



PRESS RELEASE

**New York State
Unified Court System**

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Commission to Reimagine the Future of New York's Courts Issues Two Additional Reports

NEW YORK—The Commission to Reimagine the Future of New York's Courts today released two new reports: one focusing on the ways in which emerging technologies may be applied to improve trial practice in New York amid the pandemic and beyond; and the other providing a roadmap for developing procedures to ensure that evidentiary proceedings are conducted safely, effectively and fairly throughout the public health crisis and into the future.

Appointed last year by Chief Judge Janet DiFiore to study regulatory, technological, structural and other innovations and propose practical short- and long-range reforms, the Commission, led by former New York State Bar Association President Henry M. Greenberg, comprises six working groups: trials, appellate practice; online courts; regulatory innovations; structural innovations; and technology.

Today's reports were produced by the Commission's Trials Working Group, chaired by New York Court of Appeals Associate Judge Michael J. Garcia and Robert J. Giuffra,

Jr., partner and vice chair of Sullivan & Cromwell LLP; and a future trials subgroup, led by Richard A. Edlin, vice chair of GreenbergTraurig.

The Commission's "Report and Recommendations of the Future Trials Working Group" offers a series of guiding principles for the New York Courts to follow in evaluating the potential impact of emerging technologies and trial practice, with a focus on equal access to justice, efficiency, reliability, ease of use and financial cost. The report also explores aspects of trial practice likely to be impacted by evolving technology, from transcription services to presentation of evidence to judicial decision-making; examines trial by remote videoconference, including an overview of pre-pandemic case law concerning the constitutionality of remote testimony in civil and criminal trials, as well as discussion of the few remote jury trials conducted around the country over the past year; and underscores the need for increased training for judges and court staff related to technological issues.

Proposed next steps put forth in the report include:

Having the Court System—in light of fiscal constraints—explore potential partnerships with major internet service/technology providers to supply all courtrooms in New York State with secure and reliable high-speed wireless internet.

Developing uniform rules (once the pandemic has abated) to clarify when, and in what manner, parties may supply their own portable technology for trial or other court proceedings to ensure that any technology brought into New York courtrooms is secure, reliable, does not disrupt other court proceedings and will not give any party an unfair advantage.

Creating a pilot program for streaming trial-level court proceedings to ensure public access to trial-level court proceedings amid the pandemic.

Establishing a committee of judges and law clerks to periodically review and summarize for other judges and staff the most recent precedent and developments in the handling of new forms of evidence and demonstrative presentations at trial or partnering with outside firms or organizations to provide periodic reports on those topics.

Commissioning an expert analysis of ways in which currently available artificial intelligence technology may be applied to improve court efficiency.

Implementing the newly released “Virtual Bench Trial Protocols and Procedures” manual of best practices—issued by Hon. Norman St. George, Administrative Judge of the Nassau County Courts, in collaboration with other judges throughout the State—and developing a similar manual for remote jury trials for experimentation and application on a voluntary basis. The Working Group will consult with the Court System on the creation of any such manual and will continue to monitor and evaluate the efforts of other court systems across the country to conduct remote jury trials during the pandemic.

Creating mandatory training programs statewide for judges on new developments in technology and the legal issues posed by new forms of evidence.

The second report issued by the Trials Working Group and titled “Improving and Streamlining the Presentation of Evidence: Court Hearings” draws on the experiences of courts and legal practitioners across the country.

Among other critical information, the report contains an overview of the law governing the New York Courts’ ability to hold remote evidentiary hearings; a “best practices” checklist for conducting remote evidentiary hearings; and safety and other recommendations to consider when holding in-person evidentiary hearings or “hybrid” proceedings (involving both in-person and remote participants) during the pandemic.

“Since its creation last June, the Commission has already given us nine detailed reports, each a blueprint to help guide the New York Courts to navigate the many challenges posed by the pandemic and better prepare the Court System to meet the evolving justice needs of New Yorkers well into the future. Building upon the Commission’s previous reports, these two new reports provide insightful analysis, offering practicable advice on how the courts may employ technological, case management and other innovations to promote fairness, enhance access to justice and maximize operational efficiency and efficacy, both amid Covid and in the years to come,” said Chief Judge DiFiore. “I am immensely thankful to Hank Greenberg for his ongoing efforts and deep commitment as the Commission’s chair and commend the trials working group, working group co-chairs Judge Garcia and Robert Giuffra Jr., and chair of the future trials subgroup, Richard Edlin, for their excellent work on these comprehensive reports.”

"These two reports are of a piece with the other path-breaking reports issued by the Commission since it was established by Chief Judge DiFiore this past June. In short order, the Commission has become the nation's most prolific think tank for generating ideas and proposals regarding the present and future needs of state courts and the public they serve. I am grateful beyond measure to my fellow Commissioners for their extraordinary work and commitment to the highest ideals of the legal profession," said Hank Greenberg.

The reports are available online at:

www.nycourts.gov/whatsnew/pdf/future-trials-working-grp-april2021.pdf

and

www.nycourts.gov/whatsnew/pdf/presentation-of-evidence-court-hearings-april2021.pdf

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