



[No. 5AO2020-61]

**FOURTH AMENDED OPERATIONAL ADMINISTRATIVE ORDER
FIFTH JUDICIAL DISTRICT**

Pursuant to the authority vested in me, in accordance with the recent operational protocols issued by the Chief Administrative Judge for the trial courts of the Unified Court System and after consultation with the Chief Administrative Judge and the Deputy Chief Administrative Judge and

WHEREAS, New York State and the nation are now in the midst of an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS, COVID-19 is known to be a highly infectious disease, and there is much community concern that large gatherings of people can result in greater public exposure to possible contagion or “community spread”; and

WHEREAS, on a daily basis, in courts across the State, hundreds if not thousands of people representing a broad cross-section of the community gather to conduct business in large groups in close proximity to one another; and

WHEREAS the Courts of the Fifth Judicial District have commenced Phase I of the Return to In-Person Operations Plan (“RIOP”) on May 18, 2020 (The highlights of the RIOP are included in Attachment A hereto); it is hereby

ORDRED that effective immediately the following rules be put into effect in the Fifth Judicial District until rescinded.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 by the Administrative Judge or his designee on or after March 17, 2020. “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. Until further Administrative Order or Executive Order, pending eviction proceedings are stayed; no eviction orders shall be signed or served. Reference is made to the Administrative Order AO/68/20 signed by the Chief Administrative Judge of the Courts on March 16, 2020; Executive Order 202.8 signed by the Governor on March 20, 2020; Executive Order 202.14 signed by the Governor on April 7, 2020, and Executive Order 202.28 signed by the Governor on May 7, 2020, with regard to eviction matters.
2. Until further Administrative Order or Executive Order, no default judgments shall be granted where, pursuant to CPLR 3215, the default occurred after March 16, 2020. Furthermore, no default judgment requiring the defendant's notice pursuant to CPLR 3215(g) shall be granted, unless the application was heard prior to March 17, 2020 and proper notice was given.
3. All Family Court and all County Court Judges are cross-assigned to the County and Family Courts in all counties of the District.
4. The Virtual Courtroom Protocol enacted by Fifth Judicial District Administrative Order No. No. 5A02020-53 signed on April 9, 2020, remains in full force and effect and all provisions of this Fourth Amended Administrative Order shall be read in conjunction with the Virtual Courtroom Protocol and any subsequent amendments thereto.
5. All Essential Court proceedings will occur virtually from the locations described in Attachment A attached to Administrative Order No. 5A02020-44 and presided over by the judges assigned by the Administrative Judge or his designee.
6. Non-Essential proceedings shall be heard by the Assigned Judge and will occur virtually.
7. 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 $\frac{1}{2}$ the posted room occupancy per code. All room occupants shall remain six feet apart.
8. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
9. Only Essential Staff may report to the courthouse for work. All Judges and Chambers' staff shall report to the courthouse. Any specific requests for exemptions must be discussed with the Administrative Judge.
10. All deadlines established per judicial directive (including those contained in scheduling orders, service dates and "local rules") that occur on or after March 17, 2020 and during the pendency of this Administrative Order shall be extended for a period of 90 days from the date of the stated deadline, unless otherwise directed by the Assigned Judge or agreed upon by the parties (reference is made to Administrative Order AO/71/20 signed by the Chief Administrative Judge of the Courts on March 19, 2020 as it relates to civil litigation). Further reference is made to Executive Order 202.8 signed by the Governor on March 20, 2020; Executive Order 202.14 signed by the Governor on April 7, 2020; and Executive Order 202.28 signed by the Governor on May 7, 2020, with regard to statutory deadlines and time frames.

11. 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.
12. All vouchers submitted pursuant to County Law § 722-b(4), Judiciary Law § 35(8) and Family Court Act §§ 243(c), 245(c) are deemed approved pursuant to the Order signed by the Administrative Judge of the Fifth Judicial District dated March 20, 2020.
13. “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 Fifth Judicial District dated March 20, 2020.
14. All filings shall be pursuant to AO/111/2020 and any amendments thereto, signed by the Chief Administrative Judge of the Courts on May 15, 2020.

B. Supreme Civil

1. All non-essential matters shall be addressed by the Assigned Judge and appropriately scheduled.
2. “Essential matters” includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter and any other matter determined to be essential after application by the Assigned Justice or Designated Justice to the Administrative Judge.
3. All Mental Hygiene Law proceedings in which a party is confined to a hospital or other facility shall be conducted with appearances by means of remote audiovisual technology or telephone pursuant to Administrative Order AO/72/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020.
4. All foreclosure proceedings are stayed; no foreclosure auctions shall be scheduled or held. Reference is made to Administrative Order AO/68/20 signed by the Chief Administrative Judge of the Courts on March 16, 2020; Executive Order 202.8 signed by the Governor on March 20, 2020, Executive Order 202.14 signed by the Governor on April 7, 2020 and Executive Order 202.28 signed by the Governor on May 7, 2020.

C. Superior Court Criminal Cases

1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order, whichever is later. For Defendants not in custody, there shall be no adjournment of

a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that is greater than 30 days.

2. "Essential matters" 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.
3. "Grand juries set to be impaneled within term six of the courts for the year 2020 shall be postponed until further order." Currently seated grand juries "may continue, upon application of the appropriate district attorney to the administrative judge" pursuant to Administrative Order AO/113/20 signed by Deputy Chief Administrative Judge Vito Caruso on May 16, 2020.
4. 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. Pursuant to the memorandum of Chief Administrative Judge Lawrence Marks dated April 30, 2020, "Problem-solving courts may conduct virtual court conferences with counsel, court staff, and service providers, via Skype for Business."
3. The Assigned Judge may make application to the Coordinating Judge of Treatment Courts to have a matter deemed essential. The Coordinating Judge of Treatment Courts, after consultation with the Administrative Judge, shall permit a matter to proceed if warranted.

E. Family Court

1. All non-essential matters shall be addressed by the Assigned Judge and appropriately scheduled.
2. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter, and any other matters determined to be essential after application by the 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. If a Judge or Court Attorney Referee issues a full order of protection excluding a party from a jointly occupied residence, the return date shall be deemed essential and made returnable within 3-5 days at the Central Location.
5. All remand/removal/placement orders issued in the Fifth 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.
6. Effective immediately, all support related warrants in the Fifth Judicial District are hereby vacated, subject to reinstatement at a future date, unless otherwise directed by court order. The Unified Court System's Department of Technology is directed to so indicate in its database.
7. All cases involving a youth that is currently in detention shall be reviewed by the Assigned Judge or Designated Judge, at a minimum, at least once every fourteen days.

F. Surrogate's Court

1. All non-essential matters shall be addressed by the Assigned Judge and appropriately scheduled.
2. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as contained in Administrative Order AO/99/20 signed by the Chief Administrative Judge of the Courts on May 15, 2020 and other matters as determined to be essential after application by the Surrogate to the Administrative Judge.

G. City Court

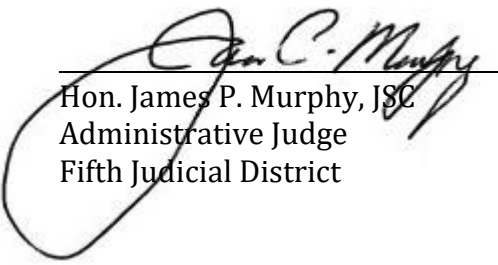
1. All pending criminal cases shall be addressed by the Assigned Judge and appropriately scheduled consistent with applicable Executive Orders and Administrative Orders. The issuance of the new return date shall occur on or before the currently scheduled adjourned date or within 7 days of the signing of this order, whichever is later. For Defendants not in custody, there shall be no adjournment of a matter that is greater than 60 days. For defendants in custody, there shall be no adjournment of a matter that greater than 30 days.
2. All non-essential Civil matters shall be addressed by the Assigned Judge and appropriately scheduled.

3. "Essential matters" includes those matters as listed in Exhibit A attached to Administrative Order AO/78/20 signed by the Chief Administrative Judge of the Courts on March 22, 2020 and as amended hereafter and any matter deemed to be essential after application by the 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 misdemeanor cases shall be conferenced by the Designated Judge and thereafter adjourned to a date no later than June 5, 2020.
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.
3. After hours arraignments shall be heard by the CAP judge in counties with a CAP court according to the approved CAP Plan.
4. In a County without a CAP Part or if the CAP Part becomes unavailable for any reason, after hours arraignments shall be conducted in the authorized Town or Village Court. The Town or Village Judge shall attempt to obtain defense counsel and make a record thereof. If no defense counsel is available, then the judge shall conclude the arraignment. Any urgent matter (ex. Preliminary Hearing) shall be scheduled at the Central location established in each county.

Dated: May 20, 2020
Syracuse, New York



Hon. James P. Murphy, JSC
Administrative Judge
Fifth Judicial District

Distribution:
HON. VITO CARUSO

ATTACHMENT A

5th Judicial District Return to In-Person Operations Plan Summary (Phase I) To Commence May 18, 2020

Good News! All Counties in the 5th District have met established benchmarks warranting the first phase of a return to more in-person operations. Throughout this public health crisis, the courts have always remained open and, while limiting foot traffic, have continued to hear Essential Matters.

Over the past several weeks, courts have been steadily increasing cases handled virtually and have worked hard to clear 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 Oneida and Herkimer Counties will return to their courthouses commencing May 18, 2020.

Judges and Chambers Staff in Onondaga, Oswego, Jefferson and Lewis Counties will return to their courthouses commencing May 20, 2020.

- Use of appropriate PPE and social distancing is required.
- Security personnel will ensure proper PPE (masks, hand sanitizer, wipes) and spatial distancing for all members of the public who enter the courthouse.
- Employees shall be provided masks and gloves and maintain social distancing at all times. Special provisions will be made for vulnerable employees.
- On May 18, 2020, the Courts will begin accepting filings by electronic means in new matters.
- All County and City Courthouses in Oneida, Herkimer, Jefferson, Lewis, Onondaga and Oswego Counties will be open and staffed.
- County Courthouse operations will continue as they are presently.
- Town & Village Court Justices and Clerks may return to work in their courthouses handling clerical and other Chambers matters, provided their municipality provides appropriate PPE and social distancing is maintained.
- Although Town & Village Courts will be open, there will be no calendars or formal court proceedings at this time and foot traffic will not be encouraged.