



May 14, 2020

Dear Bar Leaders and Members of the Bar,

With two months having passed since our courthouses were physically closed, we want to update the bar, self-represented litigants, and the public regarding the judiciary's tentative plans for the months ahead. We emphasize the word "tentative" because our plans remain a work in progress, and may vary depending on the data regarding the number of new COVID-19 cases and hospitalizations in Massachusetts, and on the Governor's orders regarding the State of Emergency. As we move forward, we must respect public health considerations and do all that we can to ensure the safety of our employees and the public we serve.

Today, the Supreme Judicial Court, the Appeals Court, and every Trial Court department are hearing and deciding cases virtually, relying on written submissions and telephonic or videoconference hearings. Before May 4, the Trial Court was focused mostly on emergency matters. Now every department, guided by new standing orders, is also hearing an increasing number of nonemergency matters where it is practicable to do so without an in-court hearing. We anticipate that our courthouses will likely remain physically closed in June, but that the number and range of nonemergency matters adjudicated virtually in the Trial Court will continue to grow, such that the Trial Court will endeavor to handle most matters that do not require an in-person court appearance. Therefore, we are considering whether to end the tolling of certain court deadlines sometime in June, so that most matters may be released from "litigation limbo" and move forward in courts that are increasingly able virtually to act on those cases.

We expect that courthouses will physically reopen this summer, but only in stages and only for certain matters that require in-person appearances. Even as courthouses reopen, we will still need to conduct most court business virtually to reduce the number of lawyers, litigants, and court personnel that come to the courthouse, so that those who must come can do so safely with the necessary social distancing. The days when our Trial Court welcomed approximately 40,000 persons a day into our courthouses are over, at least for the duration of the pandemic.

We have no reasonable alternative except to pursue this course for the immediate future. But necessity is the mother of invention, and we shall seize the opportunities arising from such invention. Long before the pandemic, we recognized that the civil courts of the future would need to resolve an increasing number and range of matters without burdening attorneys, litigants, and witnesses with the need to come to a courthouse. By doing so, we would enable attorneys to reduce the time (and therefore the cost) devoted to litigation, spare self-represented litigants from the need to miss work or find child or elder care, and allow civil disputes to be resolved equally thoughtfully but more efficiently. Before the pandemic, we expected that it would take years to

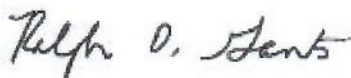


make substantial progress in this regard; with the pandemic, we have made substantial progress in just a few months. Therefore, even when this pandemic is behind us, we do not believe we will or should go back to doing things as we did in February. We are, more quickly than many thought we could and with some stumbles along the way, creating a more modern and efficient court system that will survive after the pandemic has passed.

To be sure, we recognize that there are many judicial matters that still must be conducted in person, and others that judges may determine are better conducted in person, so we do not envision a day in the foreseeable future when all disputes will be resolved without coming to a courthouse. We hope that, in September, if schools reopen, we will once again begin to conduct jury trials. But the challenges of conducting jury trials with social distancing during a pandemic are formidable, and will require us to reimagine how juries are empaneled, where they will sit during trial, and where they will deliberate so that jurors can both be safe and feel safe. We are hard at work trying to address those challenges, and it is premature to predict now what it will look like.

We recognize that the road we have travelled together in the last few months has often been rocky and at times riddled with unexpected potholes. But we also recognize that, if one had asked in February of this year whether we would be able in two months to transform our court system from one that almost invariably required in-person appearance to one that was almost invariably virtual, few would have imagined that it was possible or that we would be as far along as we are. The success we have achieved is the result of the remarkable dedication, imagination, resilience, and hard work of our judges, clerks, IT specialists, probation officers, facilities staff, and other court employees, aided by the equally remarkable advice, cooperation, and improvisations of the bar. In the coming months, we will need all of that, and more because, as challenging as it has been to close our courthouses, it will be even more challenging to reopen them. We thank you from the bottom of our hearts for all that you have done, and will continue to do, as we not only keep the wheels of justice spinning but also work to create a better spinning wheel.

Sincerely,



Ralph D. Gants  
Chief Justice  
Supreme Judicial Court



Mark V. Green  
Chief Justice  
Appeals Court



Paula M. Carey  
Chief Justice  
Trial Court