the on-call CAP Judge (as an Accessible Magistrate), during regularly scheduled CAP hours, or on an immediate/emergency basis where necessary. In Monroe, Cayuga and Steuben, the procedure remains virtual as stated in the Virtual Courtroom Protocol.
3. Each County, in consultation with the Sheriff, shall develop a plan for the imposition of intermittent sentences.

D. Family Court

1. Judges should ensure that all Permanency Planning Hearings are timely scheduled and heard pursuant to existing Federal or State Law. Difficulties in scheduling the hearings should immediately be brought to the attention of the supervising judge.
2. 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.
3. No new S (PINS), F (Support), P (Paternity), or U (UIFSA) warrants may be issued unless approved by the Supervising Judge. All other Family Court warrants may be issued in the discretion of the Assigned Judge.

E. Surrogate's Court

All matters shall be calendared consistent with all Administrative Orders and Executive Orders at the discretion of the Presiding Surrogate.

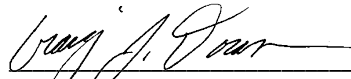
F. City Court

All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders, Administrative Orders and the Updated Operating Protocols to be Effective April 26, 2021. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 90 days. For defendants in custody, there shall be no adjournment of a matter that greater than 30 days.

G. Town and Village Courts

1. All matters shall be addressed by the Assigned Town or Village Judge and appropriately calendared.
2. In Monroe County, all off-hour arraignments shall be conducted by a Town or Village Justice.
3. In Cayuga, Livingston, Ontario, Seneca, Steuben, and Wayne and Yates Counties, all off-hour arraignments shall be conducted in the Centralized Arraignment Part by a Town, Village or City Court Judge.

Dated: April 23, 2021
Rochester, New York



Hon. Craig J. Doran
Administrative Judge
7th Judicial District

Distribution:
HON. VITO CARUSO

Return to In-Person Operations Plan Highlights

Phase I

May 18, 2020

Good News! Our region has met established bench-marks, triggering the first phase of a return to more in-person operations. Throughout this public health crisis, the courts have remained opened and, while limiting foot traffic, have continued to hear Essential Matters.

Over the past several weeks, courts have been steadily increasing cases handled and clearing up existing pending matters. Thanks to the dedication and hard work of our remarkable judges and court staff, we are ready to begin Phase I of the Return to In-Person Operations

We will begin a flexible, measured and steady return to in-person operations commencing on May 18, 2020. We will continue to ensure the safety of all who enter the Courthouses – Judges, Staff and the public by assuring that appropriate safety measures are followed.

- Judges and Chambers Staff in Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates Counties will return to their courthouses commencing May 18, 2020.
 - Use of appropriate PPE required
- On May 18, 2020, the Court will begin accepting filings in new matters by electronic means. On May 18, 2020, the Courts will begin accepting paper filings in new matters, where otherwise permitted.
- All County and City Courthouses in Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates Counties will be open and staffed. Cayuga County will open as appropriate following the Governor's opening of the New York Central Region.
- County Courthouse operations will continue as they are presently.
- Town & Village Court Justices and clerks may return to work in their courthouses handling clerical matters and working on decisions.
- Town & Village Courts will be open but there will be no calendars and foot traffic will not be encouraged.
- Security personnel to ensure proper PPE (masks, hand sanitizer) and spatial distancing for public who enter the courthouse
- Employees
 - Use of masks/gloves
 - Spatial distancing at work stations
 - Provisions for vulnerable employees

SUMMARY

7th Judicial District

Return to In-Person Operations Plan (“RIOP”)

Phase II

To Commence June 3, 2020

On May 18, 2020 (May 20, 2020 for Cayuga County) the 7th Judicial District implemented Phase I of the RIOP (summary attached). All measures included in Phase I of the RIOP to protect the health and safety of the employees, judges, litigants, lawyers and members of the public who enter the courthouses pursuant to the Amended Return to In-Court Operations Plan dated May 14, 2020 will continue and be enhanced during Phase II.

The goal of Phase II is to increase foot traffic in the courthouse in a gradual, measured manner so that the Court can begin to address matters that require an in-person appearance. The success on Phase II depends upon the Court’s ability to prioritize those matters that require an in-person appearance while continuing to maximize the use of virtual appearances.

- Phase II operates with certain presumptions:
 1. Essential Matters (except as follows in Number 2) will be conducted in-person and heard by the Assigned Judge.
 2. Criminal, Juvenile Delinquency and Mental Hygiene Law Proceedings pertaining to a hospitalized adult shall be virtual and heard by the Assigned Judge.
 3. Non-Essential matters shall be virtual and heard by the Assigned Judge.In all case types, a request to deviate from the presumption may be made to the Assigned Judge. If such request is granted, the Administrative Judge shall be notified.
- ADR shall be conducted virtually
- Steps shall be taken by staggering case types, court calendars and courtroom use, to reduce the number of court users entering the building at the same time and to reduce the number of court users congregating on any floor/at any courtroom.
- Non-judicial staffing levels may again be minimally increased to support necessary administrative functions such as adjournments/calendaring/chambers as well as to provide support for the increase in foot traffic into the courthouse. In-person court staff will rotate with non-reporting staff to work virtually.

SUMMARY

7th Judicial District

Phase III Return to In-Person Operations Plan ("RIOP")

To Commence June 17, 2020

- All measures contained in the Amended RIOP dated May 14, 2020 will continue and be enhanced during Phase III. All measures contained in the Memoranda of John McConnell and Nancy Barry dated February 28, 2020, March 6, 2020, May 15, 2020, May 29, 2020 and June 8, 2020 are incorporated as part of this Plan.
 - Judges should continue to expand their use of the virtual format where legally permissible and logistically possible.
 - **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.**
 - Phase III, like Phase II, operates with certain presumptions.
 1. The following matters shall presumptively be heard in-person
 - a. Essential Matters (excepting those matters that are presumptively virtual as noted in [2] below)
 - b. Bench trials
 - c. Family Court Act Article 10 evidentiary hearings
 - d. Child Support proceedings filed prior to April 1, 2020
 - e. Permanency Hearings
 - f. Criminal Preliminary Hearings and Criminal Pre-trial Evidentiary Hearings
 - g. Pleas and Sentences for defendants at liberty that do not involve a sentence of incarceration
 - h. Arraignments of defendants accused of a violation of any provision of VTL 1190 et seq.
 - i. Arraignments of defendants whose Appearance Tickets were filed prior to April 1, 2020
 - j. Treatment court and Judicial Diversion appearances where the Assigned Judge determines that an appearance in an acute case is necessary to protect the health and safety of a defendant
 2. The following matters shall presumptively be heard virtually
 - a. Non-essential matters (except those matters that are presumptively in-person as noted [1] above)
 - b. Criminal Proceedings (except those matters noted in [1] above) Note: Judges are encouraged to conference criminal matters virtually/telephonically and if acceptable dispositions are reached, plea affidavits (where not prohibited by law) are strongly encouraged.
 - c. Juvenile Delinquency Proceedings
 - d. Person In Need of Supervision Proceedings
 - e. Evidentiary hearings not noted in (1) may be conducted with the consent of the parties
 - f. MHL Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Marks' AO/72/20).
- In all instances under (1) or (2), with the exception of MHL Proceedings pertaining to a hospitalized adult, a request to deviate from the presumption may be made by an attorney or litigant to the Assigned Judge. If a request to appear in-person is granted, the Administrative Judge shall be notified.
- ADR shall be conducted virtually (Chief Administrative Judge Lawrence Marks' AO/87/20).
 - Courts should note the following:
 - Housing matters (Landlord/Tenant, evictions, and foreclosures) may proceed only for purposes of Alternative Dispute Resolution (ADR) and settlements where all parties are represented by counsel.
 - 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 (7th Judicial District's Fifth Amended Administrative Order).
 - Preparations (confirming appropriate locations as well as preparing and mailing summons [specific dates to be established by the Administrative Judge]) may begin in Phase III to have Grand Jurors seated in Phase IV.

SUMMARY
7th Judicial District
Phase IV Return to In-Person Operations Plan (“RIOP”)
To Commence July 1, 2020

- All measures contained in the Amended RIOP dated May 14, 2020 will continue and be enhanced during Phase IV. All measures contained in the Memoranda of John McConnell and Nancy Barry dated February 28, 2020, March 6, 2020, May 15, 2020, May 29, 2020, June 8, 2020, and June 17, 2020 are incorporated herein.
- It is essential that Judges make maximum use of out of court time utilizing virtual technology.
- 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, upon the request of one of the parties, orders otherwise.
- Phase IV, like Phases II & III, operates with certain presumptions
 1. **Matters that shall presumptively be heard in-person**
 - a. Superior Civil
 - i. Bench trials
 - ii. Evidentiary hearings and inquests
 - iii. All appearances and conferences where at least one party is self-represented
 - iv. Essential Matters
 - b. Superior Criminal (Incarcerated Defendants shall appear virtually, unless otherwise ordered)
 - i. Bench trials
 - ii. Evidentiary hearings
 - iii. Non-custodial arraignments
 - iv. Waivers of Indictment, Pleas and Sentences for defendants at liberty
 - v. Motion argument
 - 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 filed prior to June 1, 2020
 - iii. Permanency Hearings
 - iv. Article 10 Consents, Admissions and Surrenders
 - v. Essential Matters
 - d. Surrogates’ 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. City Court Civil
 - i. Bench trials
 - ii. Evidentiary hearings
 - iii. Small claims matters, including the small claims arbitration program, for matters that were filed prior to April 1, 2020
 - iv. Essential Matters
 - f. City Court Criminal
 - i. Bench trials
 - ii. Preliminary Hearings
 - iii. Evidentiary hearings
 - iv. Appearance Ticket arraignments for Appearance Tickets filed prior to June 1, 2020
 - v. Pleas and Sentences for defendants at liberty

- vi. Motion arguments
 - vii. Arraignments of defendants accused of a violation of any provision of Article 31 of the Vehicle and Traffic Law (VTL 1190 et seq.)
 - viii. Treatment court where the Judge determines that an appearance is necessary to protect the health and safety of a defendant.
 - ix. Essential Matters
- 2. Matters that shall presumptively be heard virtually**
- a. Superior Civil
 - i. All conferences, including 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. Superior Criminal
 - i. Conferences
 - ii. Waivers of Indictment, pleas and sentences where the defendant is incarcerated
 - 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. Surrogates' 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. City Court Civil
 - i. Conferences
 - ii. Motion arguments
 - iii. All other proceedings not listed in (1)(e) above
 - f. City Court Criminal
 - i. Conferences
 - ii. Pleas and sentences where the defendant is incarcerated
 - iii. All other proceedings not listed in (1)(f) above

In all instances under (1) or (2), with the exception of MHL Proceedings pertaining to a hospitalized adult, a request to deviate from the presumption may be made by an attorney or litigant to the Assigned Judge pursuant to the Guidance for Judges (attached). If a request to appear in-person is granted, the Administrative Judge shall be notified.

- Courts should note the following:
 - All virtual matters shall be held via Skype for Business. Included in the Skype 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.
 - Housing matters (Landlord/Tenant evictions and foreclosures) 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"). Foreclosures may proceed pursuant to AO/131/20
 - 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 (7th JD Seventh Amended AO).
 - ADR shall be conducted virtually (Chief Administrative Judge Lawrence Marks' AO/87/20).
 - Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program will occur virtually.
 - Small Claims Assessment Review proceedings shall be conducted virtually.

Guidance for Judges

The Plan allows for a party to request a deviation from the presumptions contained therein (note: Judge Marks' AO/72/20 requires that Mental Hygiene Law proceedings in which a petitioner or other necessary party is confined to a hospital be conducted with appearances by means of remote audiovisual technology or by telephone and therefore a request to deviate from the presumption should not be entertained). Requests should be granted on an individual case by case basis. Furthermore, requests to deviate from the presumption that matters be heard virtually should be granted sparingly and only for compelling reasons. Upon receiving a request, a judge may:

- Summarily deny the request. If the Assigned Judge summarily denies the request, he/she must communicate the denial to the party/parties who made the request and to the court clerk.
- Require that the non-requesting party be provided notice that a request to deviate from a presumption has been made. Once notice has been provided and the non-requesting party has been given the opportunity to be heard, the Assigned Judge must either grant or deny the application and communicate the decision to all parties and the court clerk. If the application is granted:
 - The Assigned Judge must permit, but shall not require, the non-requesting party to likewise deviate from the presumption.
 - If the Assigned Judge grants a request to appear in-person, the Assigned Judge must timely (the same day) notify the Administrative Judge by email and provide him with the name of the case, the name of the requesting party and whether the non-requesting party is likewise deviating from the presumption.

SUMMARY

7th Judicial District

Phase 4.1 Return to In-Person Operations Plan ("RIOP") To Commence August 10, 2020

- All measures contained in the Amended RIOP dated May 14, 2020 will continue and be enhanced during Phase 4.1. All measures contained in the Memoranda of John McConnell and Nancy Barry dated February 28, 2020, March 6, 2020, May 15, 2020, May 29, 2020, June 8, 2020, and June 17, 2020 are incorporated herein. Screening for court visitors and Judges/court employees shall be conducted pursuant to the June 30, 2020 and July 10, 2020 protocols.
- Phase 4.1, like Phases II, III & IV, operates with certain presumptions
 - A. Incarcerated Individuals - 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.
 - B. Notwithstanding the presumptions as stated below, virtual appearances shall be utilized to the greatest extent possible where a virtual appearance is legally permissible and logistically possible.
 - C. Matters that shall presumptively be heard in-person - a Judge may deviate from the presumptions that a matter be heard in-person on their own initiative or based upon a request from a party or attorney.
 1. Superior Civil
 - a. Trials
 - b. Evidentiary hearings and inquests
 - c. All appearances and conferences where at least one party is self-represented
 2. Superior Criminal (Incarcerated Defendants shall appear virtually, unless otherwise ordered)
 - a. Trials
 - b. Evidentiary hearings
 - c. Non-custodial arraignments
 - d. Waivers of Indictment, Pleas and Sentences for defendants at liberty
 - e. Motion argument
 - f. Treatment court and Judicial Diversion where the Judge determines that an appearance is necessary to protect the health and safety of a defendant
 - g. Instances where the defendant cannot be located or communicated with
 - h. Grand Jury proceedings
 3. Family Court
 - a. All evidentiary hearings (priority given to matters filed first)
 - b. Child Support proceedings
 - c. Permanency Hearings
 - d. Article 10 Consents, Admissions and Surrenders
 4. Surrogates' 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
 5. City Court Civil
 - a. Bench trials
 - b. Evidentiary hearings
 - c. Small claims matters, including the small claims arbitration program, for matters
 6. City Court Criminal
 - a. Bench trials
 - b. Preliminary Hearings
 - c. Evidentiary hearings
 - d. Appearance Ticket arraignments for Appearance
 - 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.

- D. Matters that shall presumptively be heard virtually - a Judge may deviate from the presumptions that a matter be heard virtually for compelling reasons on their own initiative or based upon a request from a party or attorney. If a request to appear in-person is granted, the Administrative Judge shall be notified.
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 (NOTE: Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20 requires that Mental Hygiene Law proceedings in which a petitioner or other necessary party is confined to a hospital be conducted with appearances by means of remote audiovisual technology or by telephone and therefore a request to deviate from the presumption should not be entertained).
 - d. All other proceedings not listed in (C)(1) above
 2. Superior Criminal
 - a. Conferences
 - b. Waivers of Indictment, pleas and sentences where the defendant is incarcerated
 3. Family Court
 - a. Conferences
 - b. Juvenile Delinquency Proceedings
 - c. Person In Need of Supervision Proceedings
 - d. Adoptions
 - e. Appearances calendars
 - f. All other proceedings not listed in (C)(3) above
 4. Surrogates' 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 (C)(4) above
 5. City Court Civil
 - a. Conferences
 - b. Motion arguments
 - c. All other proceedings not listed in (C)(5) above
 6. City Court Criminal
 - a. Conferences
 - b. Pleas and sentences where the defendant is incarcerated
 - c. All other proceedings not listed in in (C)(6) above
- Courts should note the following:
 - All virtual matters shall be held via Skype for Business. Included in the Skype 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.
 - Housing 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"), as amended by the Memorandum from Chief Administrative Judge Lawrence Marks dated July 7, 2020. Further guidance regarding eviction matters may be found in the Memorandum of Jessica Cherry, Assistant Deputy Counsel dated July 10, 2020. **Updates regarding housing matters will be forthcoming in the near future.**
 - Foreclosure matters may proceed pursuant to the protocol 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.
 - 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 (7th Judicial District's Seventh Amended Administrative Order). Notwithstanding the above, a judgment adverse to the party seeking relief (plaintiff, petitioner, moving party, etc.) may be granted in the event that party fails to proceed with the action or appear in court.
 - ADR shall be conducted virtually (Chief Administrative Judge Lawrence Marks' AO/87/20).
 - Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program will occur virtually.
 - Small Claims Assessment Review proceedings shall be conducted virtually.
 - Plans to conduct civil and criminal jury trials shall be developed and implemented as approved by the Deputy Chief Administrative Judge. Summonses may be mailed and trials commenced upon the approval of said plans.

SUMMARY
7th Judicial District
Return to In-Person Operations Plan ("RIOP") Updates Effective October 19, 2020

- All measures contained in the Amended RIOP dated May 14, 2020 will continue. All measures contained in the Memoranda of John McConnell and Nancy Barry dated February 28, 2020, March 6, 2020, March 31, 2020, May 15, 2020, May 29, 2020, June 8, 2020, June 17, 2020, August 5, 2020 and August 18, 2020 are incorporated herein. Screening for court visitors and Judges/court employees shall be conducted pursuant to the June 30, 2020 and July 10, 2020 protocols.
- Presumptions
 - A. Incarcerated Individuals - 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.
 - B. Notwithstanding the presumptions as stated below, virtual appearances shall be utilized to the greatest extent possible where a virtual appearance is legally permissible and logistically possible.
 - C. Matters that shall presumptively be heard in-person - a Judge may deviate from the presumptions that a matter be heard in-person on their own initiative or based upon a request from a party or attorney.
 1. Superior Civil
 - a. Trials
 - b. Evidentiary hearings and inquests
 - c. All appearances and conferences where at least one party is self-represented
 2. Superior Criminal (Incarcerated Defendants shall appear virtually, unless otherwise ordered)
 - a. Trials
 - b. Evidentiary hearings
 - c. Non-custodial arraignments
 - d. Waivers of Indictment, Pleas and Sentences for defendants at liberty
 - e. Motion argument
 - f. Treatment court and Judicial Diversion where the Judge determines that an appearance is necessary to protect the health and safety of a defendant or where there is a concern that the defendant is not compliant.
 - g. Instances where the defendant cannot be located or communicated with
 - h. Grand Jury proceedings
 3. Family Court
 - a. All evidentiary hearings (priority given to matters filed first)
 - b. Child Support proceedings
 - c. Permanency Hearings
 - d. Article 10 Consents, Admissions and Surrenders
 4. Surrogates' 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
 5. City Court Civil
 - a. Bench trials
 - b. Evidentiary hearings
 - c. Small claims matters, including the small claims arbitration program
 6. City Court Criminal
 - a. Bench trials
 - b. Preliminary Hearings
 - c. Evidentiary hearings
 - d. Appearance Ticket arraignments for Appearance
 - 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 or where there is a concern that the defendant is not compliant.
 - D. Matters that shall presumptively be heard virtually - a Judge may deviate from the presumptions that a matter be heard virtually for compelling reasons on their own initiative or based upon a request from a party or attorney. If a request to appear in-person is granted, the Administrative Judge shall be notified.

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 (NOTE: Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20 requires that MHL proceedings in which a petitioner or other necessary party is confined to a hospital be conducted with appearances by means of remote audiovisual technology).
 - d. All other proceedings not listed in (C)(1) above
 2. Superior Criminal
 - a. Conferences
 - b. Waivers of Indictment, pleas and sentences where the defendant is incarcerated
 3. Family Court
 - a. Conferences
 - b. Juvenile Delinquency Proceedings
 - c. Person In Need of Supervision Proceedings
 - d. Adoptions
 - e. Appearances calendars
 - f. All other proceedings not listed in (C)(3) above
 4. Surrogates' 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 (C)(4) above
 5. City Court Civil
 - a. Conferences
 - b. Motion arguments
 - c. Eviction Proceedings
 - d. All other proceedings not listed in (C)(5) above
 6. City Court Criminal
 - a. Conferences
 - b. Pleas and sentences where the defendant is incarcerated
 - c. All other proceedings not listed in in (C)(6) above
- Courts should note the following:
 - All virtual matters shall be held via Skype for Business until the conversion to Microsoft Teams is fully implemented. The transition to Microsoft Teams will commence on October 1, 2020. After November 25, 2020 all virtual court proceedings will be conducted using Microsoft Teams. In the event that a self-represented litigant is unable to access Skype for Business or Microsoft Teams, arrangements shall be made at the courthouse for the litigant to appear virtually.
 - Housing matters may proceed pursuant to the protocol established in the Memorandum from Chief Administrative Judge Lawrence Marks dated October 9, 2020 and pursuant to Administrative Order AO/231/20.
 - Foreclosure matters may proceed pursuant to the protocol 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.
 - Default judgments shall not be granted where, pursuant to CPLR 3215, the default occurred after March 16, 2020. Notwithstanding the foregoing, a judge presiding over a matter wherein a party has defaulted may grant a default judgment where, after inquiry, the judge determines that (a) the defaulting party has received actual notice of the action or proceeding; (b) the failure of the defaulting party to respond to the action or proceeding is not due to the COVID-19 pandemic; and (c) the granting of the default judgment is not contrary to any statute, Executive Order or Administrative Order. Note: Executive Order 202.60 extends the toll on statutes of limitations (first set forth in EO 202.8 on March 20, 2020 and later extended by 202.48, 202.38, 202.28, and 202.14) through October 4, 2020. Default judgments 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." A judgment adverse to the party seeking relief (plaintiff, petitioner, moving party, etc.) may be granted in the event that party fails to proceed with the action or appear in court.
 - ADR shall be conducted virtually (Chief Administrative Judge Lawrence Marks' AO/87/20).
 - Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program will occur virtually.
 - Small Claims Assessment Review proceedings shall be conducted virtually.
 - Superior Court Criminal trials may be conducted in all counties in Term 12 and thereafter. Supreme Court civil trials may be conducted in all counties in Term 11 and thereafter. Those counties approved to conduct criminal and civil jury trials as part of the pilot plan may continue to conduct trials. Planning for a Special City Court Criminal Jury Trial Pilot shall commence in Term 11 with Jury Summonses to be sent in Term 12 and trials to be held in Term 13 (in selected jurisdictions). Scheduling of trials in all courts must be approved by the Administrative Judge.

Updated Operating Protocols

Effective November 23, 2020

District 7

For the past many months, the Unified Court System has permitted in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses has been gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. Recently, the metrics have indicated the need to once again reduce foot traffic in the courthouses to protect the health and safety of litigants, lawyers, court staff and judges. Chief Administrative Judge Lawrence Marks' Memorandum dated November 13, 2020 is incorporated herein and this document is intended to provide enhanced guidance thereto.

In any district, the Administrative Judge may, based upon 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 7th Judicial District of the State of New York shall be conducted pursuant to this Plan.

I. Courthouse Operations

A. Scheduling

1. Calendar times shall be staggered so that different courts (e.g. Family, Criminal, etc.) in the same building start at different times.
2. Judges shall not conduct virtual and in-person proceedings in the same ½ day. For example, if a judge has a virtual proceeding in the morning, no in-person proceedings shall be conducted in the morning.
3. In courts where judges have been allotted a block of time in which to hold in-person proceedings, the judge shall schedule in-person appearances only during that block of time.
4. No more than 50% of the number of courtrooms in a facility will be in use at the same time. If there is a conflict that cannot be resolved by the chief clerk working with chambers, the Supervising Judge or Administrative Judge shall be notified.
5. No more than 50% of the judges/referees/magistrates of one court type (Family Court, Criminal Court, Civil Court) may hold in-person calendars at any one time.
6. **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 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 in 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, 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 FIND 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, 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 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.)
 - 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

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.

Updated Operating Protocols

Effective December 9, 2020

District 7

For the past many months, the Unified Court System has permitted in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses has been gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. Recently, the metrics have indicated the need to once again reduce foot traffic in the courthouses to protect the health and safety of litigants, lawyers, court staff and judges. **It is critical that the Courts immediately decrease in-person proceedings in order to protect the health and safety of all court users, court staff and judges and to further reduce the community spread of the Coronavirus. These protocols are intended to create an environment where the "normal" is a virtual appearance and in-person appearances are rare.**

In any district, the Administrative Judge may, based upon 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, Judge Marks' Memorandum "Revised Pandemic Procedures in the Trial Courts" dated November 13, 2020, and the Updated Operating Protocols Effective November 23, 2020. Commencing December 9, 2020 all court operations in the 7th Judicial District of the State of New York shall be conducted pursuant to this Plan.

I. Courthouse Operations

A. Scheduling

1. Calendar times shall be staggered so that different courts (e.g. Family, Criminal, etc.) in the same building start at different times.
2. Judges may not hold in-person proceedings more than one day per week, unless an exception is requested and granted by the Administrative Judge. The scheduling shall be as coordinated by Supervising Judges and Chief Clerks to assure appropriate limiting of foot traffic.
3. **In each court, there shall be a maximum of 5 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 grand juries (in those instances, occupancy shall be limited to the lesser of 30 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 in the discretion of the Administrative Judge to the minimum number necessary to ensure safe operation. In-person staffing at these reduced levels should be scheduled in a manner that limits the likelihood and adverse consequence of a positive COVID transmission in the workplace. All staff not reporting to the courthouse shall work remotely. Under no circumstance shall the number of non-judicial staff reporting to the courthouse exceed 25% to 40% of normal pre-COVID staffing.

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 to report for grand jury service unless authorized by appropriate administrative order. Existing grand juries, pursuant to Section 190.15 of the Criminal Procedure Law, may continue, upon application of the appropriate district attorney to the Administrative Judge.
- C. Notwithstanding any other provision herein, no adult in custody in the 7th Judicial District shall be produced to any Court (Supreme, County, Family, City, Town or Village), unless the Administrative Judge grants permission for an in-person appearance. Where an in-person proceeding involves an adult housed at a facility other than one located in the 7th Judicial District, 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 FIND:**
 - (a) THAT IT IS UNLAWFUL TO CONDUCT THE PROCEEDING VIRTUALLY OR
 - (b) THAT IT IS IMPRACTICAL TO CONDUCT THE PROCEEDING VIRTUALLY AND CRITICAL THAT THE MATTER PROCEED IMMEDIATELY
 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 of in-custody defendants
 7. Arraignments where the Court is notified of a request for an arraignment by either the prosecution or the defense.
 8. Surrogate's Court Citations
 9. Treatment court and Judicial Diversion appearances where the presiding judge determines, that an appearance in an acute case is necessary to protect the health and safety of a defendant.
 10. 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.
- E. ALL other matters **MUST** be heard virtually using Microsoft Teams video conferencing, or telephone, 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 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.)
 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
 8. Other routine court matters, not expressly included in Paragraph II(D).

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.

Updated Operating Protocols

Effective February 22, 2021

District 7

Throughout the COVID-19 pandemic, our courts have remained open although there have been periods of time that have required modifications to court operations based upon virus metrics. Early on, the courts dramatically reduced in-person proceedings, limiting those proceedings to essential matters. In the late Spring and into the Fall of 2020, the Unified Court System progressed to permitting in-person proceedings in accordance with the Governor's un-PAUSE New York plan. Foot traffic in the courthouses was gradually increased to correspond with an improvement in the metrics measuring the spread of the Coronavirus. In the Fall of 2020, the metrics indicated the need to once again reduce foot traffic. Courts decreased in-person proceedings beginning on November 23, 2020 and again on December 9, 2020 in order to protect the health and safety of all court users, court staff and judges and to further reduce the community spread of the Coronavirus. Recently, the metrics once again indicate an opportunity to increase in-person proceedings in the courthouses and while the "normal" remains a virtual appearance, in-person proceedings are permitted where access to justice and court operations require an in-person proceeding. The metrics will continue to be monitored. The court system remains nimble and ready to quickly adapt operations as conditions warrant.

In any district, the Administrative Judge may, based upon local conditions, enact more restrictive operational protocols deemed appropriate by the Administrative Judge.

This Plan supersedes the Updated Operating Protocols Effective December 9, 2020. Commencing February 22, 2021 all court operations in the 7th Judicial District of the State of New York shall be conducted pursuant to this Plan. To the extent the provisions of this Updated Operating Protocol are inconsistent with provisions in the 7th Judicial District Eleventh Amended Administrative Order signed on December 21, 2020 and any previously issued memoranda, the provisions of this Protocol should be relied upon to guide operations.

I. Courthouse Operations

A. Scheduling

1. Calendar times shall be staggered so that different courts (e.g. Family, Criminal, etc.) in the same building start at different times.
2. Each Judge may hold in-person proceedings on two days each week, subject to clerk staff, courtroom space and time availability, unless an exception is requested and granted by the Administrative Judge. A judge presiding over any hearing or trial that continues to an additional day or days shall be granted additional courtroom time. The scheduling shall be as coordinated by Supervising Judges and Chief Clerks to assure appropriate limiting of foot traffic.
3. In each court, there shall be a maximum of 10 cases/proceedings scheduled in-person per hour, except as stated in Sections (II)(B)(9) and (II)(B)(11).

- B. Occupancy of all courtrooms shall be limited to the lesser of 20 people or $\frac{1}{2}$ the posted room occupancy per code. An exception shall be granted for jury trials or grand juries (in those instances, occupancy shall be limited to the lesser of 30 people or $\frac{1}{2}$ the posted room occupancy per code). The Administrative Judge may grant an exception for a specific courtroom or court proceeding.

- C. The number of non-judicial staff reporting to the courthouse shall be reduced in the discretion of the Administrative Judge to the minimum number necessary to ensure safe operation. In-person staffing at these reduced levels should be scheduled in a manner that limits the likelihood and adverse consequence of a positive COVID transmission in the workplace. All staff not reporting to the courthouse shall work remotely. In all circumstances, non-judicial staff reporting to the courthouse shall be between 40% to 60% of normal pre-COVID staffing.

- 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 time.
 - E. Each county shall have a space (kiosk or ante-room) available for use by litigants who are unable to appear virtually.
- II. Court Proceedings
- A. Notwithstanding any other provision herein and except in the case of a criminal jury trial or criminal evidentiary hearing, no incarcerated adult shall be produced to any Court (Supreme, County, Family, City, Town or Village), unless permitted by the Administrative Judge upon a request from the presiding judge.
 - B. Matters that may be heard in-person (or a hybrid of in-person and virtual) PROVIDED THAT THE PRESIDING JUDGE FIRST FINDS THAT THE MATTER CANNOT PROCEED VIRTUALLY (LEGALLY IMPERMISSIBLE OR LOGISTICALLY IMPRACTICAL).
 - 1. Matters as designated in Exhibit A
 - 2. Family Court Act Article 10 proceedings
 - 3. Adoptions
 - 4. Civil and Criminal Evidentiary Hearings and Bench Trials
 - 5. Pleas and Sentences
 - 6. Jury Trials may be scheduled to occur beginning March 22, 2021. The scheduling of the trials shall be approved by the Administrative Judge in consultation with the Deputy Chief Administrative Judge. Jury trials shall be conducted in each county pursuant to the individual plan submitted to the Administrative Judge by the S&C chief clerk and pursuant to the 7th Judicial District jury trial plan as approved by the Deputy Chief Administrative Judge. Notwithstanding any provision of the aforementioned plans, occupancy shall be limited to the lesser of 30 people or ½ the posted room occupancy per code. With regard to criminal jury trials, priority should be given to incarcerated defendants. No jury trial shall be conducted before March 22, 2021.
 - 7. Surrogate's Court Citations
 - 8. Eviction proceedings as authorized by law
 - 9. Treatment court and Judicial Diversion appearances where the presiding judge determines that an appearance in an acute case is necessary to protect the health and safety of a defendant. Notwithstanding the provisions of Section (I)(A)(3), there may be a maximum of 10 treatment court or Judicial Diversion cases scheduled every 15 minutes.
 - 10. 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.
 - 11. Traffic violation appearances may be heard in-person upon a finding that it is impractical to conduct the appearance virtually. Notwithstanding the provisions of Section (I)(A)(3), there may be a maximum of 10 traffic violation appearances scheduled every 15 minutes.
 - C. ALL other matters MUST be heard virtually using Microsoft Teams video conferencing, or telephone, including but not limited to:
 - 1. Motion arguments
 - 2. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20)
 - 3. ADR where both parties are represented by counsel and counsel will be present.
 - 4. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program
 - 5. Small Claims Assessment Review proceedings
 - 6. Other routine court matters, not expressly included in Paragraph II(B).

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.

Updated Operating Protocols

Effective April 26, 2021

District 7

Throughout the COVID-19 pandemic, our courts have remained open although there have been periods of time that have required modifications to court operations based upon virus metrics. Recently, the metrics (as well as the increasing number of vaccinated New Yorkers) have once again indicated an opportunity to gradually increase in-person proceedings in the courthouses. While the “normal” remains a presumptively virtual appearance, in-person proceedings are permitted where access to justice and court operations require an in-person proceeding. The court system remains nimble and ready to quickly adapt operations as conditions warrant.

In any district, the Administrative Judge may, based upon local conditions, enact more restrictive operational protocols deemed appropriate by the Administrative Judge.

This Plan supersedes the Updated Operating Protocols Effective February 22, 2021. Commencing, April 26, 2021 all court operations in the 7th Judicial District of the State of New York shall be conducted pursuant to this Plan. To the extent the provisions of this Updated Operating Protocol are inconsistent with provisions in the 7th Judicial District Eleventh Amended Administrative Order signed on December 21, 2020 and any previously issued memoranda, the provisions of this Protocol should be relied upon to guide operations.

I. Courthouse Operations

A. Scheduling

1. Calendar times shall be staggered so that different courts (e.g. Family, Criminal, etc.) in the same building start at different times.
2. Each Judge may hold in-person proceedings on two days each week. Each judge may hold in-person proceedings on a third day each week provided that the presiding Judge first consult with the Chief Clerk and is assured that adequately staffing is available. Further additional time may be granted by the Administrative Judge after the presiding judge has submitted the request to the Supervising Judge and after the presiding judge has indicated that they have checked with the Chief Clerk and received an assurance that the chief clerk is able to accommodate the request. A judge presiding over any hearing or trial that continues to an additional day or days shall be granted additional courtroom time. The scheduling shall be as coordinated by Supervising Judges and Chief Clerks to assure appropriate limiting of foot traffic.
3. In each court, there shall be a maximum of 10 cases/proceedings scheduled in-person per hour, except as stated in Sections (II)(C)(9) and (II)(C)(11).

- B. Occupancy of all courtrooms shall be limited to the lesser of 30 people or ½ the posted room occupancy per code. An exception shall be granted for jury trials or grand juries (in those instances, occupancy shall be limited to the lesser of 40 people or ½ the posted room occupancy per code). The Administrative Judge may grant an exception for a specific courtroom or court proceeding.
- C. The number of non-judicial staff reporting to the courthouse shall be increased or decreased in the discretion of the Administrative Judge to the number necessary to ensure safe operation. In-person staff should be deployed in a manner that limits the likelihood and adverse consequence of a COVID transmission in the workplace. All staff not reporting to the courthouse shall work remotely. In all circumstances, non-judicial staff reporting to the courthouse shall be between 60% to 80% of normal pre-COVID staffing. On May 24, 2021, 100% of all Judges and court staff shall report to work in their assigned courthouses.
- 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 time.
- E. Each county shall have a space (kiosk or ante-room) available for use by litigants who are unable to appear virtually.

II. Court Proceedings

- A. All virtual proceedings shall be conducted from the courtroom, as such courtroom is available.
- B. Notwithstanding any other provision herein and except in the case of a criminal trial or criminal evidentiary hearing, no incarcerated adult shall be produced to any Court (Supreme, County, Family, City, Town or Village), unless permitted by the Administrative Judge upon a request from the presiding judge.
- C. Matters that may be heard in-person (or a hybrid of in-person and virtual) PROVIDED THAT THE PRESIDING JUDGE FIRST FINDS THAT THE MATTER CANNOT PROCEED VIRTUALLY (LEGALLY IMPERMISSIBLE OR LOGISTICALLY IMPRACTICAL).
 - 1. Matters as designated in Exhibit A
 - 2. Family Court Act Article 10 proceedings
 - 3. Adoptions
 - 4. Civil and Criminal Evidentiary Hearings and Trials. The scheduling of jury trials shall be approved by the Administrative Judge in consultation with the Deputy Chief Administrative Judge. Jury trials shall be conducted in each county pursuant to the individual plan submitted to the Administrative Judge by the S&C chief clerk and pursuant to the [district jury plan] as approved by the Deputy Chief Administrative Judge. Notwithstanding any provision of the aforementioned plans, during a jury trial, occupancy shall be limited to the lesser of 40 people or $\frac{1}{2}$ the posted room occupancy per code. With regard to criminal jury trials, priority should be given to incarcerated defendants. With regard to civil jury trials, priority should be given to trials where the parties consent to a Summary Jury Trial.
 - 5. Pleas and Sentences
 - 6. Family Court evidentiary hearings
 - 7. Surrogate's Court Citations
 - 8. Eviction proceedings as authorized by law
 - 9. Treatment court and Judicial Diversion appearances. Notwithstanding the provisions of Section (I)(A)(3), there may be a maximum of 10 treatment court or Judicial Diversion cases scheduled every 15 minutes provided that the occupancy of the courtroom does not exceed the lesser of 30 people or $\frac{1}{2}$ the posted room occupancy per code.
 - 10. 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.
 - 11. Traffic violation appearances may be heard in-person upon a finding that it is impractical to conduct the appearance virtually. Notwithstanding the provisions of Section (I)(A)(3), there may be a maximum of 10 traffic violation appearances scheduled every 15 minutes provided that the occupancy of the courtroom does not exceed the lesser of 30 people or $\frac{1}{2}$ the posted room occupancy per code.
- D. ALL other matters MUST presumptively be heard virtually, from a courtroom as such courtroom is available using Microsoft Teams video conferencing (using the live courtroom as background; if not appearing from the courtroom, use other appropriate background), or telephone, including but not limited to:
 - 1. General civil conferences particularly those with counsel only
 - 2. Motion arguments
 - 3. Mental Hygiene Law Proceedings pertaining to a hospitalized adult (Chief Administrative Judge Lawrence Marks' Administrative Order AO/72/20)
 - 4. ADR where both parties are represented by counsel and counsel will be present.
 - 5. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program
 - 6. Small Claims Assessment Review proceedings
 - 7. Other routine court matters, not expressly included in Paragraph II(C)

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.