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**VIA EMAIL**

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**Re: COVID-19 Cases at New York Immigration Courts**

Dear Director McHenry, Honorable Judges, and Mr. Friedman:

I write to follow-up on the [March 20th letter](#) I sent, urging Executive Office for Immigration Review (“EOIR”) to halt in-person immigration proceedings in New York. Since our last letter, it has become clear that the continued operation of the immigration courts in New York State during the COVID-19 pandemic is jeopardizing the health and safety of court personnel, counsel, their clients, and the public. Within the last few weeks, a staff member, immigration judge, and attorneys who work at Varick Immigration Court in New York City have all tested positive for COVID-19 or have presented with COVID-19 symptoms. Yet, contrary to public health guidance and a growing chorus of calls from court personnel and parties, EOIR has refused to close the detained courts at Varick and across the State and just recently instituted a new detained docket at 26 Federal Plaza. Numerous immigration judges, prosecutors who handle

immigration cases, and lawyers for immigrants [have asked you to end in-person hearings](#) in any form. They have repeatedly warned you that these hearings pose a great risk to themselves and the community in which they live. All these stakeholders agree; these courts must close, with essential business conducted remotely.

EOIR could readily transfer critical functions from in-person to remote operations, as many courts, state and local agencies, and businesses across New York have done. Immigration judges have assured EOIR that they stand ready and able to ensure that priority matters, including detained bond matters, may be conducted by telephone. Litigants can email supporting documents, which can be made part of the paper record at a later date. The initial intake process can also be converted from an in-person process either through remote hearings or by providing legal service providers with information regarding new, unrepresented cases. Attorneys representing detained clients can be provided telephone or video access, with proper confidentiality protections, while the courts remain closed. All operational changes can and should be clearly communicated via one official platform, EOIR's website, and not piecemeal or informally via social media.

Indeed, our own state courts have pared down functions to address only essential and emergency matters. Criminal and family court proceedings are now conducted virtually. As for other civil matters, courts may accept only applications that relate to health and safety, such as the conditions of an individual's confinement or ability to remain housed during the outbreak. These are necessary measures to comport with public health guidance to engage in social distancing and avoid gatherings of people and thus reduce the spread of COVID-19.

There is no doubt as to the need for quick, uniform, and comprehensive action to stop the spread of the novel coronavirus. You must do your part. Again, I implore you to take the necessary steps to protect the health and welfare of our community by closing immigration courts in New York.

Sincerely,



Letitia James  
New York State Attorney General