



NEW JERSEY STATE BAR ASSOCIATION

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Honorable Stuart Rabner, Chief Justice
New Jersey Supreme Court
Richard J. Hughes Justice Complex
25 W. Market Street
Trenton, New Jersey 08625

Honorable Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Richard J. Hughes Justice Complex
25 W. Market Street
Trenton, New Jersey 08625

Re: Report of the New Jersey State Bar Association
Pandemic Task Force's Practice of Law Committee

Dear Chief Justice Rabner and Judge Grant:

I am pleased to enclose a report of the Pandemic Task Force's Practice of Law Committee for your consideration. Chaired by NJSBA First Vice President Jeralyn Lawrence and Second Vice President Timothy McGoughran and comprised of leaders from various practice areas, the Practice of Law Committee was charged with providing leadership on the emerging challenges and opportunities confronting the legal profession and the justice system arising from the COVID-19 pandemic in substantive practice areas. Part of the Committee's work was an examination of pandemic-related measures that had positive effects on the practice of law, and the report includes a number of recommendations about those measures that should be considered to remain in place even after the pandemic restrictions subside, particularly in connection with virtual hearings and proceedings. The NJSBA Board of Trustees has adopted the report, and I urge you to consider the Committee's recommendations as the Judiciary undertakes post-pandemic planning.

The Committee recognized that virtual hearings can provide many benefits to attorneys, clients and judges. For attorneys, they reduce the time spent waiting in courthouse corridors and traveling between appearances. For clients, they save time and money, and reduce time missed from work. For judges, virtual hearings often result in fewer adjournment requests, scheduling conflicts and need for postponements trying to accommodate all involved.

The Committee also recognized, however, that virtual hearings are not appropriate in all cases, and are only appropriate with the consent of all parties in others. After a careful and thorough review, the Committee recommends that the following proceedings be considered for continued virtual settings:

Civil: Pretrial proceedings, but only with the consent of the parties, such as:

- motions;
- case management conferences;
- depositions of experts;
- litigant depositions for litigants who are medically compromised, have travel issues or otherwise have extenuating circumstances that prevent an in-person appearance; and
- inspection of medical records or other documents.

While settlement conferences would likely benefit from in-person meetings, a hybrid proceeding to accommodate insurance adjusters unable to attend in person should be considered.

Criminal: Certain pretrial proceedings, but only with the consent of the parties, such as initial appearances and arraignments, as well as pretrial detention hearings.

It is critical, however, that proceedings which implicate constitutionally guaranteed rights, such as testimonial motions and jury trials, only proceed in person, so that defendants are provided an opportunity to confront the state's evidence against them and the jury's fact-finding function is not infringed.

Family:

FM – Matrimonial Practice: Case Management Conferences, Early Settlement Panels and oral argument of motions have all been implemented virtually successfully and with ease and should continue.

Adoptions: Adult adoptions should continue via virtual platforms. For individuals or adoptees who no longer reside in New Jersey scheduling in-person appearances can be difficult and expensive. Families finalizing uncontested child adoptions through an agency, though, should have an option to appear in person if that is important to them. For contested adoptions, case management can be conducted via video conference to reduce the cost and expense in travel.

FD: Custody/Special Immigrant Juvenile Status (SIJS) appearances should be done virtually so they can be scheduled promptly and handled expeditiously in the interest of all parties involved. Emergent Temporary Custody Applications should continue to be heard via video conferencing to provide fact, efficient and streamlined processing.

Landlord Tenant (LT): Once the current eviction moratorium is lifted and cases are able to be heard and tried, it will be important to evaluate the effectiveness of the virtual settlement hearings that are currently being conducted as a potential future means of resolving some disputes without the need for a court appearance.

Municipal Court: Appearances by video or audio should be encouraged for all procedural matters such as arraignment, trial scheduling conferences, pre-trial conferences or dispositions on all matters that are *not* matters of consequence. For all matters of consequence, consent to proceed virtually should be obtained by the defendant and the state; otherwise, they should be permitted to be heard in person. Priority for in-person court hearings should be given to motions to suppress and DWI trials.

Taxation: Remote/virtual courtrooms should continue for status conferences.

The Committee noted that increased use of electronic filing and the court's acceptance of electronic signatures has proved convenient and recommended those efforts continue. They cautioned, though, that all security precautions continue to be taken to protect the confidential information that is conveyed through such systems.

The Committee also noted the benefit of streamlined procedures for resolution of matters, such as "divorce on the papers" in the family law arena, and pleas by mail and the online dispute resolution system for appropriate municipal court matters.

Finally, the Committee heeded concerns from municipal court practitioners and recommended that a centralized repository of municipal court information be established to facilitate appropriate contact absent in-person appearances in municipal courts that would include:

- Contact information for court (address, phone, fax, e-mail),
- Name of judge,
- Name of court administrator and preferred method for communication,
- Name of prosecutor and preferred method for communication,
- Preferred manner to enter appearance by defense counsel, and
- Preferred method by prosecutor to request discovery.

Again, I am pleased to present you with this comprehensive report and urge you to consider the recommendations for post-pandemic proceedings as a way to advance matters in a cost and time-efficient manner for all involved.

Thank you for your consideration, Please do not hesitate to call me with any questions or if more information is needed.

Respectfully,



Kimberly A. Yonta, Esq.
President

cc: Steven Bonville, Esq., Chief of Staff
Domenick Carmagnola, Esq. NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director