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## 2022 Delaware Views from the Bench

# Successful Navigation of a Virtual Hearing

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**2022 DELAWARE VIEWS FROM THE BENCH**  
**Successful Navigation of a Virtual Hearing**

On September 12, 2022, Chief Judge Silverstein signed a standing order regarding the transition of the Bankruptcy Court to Phase 4 of its Re-Opening Guidelines.

Phase 4 is a return to normal court operations and permits the Court to fully resume on-site and public-facing activities, including court proceedings, at the discretion of the presiding judge in each individual case.

The below chart provides an overview of each judge’s protocols for proceeding in a virtual hearing.

JUDGE	ZOOM HEARING PROTOCOLS
<b>Judge John T. Dorsey<sup>1</sup></b> 5 <sup>th</sup> Floor, Courtroom #5 302-533-3169 Judicial Assistant (xt 2): <a href="mailto:Laura_Haney@deb.uscourts.gov">Laura_Haney@deb.uscourts.gov</a> Courtroom Deputy/Scheduling (xt 3): <a href="mailto:Robert_Cavello@deb.uscourts.gov">Robert_Cavello@deb.uscourts.gov</a>	<p>Unless otherwise determined by Judge Dorsey, all proceedings will take place in person other than status conferences, scheduling conferences, pretrial conferences, discovery hearings, fee hearings, or first-day hearings, which will be conducted remotely. All counsel and witnesses are expected to attend in-person hearings unless permitted to appear via Zoom.</p> <p>Appearances at in-person court proceedings using Zoom are allowed only in the following circumstances:</p> <ul style="list-style-type: none"> <li>• Counsel for a party or a pro se litigant files a responsive pleading and intends to make only a limited argument;</li> <li>• A party or a representative of a party is interested in observing the hearing;</li> <li>• A party is proceeding in a claims allowance dispute on a pro se basis;</li> <li>• An individual has a good faith health-related reason to participate remotely and has obtained permission from chambers to do so; or</li> <li>• Other extenuating circumstances that warrant remote participation as may be determined by the Court.</li> </ul> <p>Parties participating via Zoom are participating in an official Court proceeding. Disruptions or inappropriate behavior may result in removal. Persons appearing by Zoom are expected to appear in appropriate courtroom attire. Under no circumstances may any Zoom participant photograph, record, or broadcast the proceedings or the participants.</p> <p>All Zoom participants are required to register in advance using the Zoom link provided on the latest hearing agenda. Agendas are required to be filed at least two days (48 hours) prior to the scheduled hearing. Parties should use their best efforts to complete their registration at least 2 hours prior to the start of a hearing. Please see the documentation titled “Hearing Registration” posted on the chambers’ website for more information on the registration process.</p>

<sup>1</sup> Source: Chambers Procedures for Judge John T. Dorsey, Revised October 19, 2022.

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	<p>All participants must use their full names when registering and logging into Zoom or will not be granted access to the hearing.</p> <p>Telephonic participants will be required to identify themselves following admittance into a proceeding. To aid in such identification, a telephonic participant should endeavor to use the telephone number that it provided during the registration process. Failure to identify when requested by the Court will result in removal from the proceeding.</p> <p>All hearing agendas must include relevant Zoom registration information and link for participation pursuant to the aforementioned guidelines. Mr. Cavello will provide Zoom hearing information to preparers of hearings agendas for inclusion.</p>
<p><b>Judge Craig T. Goldblatt<sup>2</sup></b></p> <p>3<sup>rd</sup> Floor Courtroom #7 302-252-3832 Judicial Assistant: Demitra Yeager (302-252-3834) <a href="mailto:demitra_yeager@deb.uscourts.gov">demitra_yeager@deb.uscourts.gov</a> Courtroom Deputy/Scheduling: Nicki Barksdale (302-252-3835) <a href="mailto:nickita_barksdale@deb.uscourts.gov">nickita_barksdale@deb.uscourts.gov</a></p>	<p>All hearings will take place in person other than status conferences, scheduling conferences, pretrial conferences, discovery hearings, fee hearings or first-day hearings, which will be conducted remotely (unless, in view of the circumstances of the case, the Court directs otherwise). All participants at an in-person hearing are required to attend in person, except that remote participation at an in-person hearing is permitted for: (i) counsel for a party or a pro se litigant that files a responsive pleading and intends to make only a limited argument; (ii) a party or a representative of a party that has not submitted a pleading but is interested in observing the hearing; (iii) any party that is proceeding, in a claims allowance dispute, on a pro se basis; or (iv) extenuating circumstances that warrant remote participation as may be determined by the Court.</p> <p>In circumstances in which an individual will participate remotely over Zoom, participants are required to register for the hearing no later than 4:00 p.m. the day prior to the scheduled hearing by using the Zoom link provided on the hearing agenda.</p>
<p><b>Judge Karen B. Owens<sup>3</sup></b></p> <p>6<sup>th</sup> Floor, Courtroom #3 302-533-3183 Judicial Assistant (xt 2): <a href="mailto:claire_brady@deb.uscourts.gov">claire_brady@deb.uscourts.gov</a> Courtroom Deputy/Scheduling (xt 3): <a href="mailto:Marquetta_Lopez@deb.uscourts.gov">Marquetta_Lopez@deb.uscourts.gov</a></p>	<p>Unless otherwise determined by Judge Owens, all proceedings will take place in person other than status conferences, scheduling conferences, pretrial conferences, discovery hearings, fee hearings, or first-day hearings, which will be conducted remotely. All counsel and witnesses are expected to attend in-person hearings unless permitted to appear via Zoom.</p> <p>Appearances at in-person court proceedings using Zoom are allowed only in the following circumstances:</p> <ul style="list-style-type: none"> <li>• Counsel for a party or a pro se litigant files a responsive pleading and intends to make only a limited argument;</li> <li>• A party or a representative of a party is interested in observing the hearing;</li> <li>• A party is proceeding in a claims allowance dispute on a pro se basis;</li> <li>• An individual has a good faith health-related reason to participate remotely and has obtained permission from chambers to do so; or</li> </ul>

<sup>2</sup> Source: Chambers Procedures for Judge Craig T. Goldblatt.

<sup>3</sup> Source: Chambers Procedures for The Honorable Karen B. Owen, Dated October 3, 2022.

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	<ul style="list-style-type: none"> <li>• Other extenuating circumstances that warrant remote participation as may be determined by the Court.</li> </ul> <p>Parties participating via Zoom are participating in an official Court proceeding. Disruptions or inappropriate behavior may result in removal. Persons appearing by Zoom are expected to appear in appropriate courtroom attire. Under no circumstances may any Zoom participant photograph, record, or broadcast the proceedings or the participants.</p> <p>All Zoom participants are required to register in advance. Parties should use their best efforts to complete their registration at least 2 hours prior to the start of a hearing. Please see the documentation titled “Hearing Registration” posted on the chambers’ website for more information on the registration process.</p> <p>All participants must use their full names when registering and logging into Zoom or will not be granted access to the hearing.</p> <p>Telephonic participants will be required to identify themselves following admittance into a proceeding. To aid in such identification, a telephonic participant should endeavor to use the telephone number that it provided during the registration process. Failure to identify when requested by the Court will result in removal from the proceeding.</p> <p>All hearing agendas must include relevant Zoom registration information and link for participation pursuant to the aforementioned guidelines. Ms. Lopez will provide Zoom hearing information to preparers of hearings agendas for inclusion.</p>
<p><b>Judge Brendan L. Shannon<sup>4</sup></b></p> <p>6<sup>th</sup> Floor, Courtroom #1 302-252-2915 Judicial Assistant (xt 2): <a href="mailto:Jill_Walker@deb.uscourts.gov">Jill_Walker@deb.uscourts.gov</a> Courtroom Deputy/Scheduling (xt 3): <a href="mailto:Rachel_Bello@deb.uscourts.gov">Rachel_Bello@deb.uscourts.gov</a></p>	<p>Unless otherwise determined by Judge Shannon, all proceedings will take place in person other than status conferences, scheduling conferences, pretrial conferences, discovery hearings or fee hearings, which will be conducted remotely. First-day hearings are presumed to be conducted remotely absent a prompt request for a live hearing. All counsel and witnesses are expected to attend in-person hearings unless permitted to appear via Zoom.</p> <p>Appearances at in-person court proceedings using Zoom are allowed only in the following circumstances:</p> <ul style="list-style-type: none"> <li>• Counsel for a party or a pro se litigant files a responsive pleading and intends to make only a limited argument;</li> <li>• A party or a representative of a party is interested in observing the hearing;</li> <li>• A party is proceeding in a claims allowance dispute on a pro se basis;</li> <li>• An individual has a good faith health-related reason to participate remotely and has obtained permission from chambers to do so; or</li> <li>• Other extenuating circumstances that warrant remote participation as may be determined by the Court.</li> </ul>

<sup>4</sup> Source: Chambers Procedures for The Honorable Brendan Linehan Shannon, Dated October 4, 2022.

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	<p>Parties participating via Zoom are participating in an official Court proceeding. Disruptions or inappropriate behavior may result in removal. Persons appearing by Zoom are expected to appear in appropriate courtroom attire. Under no circumstances may any Zoom participant photograph, record, or broadcast the proceedings or the participants.</p> <p>All Zoom participants are required to register in advance. Parties should use their best efforts to complete their registration at least 2 hours prior to the start of a hearing. Please see the documentation titled “Hearing Registration” posted on the chambers’ website for more information on the registration process.</p> <p>All participants must use their full names when registering and logging into Zoom or will not be granted access to the hearing.</p> <p>Telephonic participants will be required to identify themselves following admittance into a proceeding. To aid in such identification, a telephonic participant should endeavor to use the telephone number that it provided during the registration process. Failure to identify when requested by the Court will result in removal from the proceeding.</p> <p>All hearing agendas must include relevant Zoom registration information and link for participation pursuant to the aforementioned guidelines. Ms. Bello will provide Zoom hearing information to preparers of hearings agendas for inclusion.</p>
<p><b>Chief Judge Laurie Selber Silverstein</b></p> <p>6<sup>th</sup> Floor, Courtroom #2 302-252-2925 Judicial Assistant (xt 2): <a href="mailto:Cacia_Batts@deb.uscourts.gov">Cacia_Batts@deb.uscourts.gov</a> Courtroom Deputy (xt 3): <a href="mailto:Lora_Johnson@deb.uscourts.gov">Lora_Johnson@deb.uscourts.gov</a></p>	<p><u>All hearings will take place in person, unless extenuating circumstances exist.</u></p>
<p><b>Judge J. Kate Stickles<sup>5</sup></b></p> <p>5<sup>th</sup> Floor, Courtroom #6 302-252-3820 Judicial Assistant: Paula Subda (xt 2) <a href="mailto:paula_subda@deb.uscourts.gov">paula_subda@deb.uscourts.gov</a> Courtroom Deputy/Scheduling: Al Lugano (xt 3) <a href="mailto:al_lugano@deb.uscourts.gov">al_lugano@deb.uscourts.gov</a></p>	<p>All hearings will take place in person other than status conferences, scheduling conferences, pretrial conferences, discovery hearings, fee hearings or first-day hearings, which will be conducted remotely (unless, in view of the circumstances of the case, the Court directs otherwise). All participants at an in-person hearing are required to attend in person, except that remote participation at an in-person hearing is permitted in the following circumstances: (i) counsel for a party or a pro se litigant that files a responsive pleading and intends to make only a limited argument; (ii) a party or a representative of a party that has not submitted a pleading but is interested in observing the hearing; (iii) any party that is proceeding, in a claims allowance dispute, on a pro se basis; or (iv) other extenuating circumstances that warrant remote participation as may be determined by the Court.</p>

<sup>5</sup> Source: Chambers Procedures for Judge J. Kate Stickles, Revised November 1, 2022.

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	<p>Parties participating in hearings via Zoom are required to register for the hearing no later than 4:00 p.m. the day prior to the scheduled hearing by using the Zoom link provided on the hearing agenda. The deadline to register for first day and emergency hearings is two hours prior to the hearing. See Hearing Registration form available on the Court's website. All participants must use their full names when registering and logging into Zoom or will not be granted access to the hearing.</p> <p>Persons without internet access may contact Chambers staff to request a toll-free number to appear telephonically at a hearing. Please contact Chambers staff at least one business day prior to the scheduled hearing.</p> <p>A Zoom hearing is an official court proceeding and appropriate conduct and courtroom attire is required. Disruptions or inappropriate behavior may result in removal. Under no circumstances may any Zoom participant photograph, record, or broadcast the proceedings or the participants.</p>
<p><b>Judge Mary F. Walrath</b></p> <p>5<sup>th</sup> Floor, Courtroom #4 302-252-2929 Judicial Assistant (xt 2): <a href="mailto:Catherine_farrell@deb.uscourts.com">Catherine_farrell@deb.uscourts.com</a> Courtroom Deputy/Scheduling (xt 3): <a href="mailto:Laurie_Capp@deb.uscourts.gov">Laurie_Capp@deb.uscourts.gov</a></p>	<p><u>Most hearings will take place virtually.</u></p>

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**Successful Navigation of a Virtual Hearing**

**EXCERPT FROM “REMOTE COURT HEARINGS: PRESENT  
PRACTICES AND FUTURE PROSPECTS”**

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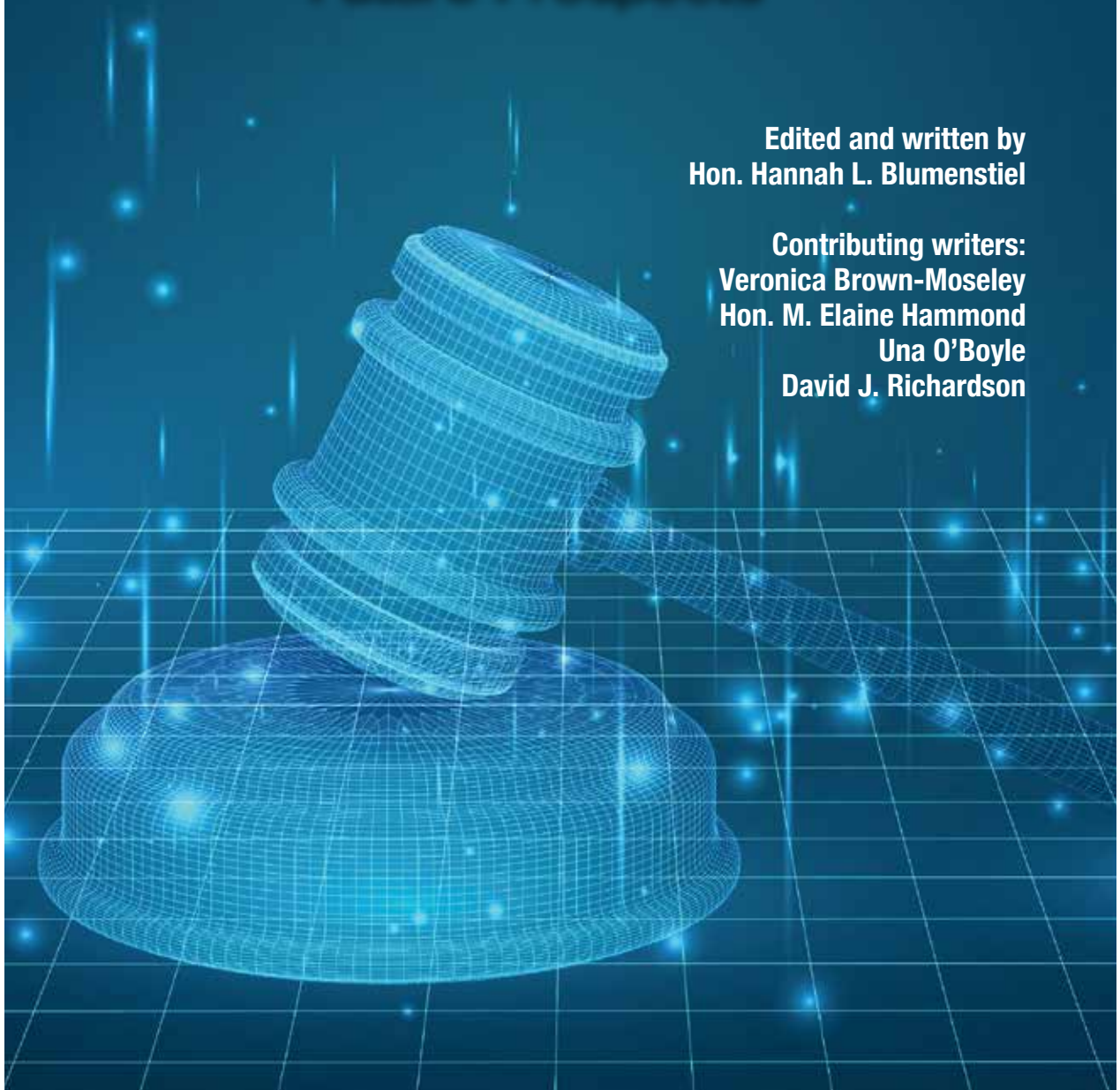


# Remote Court Hearings

Present Practice and Future Prospects

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## Chapter 2

# The Operations Perspective

Una M. O'Boyle  
Clerk, U.S. Bankruptcy Court  
District of Delaware



**D**uring and after a disaster event, government organizations, including the federal judiciary, have an ethical responsibility to ensure the safety of their employees and to continue operations in a prudent and efficient manner. There are no statutory requirements placed upon the judicial branch regarding continuity of operations planning (COOP). However, the importance of judicial branch continuity planning for the endurance of constitutional government is self-evident. The Judicial Council of the U.S. Courts has long encouraged the development and implementation of business continuity policies and procedures that allow for the continuation of all or most business functions of the courts, and most courts have COOP plans in place. It should surprise no one that the COVID-19 pandemic tested these plans to their core. Fortunately, much of our planning proved very practical and helpful, but certainly weak spots were found.

The COVID-19 pandemic took the world by storm, as the timeline below demonstrates. It moved — and changed — so quickly that we were left with almost no time to prepare, and those preparations we managed to cobble together on the fly were sometimes rendered nearly useless overnight.

## **I. COVID-19 Pandemic Timeline**

**December 31, 2019:** Wuhan Municipal Health Commission in China reports cases of pneumonia in Wuhan, Hubei Province. A novel coronavirus, COVID-19, is eventually identified.

**January 21, 2020:** The first case of COVID-19 is diagnosed in the U.S.

**January 30, 2020:** The World Health Organization declares a public health emergency of international concern.

**February 26, 2020:** The first U.S. case of COVID-19 with no travel history is reported.

**March 13, 2020:** President Trump declares a National Emergency.

**March 17, 2020:** COVID-19 cases are reported in all 50 states.

- The Northern District of California closes four federal courthouses to the public until May 1.

REMOTE COURT HEARINGS: PRESENT PRACTICE AND FUTURE PROSPECTS

- U.S. states and counties began issuing stay-at-home or shelter-in-place orders.
- The CDC recommends that organizations cancel or postpone events of 50 or more people for eight weeks.
- The bankruptcy courts begin issuing orders to limit in-person hearings to emergency matters only, or suspending non-time-sensitive matters for several weeks, or conducting all hearings telephonically.

**March 20, 2020:** The Administrative Office of the U.S. Courts (AOUSC) issues guidance to the courts, including postponing proceedings with more than 10 people and allowing telework as much as possible.

- As March wanes on, courthouses close temporarily after persons in the courts test positive for the novel coronavirus.

**March 27, 2020:** President Trump signs the CARES Act into law.

- Bankruptcy courts around the country move to adopt temporary rules that will provide relief for consumer debtors and small businesses during the pandemic.

**March 31, 2020:** The CDC recommendation is reduced to no more than 10 people at an event.

**April 2020:** Many of the bankruptcy courts close courthouses completely; others issue orders mandating protective masks and social distancing for all visitors and staff in courthouses.

- Courts issue orders limiting hand deliveries and extending telephonic-only hearings for another several weeks.
- At the same time, courts begin to outfit courtrooms with plexiglass dividers and social distancing, preparing to return to in-person hearings.
- While courts initially use temporary solutions to conduct virtual hearings, as the weeks go by it becomes apparent that longer-term solutions are required.

**September 2020:** It becomes clear that courts must continue to operate partly remotely *sine die*!

## II. Court Operations

The ability of individual bankruptcy courts to transition quickly to remote operations depended largely on the court's particular pre-pandemic experience with employee telework and with conducting telephonic hearings. According to the Annual Telework Report for Calendar Year 2018 (the most recent available) published by the Administrative Office of the United States Courts (AOUSC), which includes data on approximately 84% of active employees of the federal judiciary (excluding judges),<sup>4</sup> less than half worked remotely on a regular basis:

- 42% were reported as recurring teleworkers (telework regularly at least once a pay period)
- 56% were reported as ad hoc teleworkers (telework on a situational basis as needed)
- 2% were reported as full-time teleworkers (do not regularly report to the employing office at least twice per bi-weekly pay period).

Bankruptcy courts did slightly better than average, reporting that 65% of their workforce did some remote work. This represents a material increase from the prior year (2017), when just 50% of the bankruptcy courts' workforce did some type of telework.

Courts with minimal remote or telework experience faced a variety of challenges:

- scrambling to research and implement permanent or temporary IT options and solutions;
- acquiring additional equipment (such as smartphones and headphones) and distributing it to staff and judges;
- remotely training staff and judges on how to telework;
- managing issues with staff's at-home internet access;
- working with third-party telecommunications vendors to test and implement new services and platforms; and

<sup>4</sup> Segments of the federal judiciary that contributed data to the report included all "court units," which in turn includes appellate, district and bankruptcy courts, as well as probation, pretrial and federal public defender organizations.

REMOTE COURT HEARINGS: PRESENT PRACTICE AND FUTURE PROSPECTS

- working with the AOUSC to ensure compliance with judiciary guidelines.

The COVID-19 pandemic caused an enormous spike in demand for remote workplace equipment such as laptops, scanners, printers and softphone licenses. This increase in national demand placed courts in competition with businesses, schools and other organizations, and led to a shortage in necessary equipment and other supplies. Courts struggled to obtain what they needed to continue to operate. Federal procurement regulations posed an additional hurdle, with limits on open-market items and a lack of blanket purchase agreements for certain equipment, such as Microsoft Surface Pro tablets. Courts also had difficulty obtaining masks, hand sanitizer and antibacterial products, just like every other business and household in America.

### III. Telephonic and Video Hearings

Judicial Conference policy generally prohibits the broadcasting of proceedings in federal trial courts.<sup>5</sup> In March 2020, however, the Executive Committee of the Judicial Conference approved a temporary exception to this policy. This exception allowed judges to authorize the use of teleconference technology to provide the public and the media audio access to court proceedings while public access to federal courthouses was restricted due to health and safety concerns during the COVID-19 pandemic.

Although many bankruptcy courts regularly conducted telephonic hearings prior to the pandemic, several did not — and those who did not had to quickly find a solution that would accommodate the manner and volume of their hearings.

The AOUSC encouraged courts to choose from nationally supported video/teleconferencing platforms or from commercially available platforms that had been developed specifically to facilitate remote court proceeding, including:

- AT&T Connect/WebEx;
- Cisco Meeting App (CMA);
- Cisco WebEx;
- Jabber Client;

<sup>5</sup> *Guide to Judiciary Policy*, Vol. 10, Ch. 4, JCUS-SEP 94, pp. 46-47.



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- Microsoft Teams;
- Skype for Business;
- National IP Telephone Service; and
- National Video Teleconferencing Service.

Courts also looked to other options such as third-party fee-for-service telephonic providers like CourtCall and CourtSolutions, especially when there was a need to accommodate dozens or even hundreds of participants. Although parties were charged for using these services, those vendors also provided free access to *pro se* litigants, certain trustees and other parties in order to assist the courts. According to one such provider, active users on its system during the COVID-19 pandemic represented a nine-fold increase over pre-pandemic usage.

Telephonic hearings conducted outside of the courtroom presented a particular challenge to the creation of an official record. Typically, courts use an electronic court recording device (ECCRO) located in the courtroom to create the official record. But operation of the ECCRO requires someone to be physically present in the courtroom. Courts solved this problem in a number of different ways, such as by having third-party providers record the proceedings and transmit the audio files to the court for upload to the docket. But that method caused a short delay (24-48 hours) in the availability of the audio from any given hearing, which disappointed many courts and particularly the press, who were accustomed to having almost immediate post-hearing access to the audio record. Through much research, trial and error, courts have since found various solutions to record directly to their systems, such as:

- remote desktop;
- Crestron Xpanel;
- FTR 6.5 Touch;
- Lectrosonic DMTH4; and
- Sangeal Digital Recorder, MP3 Cutter and 2 DCR Converter.

## A. Legal Concerns with Fees for Telephonic Services

Courts utilizing the services of third-party vendors that charged litigants and lawyers a fee to participate in hearings without providing a free alternative, such as being able to walk into the courtroom, were confronted with legal concerns. The fees charged by these vendors are neither authorized by statute nor prescribed by the Judicial Conference under 28 U.S.C. § 1930(b). Although the fees were not being paid to the court, the court theoretically facilitated their collection by not offering a free alternative service. Prior to the pandemic and the shutdown of the courthouses, that free alternative was the public's ability to attend hearings in person at the courthouse. Faced with these issues, the bankruptcy courts began to search for no-fee alternatives.

## B. Video Hearings

Although many courts had telephonic hearings pre-COVID, almost every court had to scramble to provide a way to hold evidentiary hearings by video so that judges could hear testimony and assess credibility. In addition to the AOUSC-supported solutions, courts looked to third-party solutions, such as Zoom for Government, which initially could accommodate more participants more easily than other solutions. Many judges and staff were also experienced with Zoom, having used it in academic settings.

Although Zoom was considered the only viable solution for some courts, the AOUSC unfortunately discouraged its use and recommended the nationally supported applications instead.

### *1. Challenges Faced by the Courts with Moving to Virtual Hearings*

Challenges faced by courts in moving to remote hearings include:

- obtaining technology licenses, such as FedRamp licenses;
- difficulty training judges and staff on new technology remotely;<sup>6</sup>

<sup>6</sup> In order to reincorporate the use of courts' digital recording systems (FTR) into the courts' daily hearing routines, as well as provide a more convenient option for the public to connect, the Delaware Bankruptcy Court elected to roll out a FedRamp-compliant Zoom solution to all chambers and their respective support staff. The challenge was how to achieve this rollout during a pandemic when everyone was teleworking while still appropriately training necessary personnel. By using Microsoft Teams, the Automation

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- Conference phone lines: With everyone in the Judiciary teleworking, there was saturation with the AT&T teleconference phone system, resulting in the AOUSC issuing guidance for courts to stagger their teleconference start times;
- Internet access: With many schools closed and many people in large metropolitan areas trying to telework, slowdowns at local court units and neighborhoods occurred in regions across the country where many people were trying to simultaneously use the same local internet provider; and
- Bandwidth: With everyone in the Judiciary teleworking and using internet connections to get federal judiciary internet access, outbound internet browsing, and significantly, more collaboration technologies with external parties, bandwidth became a major concern. The AOUSC quickly doubled the Judiciary's internet bandwidth. Even so, with employees and court hearings using videoconferencing daily, services on the Judiciary's intranet experienced latency or service degradation. Employees were advised to limit the use of videoconferencing to allow court hearings to function as required.

## *2. Technical Issues with Virtual Hearings*

As the courts embraced new applications, their automation departments struggled to manage and overcome the myriad issues that arose during hearings, including:

- ensuring security;
- controlling entry to the hearing, speaking, muting;
- limitations/issues imposed by private internet connections;
- file transfers and screen-sharing;

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group was able to schedule and conduct one-on-one training sessions through which court staff members were able to walk through the new process completely hands-on under the full observation and tutelage of the automation team. This allowed for ideas and questions to be verbally communicated, remote desktop connections to be clearly viewed, the full starting and stopping of test hearings over Zoom, and even the occasional assistance from moderators as needed. In short, trainees received a start-to-finish environment from which they could obtain a complete picture of the new process, all while maintaining appropriate safety protocols. The court continues to use Microsoft Teams as a method for primary court staff to allow their backup counterparts to observe the process in real time and help maintain their own proficiency with all of the new procedures.

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- enabling/disabling recording;
- registering participants;
- disabling social features and emojis;
- disabling backgrounds;
- Zoom-bombing; and
- preventing participants from renaming displayed identities.

#### IV. Summary

Within the federal judiciary, the bankruptcy courts historically have been the leaders in utilizing new technology to fulfill their mission and compensate for budget and staffing deficits and the nature of bankruptcy case filings. When faced with the many challenges brought on by the onset and continued impact of the pandemic, the bankruptcy courts were able to rise to the occasion and quickly redefine the ways by which they conduct business. Through in-depth, targeted research and a well-defined sense of interagency collaboration, the bankruptcy courts as a whole were able to formulate usable solutions to mitigate this highly unprecedented event. With established relationships among sister courts, local federal partners, emergency personnel at the AOUSC, third-party vendors and the bar, the bankruptcy courts were generally able to transition to remote operations with minimal hurdles, keeping the bar and the public informed through telephonic town halls, website updates, tweets and helplines.



## Chapter 3

# The Attorney Perspective

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This chapter is written by, and for, practitioners, including debtors and litigants who may appear on their own behalf. For those who have had substantial experience making online appearances, some of this chapter may appear to state the obvious, and certain points addressed below may be similar to points raised in other chapters. But to the extent there is repetition or an obviousness to the issues covered, it should be kept in mind that this is a result of the seriousness of the point. And it may be a point that would otherwise be missed entirely by an attorney making few online appearances.

Online appearances offer risks and pitfalls even for those who may believe that they have the software mastered. The recent “I am not a cat” viral video demonstrates how important it is to understand platform features that an attorney might never use, such as an animal face filter.

Online court appearances might not be mandatory for much longer, but the pandemic has changed forever how we appear in court. Video appearances may remain an option in most if not all federal courts, even after any sense of “normalcy” returns. Rather than treat online appearances as a temporary annoyance, make the most of this new “normal” by ensuring that you are prepared for a problem-free and effective appearance.

## **I. How to Make an Effective Appearance on Zoom or Any Other Video Program**

Judges have seen everything by now. However, that doesn’t mean that your argument won’t be undermined by a messy background, inappropriate attire, or family members interrupting your argument to ask where they can find the car keys. Unlike the podium in a courtroom, your podium at home is entirely of your own creation, and it requires some forethought so that it doesn’t accidentally weaken the strength of your presentation.

- *Not a hair out of place.* Before you make an appearance, check how you will appear in your camera. If you have a Zoom account, you can start a meeting on your own at any time by logging in to your account and seeing how you appear on camera. If not, you can check the image before you press the button to join the session with video, and make any last-minute adjustments.

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- *Start with your background.* Consider avoiding the computerized background that allows you to add vacation photos or a firm logo. The software will usually blur the outline of your own image, causing hands to appear and disappear from the background, or parts of your head to disappear as you move. No judge is going to admit that this might affect how they consider your argument, but it can be distracting, and it won't help you appear professional.
- *Check what's behind you.* If you don't use a software background, what's visible behind you? A framed photo from an old Spring Break trip that you've never shown your mother? A stack of fan fiction romances about Star Trek characters? Dishes from the meals you've been eating at your computer? Computers are moveable, and backgrounds can be adjusted by moving your chair or camera. Make sure that you have a simple and professional view behind you.
- *Lighting. It matters.* Make sure that your background isn't a large, bright window that will leave you in silhouette. Or that a window beside you doesn't leave you washed out by the brightness. Close the blinds. Turn on a lamp. Create lighting that won't be distracting.
- *Dress for the occasion.* Presume that your judge is continuing to run a professional court, and that the usual dress code applies. It's likely that many people reading this book have, at least once, appeared in court online while wearing shorts or pajamas from the waist down. While it's an understandable temptation, be careful about the risk. You might have to stand up at an unexpected moment to prevent the cat from knocking over your screen, or after spilling coffee in your lap, so it's better to be safe than sorry.
- *Upgrade your Wi-Fi.* If your internet service is a few years old, there's a good chance that your video and audio may be affected by disturbances in the signal. Perhaps your screen will freeze for a moment. Or your audio may simply disappear briefly. It's a common issue in any hearing that involves a large number of attorneys. Don't simply presume that your phone is good enough, and hope for the best. Online appearances will be a common occurrence for the rest of your career. Invest in fast internet for your home.
- *Upgrade your computer.* Laptops are convenient, as are iPads. But a large screen with a quality camera is a critical requirement for an effective online



presentation. There may be many hearings where you don't need to see any other participant on a screen larger than the palm of your hand. However, it always helps to see the judge's face, his or her expressions as you speak, and any subtle clues that should guide your presentation. Even more importantly, a large screen — or two of them — are critical for an evidentiary hearing (discussed below) for dealing with documents and shared screens. If you can help it, avoid appearing on your mobile phone, especially if you're holding it in your hand. If you must appear on your phone, fix it in place, on a stand if possible, so that your camera isn't moving about.

- *Turn off notifications.* If you're on a computer or device that makes a sound every time you receive an email or a text, turn it off, or close the email program until your appearance is over. Aside from being a distraction while you speak, it suggests that you couldn't be bothered to make the effort to present a professional argument.
- *Learn the program.* While Zoom.gov is becoming the most common platform for federal courts to use for online appearances, it isn't the only program, and some state courts are using other platforms. Make sure you understand the basics of the program that will be used for your hearing so that you don't have to be instructed on its use by the judge during the hearing. Know where the "mute" button is, and how to un-mute your microphone when it's time to speak. Understand how to quickly make your video feed go blank, just in case a family member picks an inopportune time to enter the room in their pajamas. Know how to "raise your hand" or other feature to inform the court that you wish to be heard. Learn about the various view options so that you can decide whether you want to view all participants or just focus on the speaker. Know how to set up your own appearance screen so that your professional name appears on the bottom of the screen (along with any requirements the court might have, such as the case or docket number for your appearance), and not an old college nickname, or the name used by one of your children for schooling from home. These are the most basic functions, but the more you know about the program, the fewer pitfalls might await. There are many tutorials available online and many can be found on some bankruptcy courts' websites, including some geared toward *pro se* debtors or litigants.

## REMOTE COURT HEARINGS: PRESENT PRACTICE AND FUTURE PROSPECTS

- *Know the judge's requirements.* As mentioned in the previous paragraph, the court might have a local rule governing how you appear on screen, such as requiring that your screen identify you by name and perhaps by docket or case number, or by client. Check the judge's or court's procedures for online appearances (see Exhibit F) to ensure that your appearance won't violate rules that the judge expects you to follow.
- *Lock the door.* An interfering pet can be fun in a Zoom call with friends, but a cat's tail waving across the screen as it walks across your keyboard, or children fighting over the TV remote, are distractions that will weaken your presentation. Lock the door if you can. They'll be just fine until the hearing is over.
- *How did it go?* When it's all over, consider listening to how you sounded. Some courts are putting audio files of the hearings directly on the docket. If you have the opportunity, and if you can stand hearing your own voice, listen, and be constructively critical. How often do you say "uh" and "um"? Are you overly combative with the judge? Did you make your point or get lost in the weeds? Colleagues can only tell us so much about how our argument actually went. Listening to yourself can teach you far more.

## II. Prepare for Disaster

Anything can go wrong during an online appearance, but there are a few possibilities that are more likely than most.

- *Power or Internet outage.* Despite every discouragement stated earlier about using a mobile phone for your appearance, have it handy. Have it fully charged. Have the link for your court appearance available on the phone. And be prepared to log in on your phone just in case the power goes out or your internet service goes down.
- *Plan around neighborhood noise.* My neighbor's gardening service shows up on a regular schedule — every time I'm about to make an online appearance. I don't know how they know in advance, but it happens almost every time. Consider whether the location for your appearance is vulnerable to nearby leaf blowers, police helicopters, sirens and other disruptions that

might affect your presentation, and if possible, locate yourself in a room with fewer distractions.

- *Know about filters.* We've all seen the cat video. We all know the risk. Learn about your program's filters and other options, at least enough to know how to recognize them and turn them off.
- *Actual disaster.* It can't hurt to have a colleague or co-counsel ready to appear at the last minute, particularly if it's an important hearing. I was recently preparing to log on to a hearing to make an argument when I looked up and saw my neighbor's shed and trees on fire. It was a hot, dry and windy summer day in California, which meant that this was an emergency far more important than appearing in court. Luckily, co-counsel was ready to jump in despite the lack of a *pro hac vice* order yet granted, and the fire was put out without doing any major damage to the neighborhood. But being prepared meant that our client was represented at the hearing.

### III. How to Make an Effective Telephonic Appearance

Whether you're appearing at a hearing that is being held telephonically or have reason to appear telephonically for a hearing that is otherwise conducted on video, there are a few considerations that might help you present effectively.

- *Can you hear me now?* Courts are moving away from their requirement that any telephonic appearances be made on landlines, perhaps recognizing that few attorneys were actually following the rule. But if you are going to appear by mobile phone, don't adopt the attitude that the number of visible bars on your phone is beyond your control. The judge might commiserate with your poor phone service, but it won't help you present your argument if you are cutting in and out during the call. It also will be another indication that you couldn't be bothered to prepare. Make the call from somewhere that has a strong enough signal to ensure a consistent connection.
- *Handsfree?* It can be awkward to hold a phone to your ear during a call, but some courts forbid the use of your speakerphone or even external microphones. Check the court's rules for telephonic appearances, and try to follow them.

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- *Test your microphone.* Ear buds with a built-in microphone are becoming a common method for telephonic appearances. However, make sure that the quality of your microphone is not undermining your presentation.
- *Keep your charger handy.* This one is self-explanatory. Don't risk a dying battery and a missing charger.
- *Pause and breathe.* Some telephonic connections prevent you from hearing others on the call while you are speaking. We've all been on those calls where participants talk over one another, then pause for a lengthy period waiting for the other to re-state their comment, then jump back in at the same time to talk over one another again. Don't let that be your style in court, especially if the other party speaking is the judge. Pay attention to the connection you have on your phone. If it appears that there is any risk that you can't hear the judge as you're droning on about a case that was decided back in Elizabethan times that is somehow relevant to your motion, make sure you pause occasionally, at least long enough that you'll be able to tell whether the judge is trying to be heard. The judge just might be trying to say something you really need to hear.
- *Are you appearing pro se?* Many *pro se* litigants will benefit from increased online hearings, but it will also be an entirely new experience for most. *Pro se* litigants should check the court's website to see whether it has specific information to assist them with appearances.

#### IV. Issues for an Online Trial or Evidentiary Hearing

Online evidentiary hearings and trials are likely to continue for some time beyond the publication of this book and may become more common even once in-person hearings resume — at least for those participants, attorneys or witnesses who wish to avoid long-distance travel.

Some of the issues described below are expansions of issues described above (*i.e.*, know your online program), but are focused on the evidentiary setting.

- *Know your program.* Presenting evidence in a form that can be shared with all counsel and viewed by the court is one of the challenges that has had to be addressed for online hearings. It is typically done through screen-shar-

ing, using exhibits already uploaded to the court and shared with counsel. Become comfortable with the program's options before engaging in an evidentiary hearing or trial to ensure that you and/or your colleague will be able and prepared to share their screen to put the evidence before the court.

- *Prepare your witness for the online experience.* A successful evidentiary hearing requires more than your own appearance. Make sure your witness understands everything written in the prior section describing a successful online appearance. A witness's credibility might not hinge on their Zoom background, the lack of screaming children or lunch-stained t-shirt they're wearing, but it's best to cover this ground before the hearing begins. Set up a practice Zoom session with your witness to make sure that their preparation for the hearing is done on the same program, with the same settings and view options, so that your witness isn't struggling to view an exhibit for the first time at the hearing.
- *Know the court's rules.* Local rules, including COVID-specific procedural orders and the judge's own courtroom rules, may cover issues for presenting evidence and examining of witnesses during an online hearing. For example, the court might require that your witness be alone in the room where they are appearing to ensure that they are not being coached or distracted.

## V. Managing Clients in Remote Court Hearings

When a client's attendance is required at a remote court hearing, it is essential for an attorney to take the necessary actions to adequately prepare the client, keep the client informed throughout the process, and be prepared to address technical and other issues that may arise.

- *Develop and implement remote court hearing procedures.* The procedures that were previously adequate to manage clients during in-person court hearings might no longer be sufficient to address issues that arise in remote court hearings. Formalized procedures designed to prevent potential pitfalls and other mishaps help to ensure a high level of client service and effective remote court appearances on a consistent basis. All attorneys in a firm who will make remote court appearances should be properly trained

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on the remote court hearing procedures. Additionally, the procedures should be regularly evaluated and adjusted as needed.

- *Verify identity.* Ensure that clients are able to provide acceptable forms of identification prior to remote court hearings, and have access to a client's proof of identity at the time of the hearing. Also, be familiar with the jurisdictional requirements for verification of a client's identity prior to the remote court hearing, and be prepared to comply. For example, if a jurisdiction permits an attorney to provide a declaration confirming verification of a client's identity prior to the hearing, rather than at the time of the hearing, an attorney should take the necessary action to verify the client's identity and submit the required information in advance of the hearing as opposed to causing a delay during the hearing for verification of identity.
- *Client attendance requirements.* Be familiar with the court's client attendance requirements for remote court hearings. At some hearings, counsel might be required to attend, but client attendance is not required. In instances that a client's attendance is not required, be sure to communicate this information to the client in advance. For example, the court mails notices to clients of confirmation hearing dates and times in chapter 13 cases. However, in many instances, client attendance at a confirmation hearing is not required, so it is important that the client is made aware that his attendance is not required to prevent the client from unnecessarily taking time off work or showing up at the court on the scheduled date and time. Similarly, if a client's attendance is required at a remote court hearing, it is important to make the client aware of the attendance requirement in advance. It may be helpful to provide a client with multiple forms of notice, such as a reminder at an appointment, a follow-up telephone call, a letter by mail and an email communication. More notice is certainly better than less notice; the ultimate goal is the client's attendance at the hearing. Providing multiple notices to the client helps to improve the chances of attendance, emphasizes to the client the importance of attendance, and assists the client with taking the necessary action (such as scheduling time off work) to be prepared to attend on the scheduled date and time.
- *Client access to a remote court hearing.* Well in advance of a remote court hearing, an attorney should notify the client of the manner in which the court hearing will be conducted (telephonic or virtual), the date and time

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of the scheduled court hearing, and the approximate amount of time the client should be prepared to spend at the hearing. Ensure that the client has access to all of the tools necessary to participate in the remote hearing, such as access to a computer, laptop or smartphone, access to reliable internet service, or access to an operating telephone. Work to identify clients who may experience access issues ahead of time (such as a client who experienced difficulty completing the virtual consultation at the time of the case filing), and work with those clients to develop appropriate courses of action. Creativity and going the extra mile to support the client will give rise to the best outcomes. This may include, but certainly is not limited to, the following:

- o sending clients written instructions on how to install the Zoom application;
  - o spending extra time with a client to help him or her successfully install the Zoom application;
  - o conducting a practice hearing with the client in advance;
  - o seeking permission from the court for a client to appear telephonically in an instance where a virtual appearance is impracticable for the client; and
  - o providing a client with access to the necessary tools to appear at a remote court hearing, such as access to a telephone, computer or internet service at the attorney's office.
- *Prepare client for a remote hearing.* Communicate with your client ahead of time regarding what to expect at a remote court hearing. Ensure that the client has access to all information that may be needed, such as copies of the Schedules or other documents filed in the case, proof of identity, questionnaires, interrogatories or other relevant information. Explain to the client that his testimony will be given under oath under the penalty of perjury and what that means. Explain to the client that his or her hearing is not likely to be the only hearing scheduled for a particular date and time, and the importance of remaining quiet until his or her case is called. Encourage the client to be stationary during the hearing, such as not driving, working or walking his dog. Emphasize the importance of minimizing background

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noises, such as children, pets, notifications from devices and other distractions. Ensure that the client is familiar with how to use the telephonic or virtual conferencing application prior to the hearing, such as how to mute and un-mute, how to turn the camera on and off, and how to enter and exit the application. Remind the client to charge the device that will be used for the hearing prior to the hearing.

- *Be prepared for client issues.* Always have someone on standby to assist in the event that a client experiences technical or other issues at the time of a remote court hearing. In consumer cases, it is common for an attorney to be responsible for representing multiple clients who are scheduled for remote hearings on the same date and time, such as in § 341 meetings of creditors and court dockets for contested matters. In the event that a client has not logged in on time, it is important to have someone ready to reach out to the client and assist him or her with logging in or to communicate to the attorney regarding the client's status (*i.e.*, unable to reach the client, the client is unable to attend, the client is experiencing technical difficulties, etc.). The attorney appearing at the remote court hearing will then be able to communicate such information to the court, trustee or other parties when appropriate.
- *Check in with the client prior to a remote hearing.* Always strive to communicate with the client immediately prior to a remote hearing. Make necessary provisions based on the type of remote hearing as well as the client's needs. For example, this may involve a phone call or videoconference 30 minutes prior to the remote hearing to review what to expect, answer any last-minute questions or address any issues that the client may have, and to provide comfort and reassurance to a client who may be experiencing high levels of stress related to the remote court appearance. This may also provide an attorney with the opportunity to resolve last-minute technical issues that the client may be experiencing.
- *Follow up with the client following a remote court hearing.* Always strive to communicate with the client immediately following a remote hearing, and be sure to disconnect from the remote hearing program prior to such communications. This is an important opportunity to communicate with your client to answer any questions the client may have, address follow-up or other issues related to the hearing, discuss expectations and obligations



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moving forward, and ensure that the client is fully informed regarding the next steps.

## VI. Jumping Ethical Hurdles in Remote Court Operations

The practice of law has changed drastically and rapidly as a result of the COVID-19 pandemic. In courts across the country, remote court hearings have become the new normal, and reliance upon technology is at an all-time high. Despite unprecedented and swift transformations, an attorney's ethical obligations pursuant to the ABA Model Rules of Professional Conduct remain the same.<sup>7</sup> We will highlight ethical challenges that may arise in remote court operations and provide guidance to assist practitioners in jumping those ethical hurdles.

### A. Heightened Bar for Competence, Diligence and Communication

The duties of competence, diligence and communication are at the core of an attorney's obligations in representing a client in any matter. Compliance with Model Rules 1.1, 1.3, and 1.4 may require lawyers to go the extra mile when representing clients in remote court hearings.

#### Model Rule 1.1: Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

#### Model Rule 1.3: Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

#### Model Rule 1.4: Communications

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed

<sup>7</sup> This chapter will reference the ABA Model Rules of Professional Conduct as amended by the ABA House of Delegates through August 2020. An attorney should consult the professional rules, ethics opinions and laws of the applicable jurisdiction.

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consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

- *Stay abreast of changes in court operations.* In an effort to ensure continuous, safe and efficient court operations during the COVID-19 pandemic, many courts have developed and implemented numerous procedures, orders and rules. As developments and changes occur, it is essential for an attorney to remain up to speed and knowledgeable of the new or altered court requirements. Attorneys should pay close attention to updated information on the court's website and notices from the court to practitioners. Additionally, continuing legal education courses, bar association programming, and legal publications relevant to an attorney's area of practice can also serve as great sources of information. Maintaining competency in the representation of clients requires attorneys to quickly adapt to evolving practices and procedures, even in the midst of a pandemic.
- *Technological competence.* As a result of the transition to remote court hearings, an attorney's ability to competently represent a client in a court appearance now relies heavily upon an attorney's proficiency in various technical applications and software. A lack of technical proficiency can negatively impact client representation and case outcomes, as well as run afoul of an attorney's ethical obligation of competency. In advance of a remote court appearance, an attorney should identify all applications and

software that will be utilized in the hearing and take appropriate actions to become knowledgeable about such use. This could include, but is not limited to, learning from tutorials, reviewing user manuals and other relevant materials, and seeking the guidance of others.

- *Technological support.* Competent and diligent representation of a client at a remote court hearing might involve providing some level of technical support to the client. At a minimum, an attorney should adequately prepare a client for a remote hearing, such as ensuring that the client is provided the information needed to log in to the software that will be used at the hearing. However, in instances where a client experiences difficulties with the use of technology, adequate preparation for a remote hearing may involve more, such as ensuring that the client has the ability to participate in the appearance, providing more specific instructions or guidance related to the application or software to be used, or troubleshooting an issue that a client may experience with logging into or participating in an appearance. The extent to which an attorney may need to provide technical support to comply with ethical obligations will vary depending on the circumstances of the case and will be based on a reasonableness standard as indicated in the language of Model Rules 1.1 and 1.3. An attorney should determine what technical support, if any, he or she needs to be prepared to provide to clients in remote court hearings, and develop a procedure to ensure that such support is consistently available.
- *Keep the client informed.* Communication with a client in the world of remote court hearings presents challenges that might not have been encountered in traditional in-person court appearances. Most obvious is the inability to have confidential discussions with a client at the time of a remote court hearing. This limitation increases the importance of advance preparation and effective communication ahead of time. An attorney should be sure to inform clients of all information relevant to the appearance in advance of the hearing. This may include, but is not limited to, ensuring that the client is informed about the manner in which the hearing will be conducted, ensuring that the client has access to all documentation that will be needed at the hearing, such as identification and copies of documents filed in the case, and ensuring that the client is aware of limitations on his or her ability to communicate directly with counsel at the time of the hearing.

## B. Confidentiality in the Midst of Technological Revolution

Actions that an attorney might need to take to comply with the confidentiality requirements of Model Rule 1.6 in a court hearing have become more complicated as a result of the transition to remote court practice. In particular, more precautions are needed to prevent inadvertent or unauthorized disclosure of or access to confidential client information when court hearings are being conducted in a variety of locations outside of the court building, including work offices, homes and other locations.

### Model Rule 1.6: Confidentiality of Information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

- (1) to prevent reasonably certain death or substantial bodily harm;
- (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
- (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result in or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
- (4) to secure legal advice about the lawyer's compliance with these Rules;
- (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim

against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;

(6) to comply with other law or a court order; or


(7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney/client privilege or otherwise prejudice the client.

(c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

- *Conduct remote court appearances in private.* An attorney is required to take reasonable steps to protect confidential client information. When making a remote court appearance, an attorney should seek to conduct the hearing in a private location. An attorney should take reasonable action to ensure that information presented at a remote hearing is not overhead or witnessed by anyone who is not assisting with the representation, including members of the attorney's household or other third parties.
- *Devices with listening capabilities.* Disabling devices with listening capabilities, such as virtual assistants and smart speakers, when an attorney is conducting a remote court hearing can help to minimize the risk of inadvertently exposing confidential information to unauthorized third parties.
- *Hardware devices and software systems.* In an effort to protect confidential client information during a remote court hearing, an attorney should take reasonable actions to prevent unauthorized access to information on the device being used in the remote hearing. This may include, but is not limited to, installing security-related updates, maintaining antivirus software and using strong passwords. Additionally, reasonable precautions should be taken when connecting to remote hearings over Wi-Fi, such as using a secure network or a virtual private network (VPN).



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# Faculty

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**Hon. John T. Dorsey** is a U.S. Bankruptcy Judge for the District of Delaware in Wilmington, sworn in on June 11, 2019. Previously, he practiced complex commercial litigation in Wilmington for 28 years. For 16 of those years, Judge Dorsey was a partner at Young Conaway Stargatt & Taylor, LLC, where he represented debtors and creditors in chapter 11 litigation matters. He also served as general counsel to Young Conaway for five years. Prior to joining Young Conaway, Judge Dorsey practiced with Richards Layton & Finger, PC, and served as the state director for then-U.S. Senator Joseph R. Biden, Jr. Prior to practicing law, he served in both the U.S. Army as a Military Police Investigator and the U.S. Air Force as an ICBM launch officer. Judge Dorsey was a board member of Delaware Volunteer Legal Services for 25 years and was active as a volunteer for the Delaware Office of Child Advocate representing children in foster care. He received his B.A. from the University of New York at Binghamton and his J.D. *magna cum laude* from Wake Forest University School of Law.

**Hon. Sherry R. Fallon** is a Magistrate Judge in the U.S. District Court for the District of Delaware in Wilmington, appointed on April 25, 2012 and reappointed on Dec. 23, 2019. Prior to joining the court, she was an attorney with Tybout, Redfearn & Pell. Judge Fallon received her Bachelor's degree from the University of Pennsylvania in 1983 and her J.D. from the Delaware Law School of Widener University in 1986.

**Robert C. Maddox** is counsel with Richards, Layton & Finger, P.A. in Wilmington, Del., and focuses his practice on corporate bankruptcy and restructuring, with an emphasis on bankruptcy litigation and contested matters. While in law school, he served as the president of his class and as a member of the University of Maryland Moot Court Board. He also completed internships with Hon. Lynne A. Battaglia in the Maryland Court of Appeals and with the U.S. Environmental Protection Agency Office of General Counsel. Mr. Maddox has been listed in *The Best Lawyers in America* as one of the "Ones to Watch" from 2021-23. He received his B.A. in psychology in 2001 from the University of Maryland Baltimore County and his J.D. *magna cum laude* in 2009 from the University of Maryland School of Law, where he was admitted to the Order of the Coif.