



TWELFTH AMENDED ADMINISTRATIVE ORDER
THIRD 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 amid an unprecedented public health crisis surrounding the outbreak of COVID-19 (coronavirus); and

WHEREAS the Courts of the Third Judicial District commenced Phase I of the Return to In-Person Operations Plan ("RIOP") on May 26, 2020, Phase II of the RIOP on June 11, 2020, Phase III of the RIOP on June 25, 2020, Phase IV of the RIOP on July 9, 2020 and Phase 4.1 of the RIOP on August 10, 2020; it is hereby

ORDERED that effective immediately the following rules be put into effect in the Third Judicial District until rescinded:

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

- 1. Until further Administrative Order or Executive Order, eviction 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. Further reference is made to Executive Order 202.67 signed by the Governor on October 4, 2020 and the CDC Agency Order filed on September 1, 2020.**
- 2. Until further Administrative Order or Executive Order, 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 202.67 extends the toll on statutes of limitations (first set forth in EO 202.8 on March 20, 2020 and later extended) through November 3, 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 if a party fails to proceed with the action or appear in court.

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 Return to In-Person Operations Plan (“RIOP”) (Phase I) implemented on May 26, 2020, the RIOP (Phase II) implemented on June 11, 2020, the RIOP (Phase III) implemented on June 25, 2020, the RIOP (Phase IV) implemented on July 9, 2020, the RIOP (Phase 4.1) implemented on August 10, 2020, (with the updated RIOP to be effective October 19, 2020) and any RIOPs for any subsequent phases are incorporated herein and all provisions of this Administrative Order shall be read in conjunction with the RIOP.
5. The Virtual Courtroom Protocol enacted by the Third Judicial District Administrative Order signed on April 3, 2020, to the extent not inconsistent with the RIOP, remains in full force and effect and all provisions of this Administrative Order shall be read in conjunction with the Virtual Courtroom Protocol and any subsequent amendments thereto. A district-wide transition from Skype for Business to Microsoft Teams was implemented and will be completed by October 19, 2020. The Virtual Courtroom Protocol shall be modified to reflect the use of Microsoft Teams commencing October 19, 2020.
6. **Occupancy of all courtrooms shall be limited to the number of seats as marked by the District Office. Notwithstanding the above, in all instances the maximum occupancy of any space in the courthouse shall be limited to the number of seats as marked by the District Office. A Chief Clerk or Judge may apply to the Administrative Judge for an exception for a specific courtroom or court proceeding. The Chief Clerk must be able to demonstrate that 1) the proposed occupancy limit does not exceed the number of seats as marked by the District Office and that 2) social distancing can be maintained with the proposed occupancy limit.**
7. Naturalization Ceremonies, wherever they occur, shall comply with the room occupancy limits stated herein.
8. All Staff shall report to the courthouse as determined by his/her supervisor. All Judges and Chambers’ staff should report to the courthouse. Any requests for exemptions must be discussed with the Administrative Judge.
9. All filings shall be pursuant to the Administrative orders signed by the Chief Administrative Judge of the Courts (AO/111/2020, AO/114/20, AO/115/20, AO/149/20, AO/209A/20 and any amendments thereto).
10. **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.**