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'Like a Game of Jenga': Return of E-Filing Will Start Crowded Period for New York Courts, Lawyers Say

By Jane Wester | May 21, 2020



Attorneys said it will be important to pay close attention to judges' practices and rules, some of which have been amended due to the pandemic.

Memorial Day promises to be the start of an uncommonly busy week in the New York court system, attorneys agreed Thursday.

For the first time in more than two months, e-filing will be available for new cases not categorized as "essential" under a March 22 order from Chief Administrative Judge [Lawrence Marks](#), which froze filing and sparked a prolonged disruption in the state's legal system as the coronavirus pandemic struck New York.

E-filing comes as a relief in New York City and the other downstate counties that have not yet met the state's metrics to begin reopening, attorneys in the city said. Nonessential filings have already begun in other parts of the state, where judges and court staff are also returning to courthouses, according to court officials.

E-filing of new cases is the latest of a series of measures easing the state courts back toward full function. Virtual conferences and motion filing for pending cases has been ongoing for weeks, but attorneys are still waiting for the return of in-person activities, including depositions and, eventually, jury trials.

Lawyers will have to be cognizant of how the flood of new filings will affect judges, McDermott Will & Emery partner Andrew Kratenstein said. Kratenstein said one

state judge's clerk already told him that a case set for trial in December might be delayed as the courts try to catch up on two months' worth of missed appearances. "They may just be pushing everything back," Kratenstein said.

"It may be like a game of Jenga, so they have to figure out where everything fits ... everybody's just going to have to work together to get everything back on track, and that's going to take time."

He said it will be important for lawyers to pay close attention to judges' practices and rules, some of which have been amended due to the pandemic.

The new availability of e-filing will also help lawyers and clients in other areas.

Martha Cohen Stine, who practices **family law** as a founding partner of Cohen Rabin Stine Schumann* and co-chairs the **New York County Lawyers Association matrimonial law section**, said it allows her to help her clients move forward.

In many cases, relationships have fallen apart while people are stuck under stay-at-home orders, **Stine said**, but clients who decided they were ready to go ahead and file for divorce haven't been able to do so.

Once they're able to file, **Stine said**, they'll get the benefit of automatic orders preventing the other spouse from taking certain actions, such as transferring assets out of joint accounts.

Filing for divorce also signals to the other spouse that circumstances are changing, **Stine said**, and that a judge may observe their behavior and set deadlines for next steps.

*Cohen Rabin Stine Schumann dissolved as of 12/31/2020. **Ms. Stine** is founding partner, together with her mother--the renowned matrimonial lawyer Harriet Newman Cohen--of a new firm, **COHEN STINE KAPOOR LLP**, which has embraced the new world of legal services with a technologically advanced, streamlined practice model, tailored to the post-pandemic, virtual world. www.csklawny.com