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\*Not For Service of Any Litigation Papers  
(ALL REPLIES TO LATHAM OFFICE)

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**CLIENT ALERT**

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DATE: July 27, 2020

SUBJECT: NY – Marks Memo AO-157-20

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Pursuant to the attached Memorandum and Administrative Order, New York’s Chief Administrative Judge has lifted the general stay on new and pending residential foreclosures, effective immediately. The Memo and Order are in line with Governor Cuomo’s Executive Order 202.48, issued on July 6, 2020. Please note, the Memo and Order do not alter the current stay on commercial foreclosures, nor the moratoriums related to GSE-backed mortgages. Additional points to note:

- Foreclosure documents still must be filed in accordance with Administrative Order 121/20 (copy attached). This means plaintiffs and represented defendants must file documents electronically through NYSCEF, or by mailing documents to the appropriate Clerk. Only unrepresented defendants may file papers in person.
- First legal documents must include a form notice advising tenants they may have extra time to answer the complaint. To ensure compliance with the Memo and Order, and other COVID-related restrictions, our office recommends that you develop a pre-commencement process related to loss mitigation, forbearance, and borrower communication. Regardless, our office will contact you on all pre-commencement files to confirm there are no COVID-related restrictions in place prior to commencement.
- Before a pending foreclosure can proceed, a court conference must be held to assess potential COVID-related issues. Once the conference is completed, and the Court confirms there are no COVID-related restrictions on proceeding, you are clear to engage in full motion practice. This is regardless of whether the defendant is represented by counsel. Our office recommends being proactive regarding these conferences to avoid undue delay. Specifically, we recommend sending a letter to the Court (and defendant, whether through counsel or pro se) requesting that the COVID-screening conference be scheduled at the Court’s earliest convenience. Our blanket fee for this process is \$125.00. To assist you, we will be sending a list of applicable files shortly.
- No foreclosure auction can be scheduled to occur prior to October 15, 2020. Unfortunately, New York procedural law does not account for this COVID-related delay, so in cases where a sale deadline may be in jeopardy due to the new rule, our office recommends filing motions to extend those sale deadlines. To assist you in the process, we will be sending a list of applicable files shortly.

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