

## **Small Claims Courts to Operate 1 Night Per Week to Cut Costs**

Small-claims courts in New York City will be open only one night a week instead of four as the state court system continues to cut spending to comply with reductions imposed by the governor and the Legislature.

Small-claims parts will be held in civil courts in each of the five boroughs on Thursday nights beginning the week of April 18. They now operate Monday through Thursday evenings, with two parts open in Manhattan on Thursday nights. The reductions bring the number of weekly smallclaims courts to six from 21.

"It is because of the [budget] cutbacks," Justice Fern Fisher (See Profile), the deputy chief administrative judge for courts in New York City, said yesterday in an interview. "We use substantial amounts of resources in small claims."

About 34,000 cases a year are filed in the city's small claims courts, which handle claims of less than \$5,000.

The closures will save about \$2 million over the next year, according to Acting Supreme Court Justice Lawrence K. Marks, chief administrator of the court system.

The reduction of small-claims evening hearings and the announcement this week that courts throughout the state are directed to end court proceedings at 4:30 p.m. instead of 5 p.m. are the latest attempts to trim costs and minimize the number of potential layoffs of court employees.

Governor Andrew M. Cuomo and the Legislature adopted a 2011-12 state budget that cut \$170 million out of the Judiciary's spending request. Chief Judge Jonathan Lippman has said several hundred layoffs will be necessary but he has yet to specify a number.

Small-claims sessions will be held between 6 p.m. and 11 p.m. on Thursdays in one civil court in Brooklyn, Queens, the Bronx and Staten Island and at two civil court locations in Manhattan, one in Harlem and one downtown, Justice Fisher said.

The slack will be taken up in civil courts during the day, she added.

Cases that have been calendared for Monday, Tuesday and Wednesday evenings after April 18 will be rescheduled for Thursday nights. Justice Fisher said the parties would be notified of the changes by mail.

In another cost-cutting measure, Chief Administrative Judge Ann Pfau (See Profile) said in a memo to administrative judges this week that reducing court proceedings by a half-hour a day can save on overtime and ultimately mitigate the number of layoffs.

"We cannot keep spending money on overtime at the same time we are reducing our workforce," Judge Pfau said yesterday in an interview. "It is just not fair."

She told administrative judges that before trial judges can allow a proceeding to continue past

4:30 p.m., they must get permission from their district's administrative judges. She also directed that unscheduled overtime be approved in advance by Justice Fisher, for New York City courts, or by Justice Michael Cocco (See Profile), the chief deputy administrative judge for courts outside the city.

Neither Judge Pfau nor Justice Marks had an estimate yesterday of how much can be saved by wrapping up court business early, or how many layoffs the savings could avert.

The 2011-12 Judiciary budget allows for \$37 million for both "scheduled" and "unscheduled" overtime. Scheduled overtime occurs when employees are assigned to work in off-hour courts like arraignment parts or small-claims courts. Unscheduled overtime arises when court sessions continue past 5 p.m. and workers become eligible for extra pay.

"The general principle is, instead of getting done at 5 and then getting a half-hour of overtime to do the paperwork, we will be shutting down, generally, at 4:30 p.m. and use the 4:30-to-5 period to wrap up the paperwork," Judge Pfau said.

The discretion to go past 4:30 p.m. if, for instance, a deliberating jury is close to rendering a verdict or an important witness is close to finishing testimony, will lie with the administrative judges, according to Judge Pfau.

"The discretion always has to rest with the administrative judge," she said. "We would never try to impose this in every single case. You have to have the flexibility to do what is appropriate." She said the "vast majority" of overtime is paid to employees in New York City because of the high volume of cases and the frequency of off-hours sessions, such as night and weekend arraignment parts.

#### Practical Effects

One administrative judge, Vito C. Caruso of the Fourth Judicial District (See Profile), said yesterday the shorter court proceedings will require a change in the culture of the courts.

"We are asking attorneys to bring more difficult witnesses in earlier in the case and asking attorneys to be mindful of the fact that they may have to bring witnesses back for a second day," Justice Caruso said yesterday. "We are advising people to bring motions earlier in the day instead of at the close of business. The judges have to change their culture as well and realize they have to be mindful of the time."

Judge Pfau also ordered supervising judges in Family Court to make a judge available at 9 a.m. each day to handle emergency applications, such as for orders of protection, which were filed the previous evening.

Dennis Quirk, president of the New York State Court Officers Association, said curtailing court hours "effectively eliminates night court for Family Court."

"We are paid overtime, so our people are going to lose money," Mr. Quirk said of the 1,600 members of his union. "And the public is going to be totally inconvenienced."

Kevin O'Brien, a family law specialist with O'Brien & Associates in Albany, said trimming hours for court proceedings will have an "enormous" impact in Family Courts.

"You are dealing with the human condition in crisis," Mr. O'Brien said in an interview yesterday. "It just doesn't lend itself to these types of bureaucratic solutions."

Mr. O'Brien said it is necessary to bring finality to a proceeding involving crucial issues such as the placement of a child.

"It is more cost effective, in my opinion, to continue with the trial and just get it done, even if it is 7 o'clock, rather than come back another day. What you get is a trial in installments," he said.

Attorney Barbara King, head of matrimonial and family law at Tully Rinckey in Albany, said it is almost impossible to conclude custody matters on consecutive days in Family Court.

With the shorter hours, she said, there will be more adjournments, making it more expensive to get lawyers and expert witnesses to court several times.

"What they are really doing is adding the expense on to the public," Ms. King said yesterday.

The 4:30 p.m. ending establishes an "artificial deadline" that would be "very disruptive" to a practitioner, said Morrill I. Berkowitz, co-chair of New York County Lawyers' Association's Supreme Court Committee.

"Scheduling is every trial lawyer's nightmare, and you could have a witness who is not available to come back the next day," Mr. Berkowitz said yesterday.

That could result in the witness' entire testimony being struck from the record, he said.

"I would not be surprised if the courts had to close for days" to make the additional \$70 million in savings, said Mr. Berkowitz, a partner at Gallet Dreyer & Berke.

John Lonuzzi, a plaintiff's personal injury lawyer who is the immediate past president of the Brooklyn Bar Association, said that as a practical matter the restrictions on hours will reduce the ability of judges to manage their calendars and prolong proceedings and trials.

"This will significantly increase trial costs and expenses, not to mention the burden and inconvenience it will place on jurors who will be compelled to serve on jury duty for additional days," said Mr. Lonuzzi, a partner of Lonuzzi & Woodland in Brooklyn. "Of course, there is always the concern that when jurors are inconvenienced, the outcome of a trial can be adversely affected."

Cynthia B. Rubin, chairwoman of the New York City Bar's State Courts of Superior Jurisdiction Committee, said the overtime curbs are "a nuisance, they will slow things down, but in the scheme of things they aren't so bad."

Ms. Rubin is a partner at Fleming Zulack Williamson & Zauderer.

#### No Free Lunch

Judge Pfau also ordered courts to stop providing free lunches to deliberating jurors, and instead to excuse jurors for lunch with an admonition against discussing their cases. Justice Marks did not have an estimate for how much would be saved by cutting free lunches.

Judge Pfau also ordered that no events requiring security be held in courthouses after 5 p.m. If security is needed at programs held by outside organizations, those groups must reimburse the court system for overtime and other costs.

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