

Craig Doran:

Good morning, everybody. We're ready to begin. I am Craig Doran, and on behalf of a whole lot of folks who I'll talk about in a couple of minutes, I want to thank everyone who is joining us in this unprecedented effort to listen and learn. Before we get on with a few other introductory remarks, I want to ask you all to be mindful of the people who can't be here, the people who we all serve, those of us that work in the justice system, those of us that work with the justice system. I am honored to chair the Pandemic Practices Working Group, which I'll tell you a little bit more about in a moment. Our mission is to make the justice system better for those people that can't necessarily be here to share their thoughts with us. I want us all just to take a moment and think of them.

Frankly, I believe that most of you don't even need to be reminded of that, that's why you're here, that's why you're part of this effort. But there are so many folks who've been profoundly impacted by the pandemic. We owe our best to them. We owe it to them to constantly think of the challenges that they face, the challenges with access to justice, the challenges that the pandemic has created for these folks. We owe it to them to do everything we can, everything we can possibly do to navigate our justice system through this process, through this time. Take advantage of this window that we find ourselves in. Be creative, be compassionate, be considerate, and make us better, make the system better, that's what we're here for, that's what we're all about.

I mentioned that this effort of this working group is unprecedented. It's unprecedented in many respects, the greatest of which is the scope of the work of this group. The number of people across this state that we will have listened to and heard from and paid attention to before we're done with our process. Today, we're here to continue this. This is the second of three in-person - by the way, it's wonderful to see people in-person in a room, together. For those of us that are joining us virtually, we appreciate you as well. So we're here. This is the second of three in-person public hearings. When we are finished with those three in-person public hearings, the next of which will be in New York City on October 31st, the first of which was in Albany on June 7th.

At these public hearings, together with remote listening sessions that the group is also engaged in, we will have heard from and engaged in dialogue with hundreds of people from all walks of life, from all job descriptions, stakeholders in our system, judges, court users, non-judicial employees of our system, folks that work in the agencies that we're fortunate and blessed to have as partners as we all work to administer justice.

The Pandemic Practices Working Group, and I am going to recite the names. I'm going to take time to do that. I'm going to say the names of the members of the Pandemic Practices Working Group. This is without compare the most extraordinary group of folks I've ever had the privilege of working with. They are dedicated, they are inspired, they are engaged, every single one of these folks in this effort. We are a working group of the Chief Judges Commission to reimagine the future of New York's Courts. The chairman of that commission is

Hank Greenberg of Greenberg Traurig. Unfortunately, Hank could not be here today. He was with us in Albany and he's been with us throughout this effort. Unfortunately, he could not be with us today, but he did want me to share his gratitude and his appreciation to everyone who's been a part of this effort.

Our mission as a working group, quite simply, is to, first of all, embark upon, as I mentioned, an unprecedented effort to listen, to hear, to engage in dialogue with anyone who might possibly have a view of the protocols, practices, policies, technology that the justice system engaged in during the pandemic. A simple mission is to learn from the pandemic, learn from the experiences we've all had together. Take the best of those experiences and recommend what of those policies, practices, protocols, technology should be carried with us into, what I like to refer to as, the new better-than-normal, not just the new normal. I believe that we can take what we've all experienced together and are still experiencing and use that experience to improve access to justice, to improve the efficiency of the justice that we deliver and to improve the quality of the justice that we deliver.

Before I talk about the working group itself, I must take some time to thank our hosts. This is an extraordinary room we have the privilege of being in. Our first hearing was in Court of Appeals Hall in Albany, and we're fortunate to have this, our second hearing, in the ceremonial courtroom here in Erie County. The hospitality has been wonderful. The staff here is extraordinary. The technology folks who have pulled out all the stops to make sure this goes smoothly. These folks truly are the best of the best.

One of the things, and I know my colleagues would share this, that we learned in the pandemic is the folks that serve this justice system. Judges, non-judicial employees of the court system and the folks that work in all of the entities that we partner with, nobody said no. Nobody said, "we can't do this." Everybody was committed to the endeavor to make sure that we continued to provide access to justice. The courts never closed. The hospitality that we've been privileged to enjoy here and the quality of the work that so many have put into making sure that we're able to do this - second to none.

I first want to thank the administrative judge of the 8th Judicial District, the honorable Kevin Carter, who's here in the room with us. Thank you so much for your hospitality. I also want to thank two of the members of our working group who are the resident Erie County 8th Judicial District members of our Pandemic Practices Working Group and the hospitality we've enjoyed and the quality of the facility and the technology here is certainly attributable to these folks. And also, as you will see in a moment, the lineup of witnesses and presenters that we've been able to assemble here is a credit to the leadership of these two fine gentlemen. First, the Honorable Judge Hannah, who is a Supreme Court justice in the district, also the supervising judge of the city courts in the 8th Judicial District, and also Oliver Young, who's an attorney with Barclay Damon here, and

both of these gentlemen have been critical in the success of this endeavor. Please join me in thanking them.

We're going to start with the first panel at 9:50. Those of you that are on that first panel, get ready, you're on deck. We're going to try to keep this on time. We want to be respectful of everybody's schedules. I also want to thank our acting Chief Judge, Anthony Cannataro and our Chief Administrative Judge, Judge Larry Marks. They have given this effort their blessing. They have indicated on multiple occasions that they look forward to the submission of this group and the recommendations that we will make on how we make ourselves better as I mentioned a few moments ago. I also have to thank the Deputy Chief Administrative Judges. Now, some folks here are familiar with the structure of our court system, some folks aren't, but I just suffice it to say that the Deputy Chief Administrative Judges are critical in the mission of the on-the-ground making sure that justice is delivered every day in every courtroom in this state.

We are very privileged to have two of the Deputy Chief Administrative Judges as members of our working group. Sitting to my right is the Deputy Chief Administrative Judge for Justice Initiatives, who is Judge Edwina Mendelson, and we're honored to have you with us. Also, Judge Tamiko Amaker, who is Deputy Chief Administrative Judge for court management. Also, we have to thank two other Deputy Chief Administrative Judges. The Honorable Norman St. George, who's the Deputy Chief Administrative Judge for the courts outside of New York City and the honorable Deborah Kaplan, who's the Deputy Chief Administrative Judge for the courts inside of New York City. All of these folks critical in the day-to-day management of our courts, but also, and more on point for our work today, they all will be critical in making sure that the work of this group is carried forth and implemented in the courts across our state.

I did indicate that I'm going to tell you who the members of the working group are, so give me a moment to locate. Excuse me, I got to move this, I'm sorry. Forgive me, this is going to take a little while, maybe 3 or 4 minutes, but it's very important, because every one of these folks has been engaged in our efforts.

I want to first recognize Scott Reents from the Cravath firm and William Silverman from Proskauer. They are the co-chairs of our hearing subcommittee, also members of the working group. They have done extraordinary work to make sure that all go smoothly in this effort. I also want to acknowledge and recognize some extremely enthusiastic and dedicated young people, and I think I can say that, who have been brought along by Bill and Scott from their firms to assist us in our efforts: Nicole Swanson, Wilderness Castillo, Porsche Proctor, and TJ Rain. I hope I didn't miss anybody. If I missed anybody, I'm very, very sorry and they can let me know later. I have to acknowledge them because your work has just been extraordinary in making sure that things go well.

The members of our working group are the following. The honorable Tamiko Amaker, as I said, Deputy Chief Administrative Judge for management support;

Nancy Berry, who's the Chief of Operations of the Office Court Administration; Mark Berman, who's a private practitioner; Jessica Cherry, who is Assistant Deputy Counsel at OCA; John Cremo, who's Deputy Attorney General at the New York State Office of the Attorney General in the Civil Bureau; Mike DeVito, who's the Manager of the Office of Record Production for OCA; the honorable Alicea Elloris-Ally, who's a family court judge in Kings County; the honorable Patria Frias-Colon, who's the Supervising Judge of the New York City Civil Court in Queens County. As I mentioned, Hank Greenberg, who is the chair of the Commission to reimagine the future of the courts; the honorable Craig Hannah, who you met a few moments ago; John Healy, who is Assistant Attorney General in the Criminal Enforcement and Financial Crimes Bureau.

Adriene Holder, who's the Attorney-in-Charge at the Legal Aid Society of the Civil Practice, Legal Aid Society of New York City; Seymour James, who is now a private practitioner but has previously been in the leadership at the Legal Aid Society in the city, primarily in their criminal practice; Melinda Katz, who is the District Attorney in Queens County; Porter Kirkwood, who's with us today, who is the District Executive in the 6th Judicial District; Leanne Lapp, and I'll acknowledge some of these folks again because they're on our panel, who is the President of the Chief Defender's Association of the State of New York and is also near and dear to my heart, the Ontario County Public Defender; Roger Maldonado, who is a private practitioner, very active in the New York City Bar and other endeavors in the city; Mary McQueen, who's the president of the National Center for State Courts; the honorable Edwina Mendelson; Lillian Moy, who is the Executive Director of the Legal Aid Society of Northeastern New York; the honorable James Murphy, who is the Administrative Judge in the 5th Judicial District.

Carolyn Nussbaum, who's over here to my right on our panel today, who is a partner at Nixon Peabody; Lauren Sang-Hee Owens, who is a private practitioner in Albany; Shannon Pirro, who's here today, she is a town judge in the town of Greece and also special counsel to the town and village courts in the 7th Judicial District; Anthony Perri, who is acting counsel at the Office Court Administration; Lisa Preston, who is the Chief Clerk of the Monroe County Supreme and County Courts; the honorable Stan Pritzker, who is an Associate Justice of the Appellate Division 3rd Department; Scott Reents, I mentioned a moment ago, private practitioner at the Cravath firm in New York City; the honorable Raymond Rodriguez, who is Acting Justice of the Supreme Court in Kings County; Bill Silverman, you met a moment ago; Christine Sisario here to my left, who is the Chief of Technology at the Office of Court Administration.

David Slaton, who is Vice President for Court Consulting at the National Center for State Courts; Edward Steinberg, who's a private practitioner, who also is past president of the New York State Trial Lawyers Association; the honorable Carolyn Walker-Diallo, who's the Administrative Judge of the New York City Civil Court; Mike Williams, who is the Chief Clerk of the Suffolk County Family Court; and certainly, last but certainly not least, Oliver Young, who I mentioned a few

moments ago, attorney here, very active in the Bar Association currently with Barclay Damon. These folks, this group, I'm going to ask you to join me in giving them a round of applause to express gratitude for the work that they've done.

As the day unfolds, we'll have more to say, we'll have more comments, we'll have more questions. We have to be somewhat formal in these proceedings to make sure that we're giving everyone an opportunity to be heard, but I don't want that to be an impediment to the dialogue that we must have. It's very important, and I say this on behalf of all of the members whose names I just read, this effort is an open, transparent, honest effort to listen and to hear what people have to say about their experiences in the pandemic. We cannot do our jobs unless we have an honest conversation. Some of it is not good news, some of it won't be complimentary, but it's necessary. We want to make ourselves better.

With that, we'll take a few moments of a break here and we'll ask the members of our first panel, and let me just say a word or two about the format. We have, in our effort to try to make sure that we engage in dialogue, we've broken the day into panels. We've tried to organize those panels in a way that respects the area that these folks work in. We've largely been successful at that, not entirely because we also had to accommodate people's schedules, but you'll notice that we'll bring up several people at a time. We'll ask each person to give us introductory comments, 5 minutes or so. Then, we may have a dialogue, a give and take, and there may even be some conversation across the panelists if folks want to offer comments or ask questions of each other as time allows. We obviously want to be respectful of each other. While we want honesty and sincerity and candor, we also have to maintain a semblance of being respectful of each other, and I'm sure with the crowd we have here today, we have no worries.

Just in case we have a problem, I know we have some of the finest court deputies in the state that are right here with us. With that, let me ask, if we could, the first panelists to come forward, and then, when the presenters are seated, I will introduce the members of the panel again. We're going to ask Joseph Gramaglia, who's the Police Commissioner of the Buffalo Police Department; Timothy Graber, who is the president-elect of the Erie County Bar Association; Katie Kestel Martin, who's with the New York State Council on Divorce Mediation; and Jamie Romeo, who is the Monroe County Clerk. If we could ask the four of you to come forward, grab some seats. Thank you.

Let me acknowledge the members of the panel that I hope, and we didn't lock anybody into this, but I hope this panel will stay here with us all day, because these are extraordinary folks with great insight into the work that we have ahead of us. I will refer to the panelists starting with my far left, Leanne Lap, who is, and Leanne, are you still the president of that organization?

Leanne Lapp: I'm the immediate past president.

Craig Doran: Okay. Well, that's good. That's good. Good enough. You have the authority to speak on behalf of the organization.

Leanne Lapp: I hope so.

Craig Doran: All right. Well, that's what we're going with. Leanne, also, I can tell you from personal experience, having had the privilege of presiding over cases where Leanne is representing clients, she's an extraordinary attorney, not just on the ground representing her clients, but also the insight she has on the processes, practices, policies that we are required to be mindful of every day, so we're thrilled to have you with us, Leanne.

Leanne Lapp: Thank you.

Craig Doran: Next to Leanne is Porter Kirkwood. Porter is the District Executive. If you don't know what a district executive is, it's an administrative judge's best friend because the district executive runs the business side of these judicial districts. Every aspect of the operation, human resources, finances, court security, making sure that the doors are open every day, and having had the privilege of being an administrative judge during the pandemic, I can tell you that these district executives are second-to-none in their dedication to the people that we serve and Porter Kirkwood is at the head of that pack, so we're thrilled to have you with us District Executive of the 6th Judicial District.

Christine Sisario, sitting to my immediate left, she's the Director of Technology for the Office of Court Administration. If you are going to engage in an effort to talk about what we learn from the pandemic, you can imagine that technology is at the forefront of that conversation. We're going to have lots of conversation today about the use of virtual technology moving forward. Christine, during the pandemic and afterward, you are a hero to all of us who worked in this system. When we talk about the speed with which, and I know I have to be quiet in a second, I'm gonna, the speed with which we converted our court system literally in a matter of hours from an in-person operation to a virtual operation, you all know what that took. In your own places where you work, you all had to do this in your places, so you know what's involved in that.

Imagine doing that for the entire state of New York Judiciary. Christine Sisario was at the lead of that effort every minute of every day. Extraordinary person, extraordinarily competent and with all that you have to do, we're thrilled that you're taking time to be involved in this, so thank you, thank you, thank you.

Judge Mendelson, who you've already met, if you've been anywhere near the courts in New York State for the last 15 or 20 years, I don't want to overstate it or get in trouble with you, but Judge Mendelson is one of those folks that we all look to for leadership because Judge Mendelson's the real deal. Judge Mendelson has a title, I told you what that was a minute ago, but her heart, every minute of every day is dedicated to access to justice in this system. Judge

Mendelson, I'm going to say this, is the busiest person I know and I've known her for 15 years, maybe a little more. Doesn't flinch, doesn't say no, came here today from New York City to be part of this because she believes in this effort and knows how important our work is. Thank you so much for your dedication to our efforts.

Sitting to Judge Mendelson's, right, the honorable Craig Hannah. Newly minted Supreme Court Justice, I can still say that. Former city court judge in the city of Buffalo, still the supervising judge of the city courts. Very, very instrumental in one of the most important courts in our system: the city court. Talk about the ground level of folks that have interaction with our court system. We talk about the city courts and our town and village courts, many of those who interact with our court system will have their first, last and only interaction with our court system with either a city court or a town or village court. There, in those courts, access is critical and justice and providing justice to folks in those moments, extremely critical, particularly during the pandemic. The work that Judge Hannah did and his colleagues, we appreciate you and we're so happy you're with us.

Last but not least, Carolyn Nussbaum, who is a friend, and I have had many interactions with Carolyn in a number of different capacities, most notably as President of the Monroe County Bar Association. Carolyn and I had almost minute-by-minute conversations and Carolyn is a practitioner focusing primarily in the commercial area, litigation, travels all over the place representing clients in our courts and has great insight into how we should be utilizing what we've learned during the pandemic to make sure that the courts in New York state continue to be the best commercial courts in the nation. We are absolutely privileged and thrilled to have you with us, Carolyn. Thank you. Thank you.

I will tell you again, I am Craig Doran. I'm honored to be the chairman of this working group. I'm a Supreme Court justice in the 7th Judicial District. As I mentioned a moment ago, was the administrative judge in the 7th District for 10 years during the pandemic and was privileged and really it was one of an experience of a lifetime to be asked by our chief administrative judge and our chief judge to lead the state court systems work through the pandemic and to lead the efforts along with my friend Judge Cannataro, now acting Chief Judge Cannataro, he and I, in those early days of the pandemic, were asked to draft the protocols and put together the plans as we moved through the various stages of the pandemic.

I say it was an experience of a lifetime because I truly did have what I believe to be a window into the best of the best, not just within the court system, but all of the agencies, many of whom we will hear from in a couple of moments who we have the privilege of working alongside. Thank you again everybody for being with us and we're now ready to begin the first panel. This is not any particular order of importance. If you're first, doesn't mean you're the most important, if you're last, it certainly doesn't mean you're the least important. I'm sorry about

that, commissioner. We're happy to have the commissioner of the City of Buffalo Police Department with us to share some of his perspectives. Thank you very much. Commissioner, the floor is yours whenever you're ready.

Joseph Gramagli...:

Thank you, and I appreciate the opportunity to speak before this honorable body. Beginning of the pandemic, everybody had their challenges and we certainly had our challenges, and I think what has to be remembered is that we are the ones that are physically holding the person that's the subject of a court action in our custody. It's certainly of importance that we have as most of a streamlined process as possible because we are having somebody in our custody to try to get through that process. What we found is the use of the video technology, the video arraignments, we think worked out very well. Part of that process was to speed the process of an arraignment up, certainly keeping in mind of the legal process and the confidentiality that goes between the defense counsel and the defendant, so that the process can be held to the highest integrity.

But one of the things of importance for me and my department is to get my officers back on the street as soon as possible. When we have officers that are tied up with an arrest, it's a several hours long process. When the delay of waiting for a judge to come in, defense counsel, that adds to the process. We try to be respectful of their time and we typically don't make those calls or didn't make those calls until our paperwork was just about done, so that all those other parties were not sitting around and waiting for paperwork, which can take a considerable amount of time. Being able to get on video right away was extremely helpful and useful to us, and that did speed the process up of getting our officers back on the street where they belonged to help protect our communities.

One of the other things that comes into play is when we have a prisoner that is requiring medical treatment and has to go to the hospital, sometimes those prisoners are admitted to the hospital for a wide variety of reasons, but when they're admitted, that really slows the process down, we have to set up a hospital detail, which now takes 24 hours a day, 7 days a week until that arraignment occurs. The use of video technology in those arraignments was, I think, immeasurable in how important it was for us, again, to get our officers out. We then transitioned that custody to the sheriff's department, who is the main holder, if you will, of post-arraigned prisoners that then again gets our officers back out on the street as quick as possible.

We are encountering that same issue now with the raise-the-age issues and adolescent offenders and those arraignments, so that process is still continuing bringing judges. Now, obviously courts are back open, but with the raise-the-age arraignments, those arraignments must occur as the law states immediately, so we have to go through the paperwork, we make contact with the appropriate defense counsel and the judiciary to have them come in and do these arraignments. If the possibility of using our technology that worked before and



having that occur will again speed the process, I think it would probably make the judiciary much happier.

Then, improve the technology for submitting that paperwork electronically. Right now we can't do that because of cyber security and firewalls. There are people that are way smarter than I am when it comes to that technology that I'm sure that could work through that process and streamline it while, again, maintaining the integrity of attorney-client privilege and having that defense counsel have the opportunity to have those private conversations with their counsel. With that, I won't take up any more time, but technology I think is a game-changer going forward that does have a public safety impact of keeping our officers on the street as much as possible.

Craig Doran: Thank you, commissioner. I want to ask the panelists; anybody have any questions? Judge Hannah.

Craig Hannah: Commissioner, can you just touch upon the use of technology with Officer Safety without transporting people back and forth to court? Does it have an impact on officer safety?

Joseph Gramagli...: It does. The way it works here, and I don't know about other jurisdictions, I'll speak for mine, but when we have an arrest of an adolescent offender or a juvenile, they go to our booking room, which is housed in the basement of Buffalo City Court. We then have to transport that adolescent offender or juvenile out of city court over to our headquarters just on the other side of Niagara Square. Short drive, but it is another transport, because that is where our approved juvenile room is by the state. We can only house adolescent offenders and juveniles in a New York state approved juvenile room for the purposes of arraignment. We do not have an approved holding facility. We do not have an approved jail or room or anywhere to house an adolescent offender or juvenile any longer than the arraignment process takes.

Unfortunately, dealing with some of the slowdown of not using the technology that's available has caused our officers to sit for hours on end, not only waiting for the judicial process to work through, but then finding an open available bed, which I know is not the problem of this panel, but it is a problem where we have to sit with prisoners, the judiciary then has to come to our building, hear the arraignment, and then they have to either walk or drive over, and sometimes that's in the middle of the night, over to city court to their office to then process that paperwork and get it sent over to the appropriate family court, a reigning agency or the appropriate court. It's adding too much transport, it's adding too much, I think, old school technology when that just doesn't have to be.

Craig Hannah: Thank you, commissioner.

Craig Doran: Anybody else?

Christine Sisar...: I have a question for you. Hi, good morning, commissioner. one of the things we've heard about the virtual appearances, whether it's an arraignment or any kind of an appearance, is the ability for the litigant, in this case, the defendant, and their attorney to be able to speak to each other prior to the appearance or even during the appearance. Can you just address here how you handled it in Buffalo during arraignments?

Joseph Gramagli...: I spoke to our former booking captain who was since transferred out, but it's my understanding that there were headphones that were in play and used, they have a telephone. I'm sure that's something that we can overcome if the defense counsel felt that it was not up to their standards. Again, that's a technology thing that I'm sure that we can overcome, but the use of headphones in this technology or making a separate phone available or whatever the case may be, there are rooms available in our City Corp booking area that is designated as an attorney interview room for a defendant of any age, so I'm sure there's a process we could work out to maintain that confidentiality.

Christine Sisar...: Thank you.

Craig Doran: Anybody else? Go ahead.

Leanne Lapp: I just had a brief question. Good morning. I'm not familiar with the procedures of the city of Buffalo and the criminal part. Is there a centralized arraignment part in Buffalo?

Joseph Gramagli...: During the pandemic, there was a centralized arraignment, so all the towns and villages and cities in Erie County were coming down to Buffalo City Court to the centralized arraignment. Currently, the way it works back now, the courts are open, all arraignments are-

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Joseph A. Grama...: Currently, the way it works back now, the courts are open, all arraignments are handled within their own respective jurisdictions.

Leanne Lapp: Thank you.

Craig Doran: Anybody else? Thank you very much, Commissioner. We appreciate you being here and appreciate your insight.

Joseph A. Grama...: Thank you.

Craig Doran: Next is Timothy Graber, who is the President Elect of the Erie County Bar Association. Mr. Graber, thank you for being with us. The floor is yours.

Timothy Graber: Thank you, Your Honor. And I too want to thank this honorable body for the opportunity. And I know the thank yous are far and wide, because in addition to all the individuals you mentioned this morning, Your Honor, to thank and the Pandemic Practice Working Group, I know there's so many other individuals behind the scenes that created this and are endeavoring, in this effort, to make the courts more efficient and safe. So we appreciate that and we appreciate the opportunity here today. You mentioned that I'm President Elect of the Bar Association of Erie County, and I am. And I'm very honored to hold that position, but I want to make clear though, I'm speaking here more today as a practitioner. The Bar Association has such a diverse membership, in terms of lawyers, from civil litigants to criminal defense attorneys to transactional attorneys. It's hard to get a consensus. And I'm primarily a litigator.

And as that area goes exclusively civil. And as far as that goes, primarily business litigation, commercial litigation. And my experiences through the pandemic are more what I'm going to share. And in addition to that, I've talked to an awful lot of other attorneys in this area. I tend to do that. Sometimes people accuse me, there's never a short conversation with me, but I think it's given me some good perspective to share what I think a lot of the litigants, the civil litigants, feel. At first when the pandemic hit, what I sensed was, from other attorneys, fear. Fear for their safety, fear for their health. And next, I think, more appreciation. I think what I heard was council was just really, really happy with what the courts were able to do. They were able to protect their safety. And yet, they provided, through technology, a format, so council could keep their cases moving.

And for the most part, I heard gratitude and appreciation almost exclusively. There were few complaints. Most people were really, really happy and they were happy about the technology. I know there was changes to it, but also, the court adapted. I know, eventually, we ended up primarily with Microsoft Teams and there was concerns about safety and having privacy in hearings and so forth and status conferences. But the court adapted. And I think the lines of communication were very good as well. You knew where the court stood on something. And as the pandemic unfolded, and I know there was starts and stops, where things started to open up and then, there was more fears. But I thought that the court was very adaptive. And I think people appreciated that. And I think that, as time went on, I know people really wanted to get back into the courtroom.

I heard that quite a bit. And they wanted to get back to everything in person. And that didn't happen exclusively. And I know I did hear counsel complain. I've heard some counsel say, no matter what the case, whether they're defense counsel in a civil litigation matter, maybe a negligence matter or a plaintiff's attorney in a personal injury action, some said, "We need to be there. We need to be talking to opposing counsel face to face from the get-go." They said that that really, really helps them advance their cases, move them forward, and that they can't get that through a virtual hearing. But I also heard the opposite. I heard a lot of people say, "The time we save at the early status conference is

being able to participate just through technology. We don't have to drive downtown. We don't have to pay for parking. And all the time spent traveling."

So there was a mix on that. There really was. And there still is, I think. And I've experienced all of it. I participated in a trial and it was a bench trial. And I was really surprised how well it worked. It was a document-intensive trial, many, many exhibits. And thankfully, I had folks with me that were more tech savvy than me. So I had no concerns in that regard. But for the most part too, to speak at the technology, it's interesting, because the younger attorneys tend to be much better at it. But I talked to attorneys all over the spectrum on technology and I mainly heard "This is pretty easy." People who were able to get on their laptops or their telephones and participate virtually in a hearing. And I know attorneys who were kind of feared technology, who don't use electronic technology for legal research and so forth, said, "This isn't so bad," once they were kind of forced to do it.

But overall, and to try to wind down, what people want is safety first. They don't want to be subjected to the pandemic. And I know that that's changed since it's not as much of a risk as it was in the early days. But they also want fairness. And fairness is access to the courts. And some people said, "Well, if you've got a pro se person, do they have the same technology we have? Can they just Zoom in on their phone or their laptop?" And some can't. So people are concerned about that, but they also want efficiency. And pretty much, what I've heard, I think the consensus is let the court decide, let the judge. It's hard to say, to give a really stringent set of criteria. Sometimes, the judge, and I've had this happen in cases, where judges will say, "You know what? We haven't seen you folks in a while.

We're going to bring everyone in. We're going to talk about how long this trial might take or whether settlement's still a possibility." And I think that the judges, in these cases I'm referring to, just their experience and their knowledge as judges, they thought they could get more done, if they invited everyone in to come in person. And I thought it was helpful. And I think it's hard to say what works for every case. I know in federal district court, I remember there was complaints years ago, people saying, "The local rules and the district courts are so different. There's only one set of federal rules." But I do think it's hard. It's hard to just say, "This model fits all needs." And if it's an IP case in the northern district of California versus a commercial business litigation case in the Western district of New York, sometimes there are reasons the rules differ a bit. So I think that I'd like to see the courts and give the judges some discretion and some latitude, as to the rules going forward. But again, I think, efficiency, fairness, and safety are really what I'm hearing from counsel.

Craig Doran:

Thank you. And I'm sure, you mentioned that you're one of those guys that likes to have long conversations. I share your pain and I'm sorry that we have to truncate our opportunity to hear from you. Anybody on the panel have any questions or comments for Mr. Graber?

Carolyn Nussbau...: You want to go ahead?

Speaker 2: No.

Carolyn Nussbau...: Just Mr. Graber, I appreciate your comments and your presentation of the diversity of views that we all share as practitioners. And I'm just curious, whether, in your speaking and from your personal experience, you have any view as to the types of proceedings, that perhaps may be more efficiently conducted remotely, and those that, as you pointed out, where personal interaction or experiences for young attorneys might be more efficiently held in person?

Timothy Graber: I think status conferences are more efficient to be held remotely. And that is where the court's reaching out to counsel. "Where are we at in discovery? Are there any issues?" Just more like measures to make certain the case is moving forward efficiently and there's no problems. And I think, in a conference like that, where it's more just the procedure and the procedural posture of the case, where that's being looked at, that can be, I think, more efficiently done remotely. I think, where a case, when it gets closer to trial, and this varies from judge to judge, as to how involved they get, to inquiring as to where we're at with settlement discussions, if any. But I think those, it's probably better to be in person for those. And I think, even you hear that from clients, or a mediation, for example. I find it's more effective when you're in the same room or across the table with opposing counsel. And sometimes, if clients are even there. I think, as the case draws closer to either trial or settlement, I think in person is probably the better way to go.

Craig Doran: Question/comment/request. First of all, this is for everybody, and I forgot to mention this earlier, if you have supplemental comments you wish to offer, we very much want to hear from everybody, even folks that have shown up and shared their comments in person with us. So the way to do that is to send them in writing to the following email address, PPWG, which stands for Pandemic Practices Working Group, @nycourts.gov. And we will look at them, we will read them, we will digest them and make them part of the body of information, that will form our opinion. So please do that. The comment that I have, and I guess this is going to be a critical part of our work, as we move toward making recommendations, we have to find, we meaning our working group, with your help, a happy balance between using the technology, making use of it, as much as we possibly can for the benefit of the people that we serve.

While not overusing it, to the point where, somehow, we are detrimentally affecting the proceedings. This is a huge state, with incredible diversity. It's a huge court system. And within that court system, the number of different types of proceedings and stages of each of those proceedings each have their own unique characteristics and needs. But that happy balance that we are challenged with finding and we need your help is, how do we balance what we've heard from folks is a desire to have some sense of guidance and

uniformity? We've heard this from judges and from others in the system. We have 62 counties in the state. We don't want to have 62 different sets of protocols, as to what's going to be virtual and what's going to be in person.

At the same time, we don't want to have such uniformity that we remove the ability of the judge and the parties in the proceeding to make decisions about what makes sense for them. So somehow, in our recommendations, we have to strike that balance and figure out how we find that place, that sweet spot, between standards and uniformity and individual local discretion. So I'm not asking you to give me the answer to that right now. I'm asking you to think about it, everybody, and give us your suggestions, as to how we might find that place. So that we can move forward and make this make sense for everybody. I think that's one of our greatest challenges. And you alluded to it in your comments and I appreciate you bringing that up. Thank you so much for being with us today. So anybody else for Mr. Graber? Oh yes, I'm sorry.

Craig Hannah: Mr. Graber, I just want to follow up on my colleague's question. And I really like the comment about leaving discretion with the trial court judges. What about experts? Experts that bringing them to court may cause clients additional fees and money. What about the use of technology when experts have to testify?

Timothy Graber: In that regard, Your Honor, I favor giving counsel discretion, because I know they can be very expensive, the experts. And at least in the initial stage, if counsel can agree, we can take this person's deposition... Well, that would be in federal court. But if we can deal with the expert, take testimony, or trial testimony, sometimes if they can't be in town for the trial, if we can do it virtually, and if counsel can agree, because I do know, from a practical standpoint, and when there's litigation budgets and so forth, you want to be as efficient as you can be. Sometimes, counsel on both sides of the case share that concern. And if they can come to an agreement as to whether an expert could be dealt with remotely, I think that I would hope that the judge would be okay with that, would bless that.

Craig Hannah: Thank you.

Craig Doran: Thank you. So next up is Katie Kestel Martin, who is with the New York State Council on Divorce Mediation, and we are very happy that you are with us. The floor is yours.

Katie Kestel Martin: Good morning. Thank you so much to everyone for allowing me this opportunity to speak before the panel. I'm honored to be before you, and I also have never met a microphone that I didn't like to talk into. So I will try to be brief. And in that, I do have a written statement, so that I can stay on mission. But of course, I'm going to invite the panel to ask, at any point, any questions that might be pertinent. As stated before, I am here to represent the New York State Council on Divorce Mediation. I myself am an attorney and mediator, who practices in New York, sorry, New York State, but specifically in Buffalo. My colleagues asked

me to be present today and to speak upon the benefits and experiences that we've had through the pandemic, and the increased use of technology in particular. Just a little bit of background, the New York State Council on Divorce Mediation is a nonprofit organization that is statewide.

We represent folks that have... I believe we have 285 members throughout the state. Our Council is comprised of attorneys, mental health professionals, financial professionals, and other conflict resolution professionals, who are dedicated to bring awareness and to, of course, bring access to mediation throughout the state. Our organization has been in existence for 40 years, and so, we've seen traditional mediation, as Mr. Graber testified earlier too, as being very beneficial. But now, we've seen the added benefits and bonuses of having ADR, or alternative dispute resolution, or as we like to call it, appropriate dispute resolution online. So I'm asking to just have this moment to briefly testify as to those benefits and what we envision could be improvements. So when the court system launched its pilot presumptive matrimonial mediation program in 2020, our panel had mixed feelings. For many of our folks, we were hesitant to join rosters, because of the worry of the impact on our business models, specifically in the potential of having to travel, the costs involved with that, as well as the required 90 minutes of uncompensated mediation.

This is a tricky balance for our practitioners. However, we've noticed that the use of technology has mitigated some of that concern. And because of that, since March of 2020, we've seen the courts embracing the use of online dispute resolution and embracing the ability to have video conference and e-filing. And because of that, we've seen our mediators have a little bit more of a zeal towards joining those rosters. And in those who are our experienced mediators who have been on the rosters, they've seen an increase of access to court referred mediations. So in our position, that's a great improvement. However, we can continue to grow upon. Obviously, our position is that this ability to video conference, and particularly have online mediation, allows for access to justice, simply because we allow conflict disputes to be resolved prior to a litigation becoming more acrimonious or adversarial. And there's the added benefit that it helps to prevent prolonged litigation or prolonged court experience or court endeavors.

It allows for parties from varied demographics to attend mediation. So we have folks who are part of our rural demographics, our more urban demographics, as well as folks that would have otherwise issues of access to justice, because of transportation or other means. And of course, it does help the courts. It does help allow for matters that can be resolved prior to adjudication to at least have that option. So what we saw was, what we started was a crisis response, it obviously grew into a benefit for long term and it streamlined an approach for conflict resolution, that increases access to ADR, through the use of systemic referrals and that convenient technology. Now, the matrimonial ADR community has also benefited greatly from the streamlined acceptance of e-filing for parties and practitioners alike. Families participating in mediation find

themselves able to maintain the ethos of out of court good faith negotiations and settlement.

When they file their documents, they don't have to go through the court system. They don't have to go into the courthouse itself. And for many people, that's an impediment. They're terrified. So the court's ability to have this neutral system, it allows for that experience to be more streamlined again. And it allows for parties to have more ready access to it. Our Council's membership also unanimously agrees that e-filing erases the stress that bureaucratic hurdles can otherwise compound. So essentially, e-filing is efficient and effective, and we hope that continues for these particular matters. Of course, there is always room for growth in the relationship between the courts and the ADR community. For instance, while court referred mediation is now more common in some jurisdictions and e-filing throughout the state has allowed for easier and more efficient access to the courts, mediation is still not consistent as a recommendation, and even when considered, is only explored after the request for judicial intervention has been filed.

And for many, that's too late. Many parties have engaged in extensive negotiations between commencement in the filing of the RJI. And therefore, early intervention is crucial. So by example, now in Westchester County, there, the courts are requiring their local rules that alternative dispute resolution is available throughout the proceedings. And those types of rules and practices should be adopted, or at least encouraged, in our other districts. So as a Council, we envision a future, where there will be mediation available for every case, with, of course, some exceptions, including for interpersonal violence. We also envision a future, where, in addition to a notice of automatic orders, there's a notice of rights to mediation, that would be served upon commencement.

We envision a future, when continued access to mediation through technology, court referrals, and early intervention will optimize the use of available roster, prior to the matter becoming more adversarial, and will produce an even closer collaboration between the courts and ADR community. Our Statewide Council of Family Law ADR Practitioners commends this panel, commends the court system, on the endorsement of mediation and the integration of this helpful technology. And we invite and encourage that this panel and this commission take the opportunity to expand the use of ADR in resolving major matrimonial and family matters commenced in the court. So I greatly appreciate your time today and obviously appreciate your consideration on these comments.

Craig Doran: Thank you, Ms. Martin. Anybody have any comments, questions for Ms. Martin? Go ahead.

Leanne Lapp: Good morning. Do you have any gauge of the number of unrepresented litigants who were accessing virtual mediation during the pandemic?



Katie Kestel Ma...: I do not. I do understand it that our local judicial district is attempting to find ways to data collect, with regard to particularly unrepresented litigants. So unfortunately, I do not have that. I can relay that question though and provide that by email.

Leanne Lapp: Thank you.

Porter Kirkwood: Thank you. That would be helpful. Anybody else?

Porter Kirkwood: Yeah, the court system has created ADR coordinators in all of the districts, and lots of the court attorney referees are also trained as mediators. What's your experience been with the court-initiated mediation?

Katie Kestel Martin: Speaking as a practitioner, rather than on behalf of a council, I find it very exciting, particularly in our local area. I find that the folks who are in those positions take it very seriously. Unfortunately, it is something where it's the wheels of justice growing slowly, but that's because we are a very conservative type of industry. Many folks do not necessarily want to see... It's not that they don't want to see the change. It's very hard to relearn those practice skills. So I do find that, me personally, while I'm very excited and I want to encourage it as a mediator myself and also a practitioner, who has been involved in court mediations, I feel as though we are just at the very beginning of the need to explore and educate practitioners. So that they can be prepared, their clients can be prepared, and of course, that obviously helps the panels, who are the mediators, whether they're the court referees or roster mediators.

Porter Kirkwood: Thank you.

Craig Doran: Real quick question. And by the way, we are a little bit behind, but fear not, everything will be fine.

Katie Kestel Martin: I'm sorry. That may be me.

Craig Doran: No, it's my fault. Ms. Martin, I believe I heard you say that virtual mediation is okay in search. Did I hear you say that?

Katie Kestel Martin: I think I said more than okay, Your Honor, but yes.

Craig Doran: All right. So that's an interesting topic and one that I think Mr. Graber may have said something to the contrary. I think there's common ground. I think that a lot of it depends on the nature of the proceeding and the position of the parties in the proceeding and the mediator. But I'd be interested, not now because unfortunately we're running out of time. How do we find that happy balance between what causes Mr. Graber to have concern and what causes you to say virtual mediation is wonderful?

Katie Kestel Martin: I will provide a robust answer in email form.

Craig Doran: Thank you. Thank you. Thank you.

Timothy Graber: Your Honor, I will mention that I was involved in one and it was a difficult case and it resolved. And later, counsel shared with us, he said, "My client needed to be heard." He said, "If that opportunity wasn't afforded to my client in person, this case would not have settled." And so, that's been my experience with it.

Craig Doran: So maybe the answer is find a way to fix that, in the context of the virtual world, in a way that allows us to use the modality, while making sure that we give access to the parties themselves, to be part of the proceeding. And there are some technology issues there and access issues. That's what I think we need to zero in on. So thank you. Thank you. Thank you. Thank you.

Katie Kestel Martin: Thank you.

Craig Doran: Jamie Romeo, the Monroe County Clerk, someone who I've had the privilege of working with through the pandemic and otherwise. Thank you so much for making the trip down the throughway this morning. We're happy to have you with us. The floor is yours.

Jamie Romeo: Good morning, Judge Doran, it's good to see you. And thank you, also, distinguished panelists for the opportunity to speak. As county clerk, one of the many hats that I wear out in the Seventh Judicial District is being the Clerk of the Supreme County courts. And I know that today I really want to speak on the voice of not just county clerks in other parts of the state, but also our county clerk staffs, which were part of those essential non-judiciary employees that, when we closed our doors to the public in March, we were still required to show up in person to our offices, to make sure that the justice system could keep moving forward, while many of us stayed at home.

I think there are several different tracks that, from the county clerk's perspective of this pandemic, that we learned lessons on. One of them was with the success and the growing success of the civil e-filing system, and that the pandemic did allow for some individuals that may have had some of those technological hesitations now being kind of forced to use it, but seeing that being used much more heavily on the civil side.

I think there are still... It is always surprising, in 2022, sometimes, the volume of paper that can still be in an office. And particularly, when you're in charge of records, that kind of comes with the territory. But I think, when we look at some of the hurdles or the other areas of where there obviously has been conversations throughout the state will be on the side of criminal records and the management of those and whether e-filing will have any kind of expanse or consideration into e-filing of criminal matters or certain types of those transactions and documents. In Monroe County, in the Seventh Judicial District, we also had a little bit of innovation with, what was referred to, as the SCIP court, which was that Special COVID Intervention Part, which was a process in

where certain matters that were normally filed and handled in local courts were originally filed in those local courts.

They were then those local clerks would assign an index number, would close the case, but then, immediately, transfer it to county court, where then it was brought in front of a county judge and handled within the county court system. And then, it would become part of the records system and management for a county clerk's office. While we appreciated the pilot, and I think there was definitely some positive things that we learned from that process, I know management and fees are always something that, when you're looking at expanding something long term, that can always be discussed after the fact.

But I know, in speaking with Judge Doran and actually many others in the Seventh Judicial District, there was a lot of success with that centralization of that, particularly in COVID, that allowed counsels, but then other parties, to be able to have that more centralized. While many of the local jurisdiction courts were more shuttered, I would say, than maybe some of our county facilities. The county clerk staff throughout the pandemic, in Monroe County, we ended up having to go into shifts of half of our staff coming into the office from that first week where we were shuttered to the public.

And largely, that is because, while there are efforts to move things into a paperless world, the truth is in that there will always be paper, there will always be a hard physical copy of those records. But there has to be that location of who's conducting that work of potentially digitizing those records and getting them into the system, whether that's happening on the users' ends, from those initial filings, versus while there's an ongoing matter and a county clerk's office is receiving additional items and docketing done and adding them to a case file. So I think that we definitely continued to see the growth of acceptance and utilization of the e-filing system for civil matters. I know myself and Monroe County is always willing to have conversations about the exploration of the expansion into e-filing with consideration of some criminal matters.

But to sum up, I think that, while we live in a paperless world, there will always be paper and there will always be that physical management of documents. I don't foresee a role in which an office, like a county clerk's office, ever becomes completely paperless, which is why, when we consider the healthcare protocols that we had to put in place, we knew that we still had to show up. Our staff was very dedicated. But having that balance of growing with technology, but still preserving those original documents and papers to make sure that, should all things fail, you still have a record of the matters that we're holding.

Craig Doran: And it's all about balance.

Jamie Romeo: Yes.

Craig Doran: Anybody have questions? Judge Mendelson.

Edwina Mendelson: More of a comment. I can't let this opportunity go without thanking you and your colleagues for all you did during the times that were so very uncertain and unprecedented to keep our courts and operating and to promote justice during that time. So I have to take this opportunity to thank you. As someone, when I was an administrative judge of the New York City family courts, we started entering into that paperless court world. And one of the comments that we stressed was paperless doesn't mean no paper. It means less paper. And I believe your comments brought that home. So thank you.

Jamie Romeo: Thank you. Craig Doran: Anybody else for Ms. Romeo? I want to add to Judge Mendelson's comments. During that pandemic, there were a lot of things that, in normal times, so to speak, would've taken us years to do. And the reason we were able to continue to keep the courts open was because of the partnerships that we had with folks like you. And you were extraordinary. You were on the other end of that phone whenever we needed you. And that's why we were so successful. That spirit of cooperation, that's one of the things we have to challenge ourselves to take with us into the new better than normal. So thank you for all you do and thank you for being here today. We appreciate you. We're taking one person out of order, Judge Egan. So they say that if you want to get the information on what's really going on, you got to ask a busy person.

And Judge Egan is one of those busy persons, who was slated to be in a panel a little bit later this morning. But because of her court schedule and the demands of that, Judge Egan is here a little bit earlier. And we appreciate you being here. Judge Egan is the Supervising Judge of the Criminal Courts in the Eighth Judicial District. So an important perspective for us, and we are very grateful that you're here with us. The floor is yours for a few moments, if you'd like to offer us your candid comments, and then, we might have some questions for you, Judge Egan.

Susan Egan: All right. Well thank you. First, I'd like to thank you for accommodating my busy calendar today and for this opportunity to speak. And thank you for going around the state and asking for the input of those of us that are in the trenches during this period and have had some hands-on experience with how things that worked and things that didn't work. And as you point out, I am the Supervising Criminal Judge for the Eighth Judicial District. I sit as an elected Erie County Court Judge and one of the youth part judges in this county as well. And I wish to speak to you about a disparity in the equal access to justice throughout the 62 counties of the state. And that is the availability of remote proceedings.

Currently, under part 106 of the Rules of the Chief Administrator and Article 182 of the Criminal Procedure Law, only 35 of the 62 counties are authorized to use electronic appearances in criminal matters, except of course, for trials and hearings. In the Eighth Judicial District, that means that half of my counties are excluded from using this resource. And during the pandemic, while we were not operating at full capacity, we were absolutely operating. And we found

efficiencies, as you've discussed, that we would not have otherwise explored. And in my...

PART 2 OF 5 ENDS [01:08:04]

Susan Egan:

... Diseases you've discussed that we would not have otherwise explored. In my opinion, the use of remote proceedings for arraignment purposes was one of those efficiencies. In the early days of the pandemic, I was able to work from home on a laptop and conduct arraignments of recently detained offenders, communicating directly and effectively with the court clerks, the arresting agencies, the detainee, the defense attorneys, and the prosecutor. We were able to provide the defendant with an opportunity to privately consult with counsel and even were able to facilitate the use of language interpreters when needed. All parties had full sight and sound of each other and had access to the necessary paperwork. I was able to issue any detaining orders, orders of protection, securing orders, or anything that needed to be processed at that time, and we were able to do that efficiently and effectively. While this may not be the preferred method to conduct arraignments, we were able to deliver that service and safeguard the detainee's constitutional rights in that matter.

We are, of course, back to full in-person proceedings here, and however, with the exception of some of our towns and villages that meet less frequently, we are strictly a Monday through Friday, nine-to-five operation. We are not open 24 hours a day like the courts in New York City. Nonetheless, we must comply with Judiciary Law 212-1W, that requires a procedure for off-hour arraignments in the local criminal parts and with the raise the age of legislation, which requires a youth to be arraigned promptly upon their detention. Compliance with these provisions, means that our judges are being woken up in the middle of the night, traveling to a police station to conduct arraignments, only to return home and potentially be called out again during that same evening to conduct another arraignment in-person, and then have to report to the office at 9:00 AM in order to comply with Rule three. Plainly, this is too much to ask of our judges. I believe this is the unintended consequence of fitting a New York City peg into an upstate hole.

From start to finish, completion ... Thank you. From start to finish, completion of the charging paperwork, assembly of the necessary parties, travel, and travel time, just one arraignment can take hours to complete. We cannot ask our judges to effectively do their jobs during business hours when they have been up most of the night handling off-hour arraignments. Additionally, family members are often not able to attend given the hour, work schedules and transportation issues. Conducting these proceedings remotely would allow for all parties, even a parent working an overnight shift to effectively participate. I understand that the indigent legal services and the District Attorney's Association are opposed to conducting raise the age arraignments remotely, but I have to confess that I do not completely understand their opposition given the successful use of remote arraignments during the pandemic. In any event, I

suggest the use of a hybrid proceeding, with defense counsel meeting personally with their clients at the police station while the judges appear remotely. Having full sight and sound between the judge and the parties, allows for full communication and counsel's physical presence with their client should address defense counsel's concerns of adequately protecting their rights.

The absence of a judge physically in the room has no impact on the accused constitutional rights. Additionally, the district attorneys, at least locally here, have chosen not to require their assistance to appear in the middle of the night for these proceedings, and do not even participate in these proceedings. Raise the age aside, the use of remote proceedings in the central arraignment parts, prevents an opportunity for greater efficiency and even cost savings. It eliminates transportation issues and facilitates the timely availability of counsel and release or transfer or detainees. Additionally, I have two counties in my district, both of which are excluded from the use of remote proceedings under CPL 182, which has sizeable state prisons within their jurisdiction. Our task with hearing a myriad of Article 78, habeas cases, and criminal offenses committed while in the facilities. The ability to conduct these proceedings remotely would create efficiencies for the court and the prisons in terms of time, money, and security, since the prisoners would no longer need to be transferred from the facilities to appear physically before the judge, while preserving the prisoners' opportunity to be heard.

While we are all part of the unified court system and all tasked with delivering justice to those before us, we are not equally situated. The upstate courts cannot be required to deliver Justice 24/7 in the same manner as New York City. We do not have the staffing or the infrastructure to do so. Asking upstate judges to routinely and repeatedly lose a night's sleep while performing all their other duties cannot be the answer. We need the proper tools and resources. The use of electronic appearances for off-hour arraignments is such a tool. Moreover, equity requires access to the use of remote proceedings throughout all 62 counties of the state. Thank you for your consideration of my comments here today.

Craig Doran: Thank you, Judge. Anybody have any questions or comments for Judge Egan? Go ahead.

Carolyn Nussbaum: I do have one. Judge, you referred to remote arraignments as may not be the preferred method, and I just wanted to make sure I understood your comments that it may not be the preferred method for the DAs and for those representing indigent clients, as you expressed, or are there other reasons behind your statement that it may not be the preferred method?

Susan Egan: Well, I think during the pandemic, we learned a lot and we learned it fast, and we learned that we were able to roll out technology across the state and do a lot of things remotely. I would say as personally, having people in front of me is sometimes can facilitate communication. While I say it's not the preferred

method, and I'm not suggesting we should be doing remote arraignments during business hours, I think for the unique situation of off-hour arraignments, it meets those needs and satisfies the concerns of the parties at that time. With the knowledge that that case, especially in the incident of a raise the age case, is going to be heard immediately the next business day before the youth part judge. It is in some ways sort of a very, I don't want to use the word cursory, that doesn't feel like the right word, but it's an administrative process, right? It's not as substantive as some other proceedings such as a trial or a hearing or proceeding of that nature.

Carolyn Nussbaum: Thank you.

Craig Doran: Judge Hannah.

Craig Hannah: Thank you. Judge Egan, thank you. I appreciate your comments. I just had two questions and hopefully we can get your insight on. Did you find that the use of remote arraignments or remote proceedings helped with the access to getting attorneys to the proceedings? Also, did you find that it had any benefit with officer safety and transportation?

Susan Egan: Thank you, Judge Hannah. Absolutely. When these things occur in the middle of the night, for those of you that are on those call phones, when you get that call in the middle of the night, it does take some time to assemble all the necessary parties, including counsel and I am told that sometimes they're calling multiple attorneys before they get someone that hears their phone in the middle of the night. Making it available remotely, I think, increases the availability to counsel and to those willing to participate in the proceeding. Additionally, I think there's a cost savings as far as the transport of the parties and the security of the parties given the hour and overnight staffing at some of the police stations and various locations that the parties are called to.

Craig Hannah: Thank you.

Craig Doran: Anybody else? Ms. Lapp?

Leanne Lapp: Good morning, your Honor.

Susan Egan: Good morning.

Leanne Lapp: It's my understanding from a previous speaker's remarks that a centralized arraignment part was also instituted during the pandemic?

Susan Egan: Yes.

Leanne Lapp: Did that then lead to set times for these arraignments being conducted as opposed to just on-call?

Susan Egan: There are set times in some of the arraignment parts, yes, as far as the centralized arraignment parts for off hours. Yes, that can be anticipated better than a call that's in the middle of the night, but I would suggest that the use of remote proceedings, even with those scheduled times, creates an efficiency for all the parties involved.

Leanne Lapp: But did the presence of set times assist with some of the concerns that you raised about waking judges and attorneys up in the middle of the night and having them come out on call?

Susan Egan: I believe it does, yes.

Leanne Lapp: Thank you.

Craig Doran: Anybody else? Thank you very much, Judge.

Susan Egan: Thank you very much. I very much appreciate you accommodating my schedule today, and thank you for being here.

Craig Doran: Thank you for your comments. The first panel, we're all set. We are grateful that you spent so much time with us this morning. We're going to ask the next panel now to come up. You're all welcome to stay if you'd like, but we have to throw you out of the table here. The next panel will be William Hart, who is the President of the CSEA Judiciary Local 335; Kelly Buckley, who is the Chief Clerk of the Erie County Family Court; Donald Doerr, who is the district executive of the Fifth Judicial District; and Anne Dillon Flynn, who is the Clerk of the Court of the Appellate Division, fourth Department. Come on down. Thanks to everybody for your patience with our schedule. Believe it or not, everything's going to be fine and we'll catch up. These conversations are important and it's important that we take the time that we're taking with everybody.

Mr. Hart, this is your 10-second warning. Nice to see you this morning. You're first up, and we're happy to have you with us. Of course, you and those you represent are critical in our efforts. Just on a personal note, you and I have had multiple interactions and conversations over the years, particularly during the pandemic, and I think most folks will agree that when we're in a difficult situation like that, there is no substitute for honest, open, regular communication, and you were terrific in that regard ...

William Hart: Thank you.

Craig Doran: ... And your members are well-served, and we appreciate you being here today to share the perspective of your members. Mr. Hart, whenever you're ready, the floor is yours.

William Hart: Thank you, Judge. Good morning. My name is William Hart. I am President of CSEA Judiciary Local 335. This is a joint statement from Ian Spencer, President of



CSEA, Local 334, and myself. In the weeks leading up to the closing of the court facilities to the public, CSEA, along with other court unions, had already been engaged in discussions with OCA regarding preventive measures such as hand sanitizers, glove, sick leave policies for court employees. Both Ian Spencer and I were participants in all those discussions. In the beginning, the focus was New York City primarily, the epicenter of the pandemic, but in the early March of 2020, the virus spread rapidly to our area of the state. Our members were falling ill and we were looking to OCA to protect our members' health and safety by closing the courts to lessen the spread of COVID-19, which finally did occur our March 17th.

Even though the court facilities were closed, many of our judges, secretaries, legal staff, treatment courts, IT and mental health legal services members had continued to work during the four weeks, between March 17th and April 14th of 2020. Western, northern, and central New York were the first geographic areas to return to in-person work, and as such, we set the judicial safety standard. Plexiglass had been ordered to be placed in front of judges' benches and at counters, but it was not always available. Some of our court facilities to this day have no plexiglass separation between staff and the public. Our court officers were on the front line in stopping the spread of COVID because they were obligated to do the temperature test to the public and employees upon entering the buildings. They also worked the magnetometers, which prevented them from maintaining a six-foot distance while performing their essential duties.

Clerical staff throughout the court system had to learn new ways of operating online and then in-person through masks. The pre-pandemic low staffing became a pronounced problem in our facilities in Western, Northern, and central New York. As they reopened, in an attempt to limit density, court officers were rotated spending time in-person and out of court facilities. However, in some situations, the number of available court officers were so low, facilities had to be closed. Low staffing in all titles continue to be a critical problem in all our courthouses. As you know, internet service in many of our areas is spotty at best. Court personnel who were engaged in the virtual courts, in particular, court officers, librarians, and court assistants, were not given laptops, did not have Zoom packages, and had no offer of hotspot equipment from the courts to perform their work. Again, court reporters are in short supply, and we hope that OCA will be holding tests to recruit new personnel soon.

In northern and central court facilities, upon reopening the major complaint with cleanliness of the facilities and deep cleaning, following a reported COVID case. We returned to court facilities that relied on municipal cleaning staff who were ill-equipped to deep clean, or clean throughout the day due to their own lack of staffing. In addition, so many court facilities covered by our two locals are in older buildings where HVAC systems could not be switched to more modern air filters. To this day, many of our buildings are ill-equipped to provide the fresh air and air filtration recommended for virus spread throughout the air.

The Eighth Judicial District had a similar experience, although, because of the greater population density, it did not open until later than the Seventh Judicial District. Their staff returned to court facilities which bore the same cleanliness issues. By and large, both Ian Spencer and I were able to work out the majority of our pandemic issues with our respective judicial staff as they arose. In conclusion, short staffing and a lack of telecommuting continue to be issues that have not been resolved in the post-pandemic world. Statewide, we are in desperate need of new employees. Especially, we need court officers, court reporters, IT staff and attorneys. We will continue to push to come to a resolution on all these issues. Thank you.

Craig Doran: Thank you, Mr. Hart. Anybody on the panel have any questions or comments for Mr. Hart? Judge Hannah?

Craig Hannah: I just have a quick comment. I'd just like to ... I'm going to reiterate what Judge Doran said. I'm going to thank you for all your efforts that you and your members have during the pandemic and through the process. I know personally, I observed you going courtroom to courtroom to make sure the social distancing policy was in effect, and also thank you for having the open dialogue to relate your member's concerns to us and administration.

William Hart: Thank you, Judge.

Craig Doran: Anybody else? Thank you so much. Thank you, Mr. Hart. I want ask a favor of you. This goes for everybody, but in particular you, because this will happen again, I don't mean a pandemic, but something will happen again that will interrupt the operation of our courts. We're in the epicenter of snowstorms. That's going to happen. We are better equipped to adjust to those events now because of the experience we've all had. The input that you have and the perspective that you and your members have is critical to us as we complete a portion of our mission, which I didn't mention earlier, which is to make recommendations to the leadership of our court system as to how should the playbook look when this happens again? What kinds of things should we have ready to go? What kinds of measures, what kinds of cleanliness strategies, air filtration strategies, et cetera?

Give us your suggestions as to how we can be ready to pivot on a moment's notice and not have to reinvent the wheel, as they say, when our court operations are interrupted. In the old days, we would close the courts. Frankly, I believe that, hope I'm not saying anything out of turn here, I believe closing the courts is a thing of the past. We have to maintain safety. We have to make sure people are safe, but we now know that we can operate our system and continue to provide access to justice, particularly for emergency measures, even when there is an unexpected event that interrupts our operation, but we need your input as to how to get better at that. Share your input. I don't mean now, but we'd love to have your written submissions and suggestions.

William Hart: Thank you, Judge.

Craig Doran: Thank you so much. Next on our list is Kelly Buckley, who is the Chief Clerk of the Family Courts in the Eighth Judicial District. I want to say 10 seconds about family court. I spent 15 years of my career sitting in family court. During the pandemic, critically important, folks that come to family court aren't coming to your counters because they're having a happy day. They are, in many instances, in the worst moment of their lives, and we can't turn them away regardless of whatever might be happening. During the pandemic, you and your staff and your colleagues across the state truly stepped up and made sure that we did not turn people away. We weren't perfect. Lots of things that we should do better, but it has to be said that that most important court that we must keep open at all times for people that are in their worst position, was well cared for by you and your colleagues. Thank you, and your input is critical to us, so whenever you're ready.

Kelly Buckley: Okay. Thank you. Good morning. I want to thank everyone for this forum because it is indeed very critical and very important for us to have these conversations. I had the privilege of attending the Chief Clerks or the Clerk's Association Conference last week, and Judge Doran was there as well and offered the information on these pandemic hearings. There was something that I said at those pandemic hearings that I thought was really important to share with you. When I spoke up to say that I felt that the pandemic took years off of my life, we went into a break after that and I was confronted by several chiefs and deputy chiefs at that conference to say that they felt the same, that they actually had tears come into their eyes as they were hearing me speak, because we were under such pressure, and the hope that we have some form of policies and procedures in place so that if we go into that mode again, we clearly understand and we don't have to make last minute decisions.

We don't have to fumble with trying to get our staff working remotely and putting safety measures first. That's a wonderful thing. The one thing that I think is really important when we talk about how difficult that time was, is our mental wellness. We see wellness forums for our judiciary staff. It is important that we begin to think about that for our court chief clerks and deputy chief clerks, managers, and direct line staff. Our non-judiciary staff are dealing with many stressors, especially in the family courts. As Judge Doran just said, our families are coming to us in crisis, and during the pandemic, they were in a higher level of crisis. It was not only our direct line staff, it was our officers. We were all dealing with many unique issues that impacted our health and welfare. As we move forward, I pray that we can have some form of, or some forum that comes from this that we can begin to talk about the wellness and safety or the mental wellness of our employees.

Judge Mendelson, I look to you primarily as the access to justice. It seems as though that is something that is critical within that category to think about. I also want to say that relevant to the access to justice, thinking about customer

service and thinking about communication skills for our employees in offering them the tools to be able to deescalate some of our families when they come in is really critical. Because what we're finding is, when they go into a courtroom and the proceeding doesn't go exactly their way, they come out in the ... It spills out into or onto the floors where our staff, where our officers, our direct line staff are working with them at our windows and our counters and on phone calls. We need to be able to offer them the tools so that they can better keep themselves safe and healthy and offer the public some form of relief because there are conspiracies, there is a lack of trust with the government and we are a government entity. It really is critical to think about those things moving forward.

Our work in the family court as a hybrid model working 50/50 seemed to work very well for us. I'm going to advocate for that because it would be a shame to lose that to some degree for some of our employees. We've put all of these systems into place with technology and it would be, for us to just let that go by the wayside, would be a shame after all of the effort that's gone forward and trying to put that in place. The other issue that I would think about that I pose to this panel is that we consider hours of operation. Hours of operation are, I think, need to be evaluated so that we understand what best meets our public's needs. From what we hear on an administrative level and our offices is that they are working, they don't have time off, they have to participate virtually or they cannot participate at all because of their employment. Some type of survey or something that we can use moving forward to evaluate that for our public is, I think, essential.

The other issue to consider is during, at this time, we're having a struggle trying to get employees. We are very short-staffed in our courts in specifically, I can speak to Erie family, and we are putting job offers out there that aren't getting taken. It used to be that we would put job offers out there and everybody was so excited to come work for the court system. Now, what we're finding is that people are saying, "What is the rate of pay?" We're having to sell these jobs. It's like a marketing type of performance that we have to know, my chief deputy chief and I have to try to get to market the jobs to get people to take them. It's not been an easy process. The Pars process seems to be inefficient at this point. We can't get the number of people onto Pars as to what we need. If we needed 10 grade 12 employees, we can't use up the entire Pars system to get those 10 grade 12 employees. At the same time, we're having to interview and then re-interview to get those grade 12 employees in place, and that's lessening our efficiency in the courts.

The next thing I would want to speak of is text messaging. With our technology. It seems that in 2022, we ought to have the ability to reach out like many other agencies, many other service providers, hospitals, banks, Wegmans, be able to reach out to our public in a more efficient way to give them court notice reminders and to give them information on when their appearance is coming

up, or if they've missed their appearance. It would be great to see that come into play. Thank you so much for your time.

Craig Doran: Thank you, and some incredibly concrete and very, very good points and suggestions. Thank you for your perspective.

Kelly Buckley: Thank you.

Craig Doran: Judge Mendelson?

Edwina Mendelson: I have to thank you. I have to thank you. If you know me, you know that the family court is the court of my heart. I am a proud court of claims judge. Disclaimer there, but the family court is the court that I operated in and engaged in for the majority of my career. The work that you and your colleagues and everyone who is serving in that most special court and most necessary court of due process and law and justice and the family space is so critically important. Thank you for your comments and all of your suggestions, including the need to address employee wellness, all of us, our judges, as well as our non-judicial staff. I really appreciate that and I'm taking all of your comments to heart.

Kelly Buckley: Thank you.

Craig Doran: Anybody else?

Porter Kirkwood: Yeah, I'd just like to echo the thanks because I know that the managers, and I'm going to talk about you in family court, but also specifically, all of our chief clerks and deputy chief clerks who are not overtime eligible, and so work late nights and early mornings and weekends throughout the pandemic and just acknowledge that yes, there was an enormous amount of pressure placed on you during that time and you all responded admirably. We could not have gotten through it without the work that all of you chief clerks and deputy chief clerks and your staff put into this. I wanted to acknowledge that, cause that was ...

Kelly Buckley: Thank you.

Porter Kirkwood: ... That was really a phenomenal job and an enormous, District Executive Doerr may touch on this, but the amount of pressure and what was asked of you was dramatic and we appreciate it.

Kelly Buckley: Thank you.

Craig Doran: Ditto. Thank you so much. Anybody else? Go ahead, Ms. Lapp.

Leanne Lapp: Thank you, Ms. Buckley. I had a question. Since given your experience with litigants contacting the office during the pandemic, do you have any comments

about what worked or what might not have worked in terms of virtual appearances for unrepresented litigants?

Kelly Buckley: Many of our litigants have families and lack daycare and lack the ability to pay for gas or lack the ability to pay for parking. We serve, the majority of our families are within the federal poverty guidelines, and the majority of our families are using Assigned Counsel. It is for them; the virtual appearances were something that was significant. Although, we still have those who want to be on site, so there's a mixture of that. For them to appear virtually, made a huge difference relevant to being with their families, relevant to the safety of their families.

Leanne Lapp: Thank you.

Porter Kirkwood: Just a little follow up on that. Anecdotally, we've heard that particularly with child support matters, the rate of appearance increased dramatically with virtual appearance. Can you just tell us a little bit about what your experience with that has been?

Kelly Buckley: First of all, I'm glad you brought up supports because during the pandemic, we limited our ability to hear support cases, case types, and we now have the ability to move forward with those support matters in a virtual platform or have them come in-person. We are now starting to get more in-person. We are starting to do more in-person appearances with our support cases. It seems to be working well, although, it still is a challenge for some families because of the limited time, the limited court hours, the limited ability to get to court, to find parking. If you've tried to park in downtown Buffalo, it's really difficult. Even though there's a ramp there, not everybody has the ability to pay for the parking at the ramp. Those additional costs add up. If you think about it, just paying for gas, paying for the parking, and then trying to get the time off from work where maybe you don't get paid as well. We still have to consider those virtual options for our public.

Craig Hannah: Judge, I was trying not to ask the question, but I'm going to ask one anyway. Ms. Buckley, I asked all this of all the panelists about how did you find virtual proceedings help with safety? I know in your court you have family offenses, order protections. Did you find the virtual proceedings beneficial in those type of issues?

Kelly Buckley: Yes and no. There are times when they need to be in court. There are, especially, let's say a respondent on a family offense proceeding where they do need to, it is best if they're face to face with the judge, and there are times when it is best for the petitioner to be offsite. Our Family Justice Center, our Haven House, our domestic violence programs are operating primarily in a virtual platform still. Of course, per statute, they have the opportunity to remain virtual if they are able to provide information that within the context of the petition. For the most part, I think a hearing, we've proven we can do those

virtually, but they seem to be, according to our judges, more easy in-person because of evidentiary issues and because of getting the parties collectively together and getting counsel collectively together to try to get the final disposition.

Craig Doran: Anybody else? Thank you, Ms. Buckley. We could talk with you for hours because these issues are critically important, but you've been very succinct with the points and recommendations. We've all taken notes here about those things that you've shared with us and the perspective of the litigants that you have is critically important. Thank you.

Kelly Buckley: Thank you.

Craig Doran: Next on the list, Don Doerr, the District Executive from the Fifth Judicial District, which for those of you following ...

PART 3 OF 5 ENDS [01:42:04]

Craig Doran: ... executive from the Fifth Judicial District, which for those of you following at home is the Syracuse region and the North Country. The floor is yours, Mr. Doerr. Thanks for being with us.

Donald Doerr: Thank you, Judge, and members of the commission, for allowing me the opportunity to speak with you today. I'm also very involved with the State Bar Association. I'm the Chair of the Committee on Committees and Vice Chair of the Fellows of the Bar Foundation. But today I speak on behalf of all the employees and staff and judges of the Fifth Judicial District.

By way of background, Judge Doran said it, but it's Onondaga County, Oneida County, which includes Utica, Rome, and Sherrill, Herkimer County, which goes all the way up to the North Country, Old Forge. Then moving west, we go to Lewis County, Lowville, and the Tug Hill Plateau. Then we come across to Jefferson County, which includes Watertown and Fort Drum, and then back down to Oswego County, which includes Fulton and Oswego. So it's a pretty broad geographic. The reason I bring that up is it's very diversified. The difference between Syracuse and Utica and some of the other counties is tremendous.

We have about 70 state paid judges, close to 700, although we should have more, court employees. We have 23 court facilities, we'll get back to that in a minute, and 97 separate and distinct courtrooms. Those numbers don't include 143 town and village courts and 211 town and village justices. So I just want to give you the scope because a lot of times we don't have the background.

In preparing today I realized just how much that I blocked out of my conscience. It was astounding how much I think my brain would not let me go back to what we did back in March of 2020. I have an interesting perspective because I

started my position on 2-20-20, and we all know what happened on 3-16 and 3-17-20. So I was not even in the job for a month so I really didn't know what normal was. So everything was new and thrown at me.

It was kind of interesting. It all started on Sunday, March 15th, when our AJ Judge, James Murphy, called us all together and said we had to consolidate all our courts in those six counties to one court in each county. I didn't even know what half the courthouses were at that point, but it was just what a task and I'm just amazed at how quickly and for the most part how successfully we kept our courts running. Literally the playbook was made day-by-day. As Judge Doran and Judge Mendelson know, we were meeting 11 o'clock every day, all the AJs, all the DEs, every single day, seven days a week, and then five days a week for months and months.

But since my time is limited, I'm definitely going to give you some feedback because I asked for feedback and boy did I get it. So there's no way I could do that in five to 10 minutes here, but I'm just going to talk about a couple major issues and then answer some questions if you have any.

But from an administrative perspective, talking about that court consolidation, I thought it was a great idea. As a big fan of it, it's like it's made it easier for me the ability to platoon staffing, know who's in, who's out, et cetera. But then in preparation for today, I surveyed all my chief clerks and my deputy chief clerks and wow did I learn a lot. I mean, I got pages, probably 50 pages, of comments that obviously I have to go through and I'm going to. There's some great, great ideas and perspectives that I didn't think about.

To me it was easy, but tell a city court that you can't go and see your physical records, you can't get your files. For various reasons, and they were described earlier by the county clerk's office too, as much as we want to be paperless, we're not, and you have to go back. But how do you get the mail? How did you get the mail for those closed facilities? The next panelist, Ann, I was on the phone with her, they had all the court documents came from the appellate division. We couldn't find them. We had no idea where they got delivered. We were just literally searching around the county to find all these cases.

A big success that we had was the Fifth District Help Center. One of the first things we did, and in retrospect, and it's one idea that I think we should talk about that I just thought of just sitting here is best practices from all the districts. There's 13 judicial districts. What worked? There's some great ideas but they never were shared with each other. That's our fault, but we should do that.

We started a help center. The fifth floor of our courthouse in Onondaga is a huge library. It was the perfect spot. We had five to six lines. Our IT staff designated five telephone lines coming in. We used the Supreme Court law librarians we were blessed with, we had at that time several of them, and city



court personnel from Syracuse City Court. We staffed at one, four to six staff people basically all day. The success of it was through May of 2021 when we came back, everyone came back in person, over 22,000 calls came in there. What was good about that is the people, they had different knowledge in city and family court so they could get the people to the right numbers. Because the phones weren't being answered and people had a ton of questions. So that was really good. So the court's consolidation, good and bad, right?

Second topic is the danger of hiring freezes. We went way too long without the ability to hire critical positions in the court system and I'm just going to give you two examples. Two weeks into the pandemic, we lost our chief clerk and deputy chief clerk at family court in our second biggest county. We then had to have Onondaga County, the chief and deputy, cover another county and we had clerks going all over the place just trying to keep our family courts operating because we lost the management there. We could not hire those people for over a year and a half I think it was. So that's something where we have to have the ability to have emergency hires.

Our HR people have spoken about this too, but we lost a person in our HR department. Two people in HR servicing 750 employees and judges. It just doesn't work. What did we do? We kept telling those people in HR, "You have to do this, you have to do that. Here's the Kronos, here's the settings you have to do." Then it would change and they'd have to go through the whole 700 employees and change all the codes in there. So there's a lot of stuff, a lot of burden, and we kept going back to the same people.

This came up a little bit, and Judge Doran, I'm sure you agree, but giving deference to the administrative judges and the districts, as I stated, you have very diverse, the whole state is so diverse, but even in the Fifth District the problem you had is that 50% of court employees coming in, right? Well if you have a three-person court or a 70-person court staff, there's a big difference between 50%. It's one person, right? What do you do? So having those things, obviously you need the big overall rules and you worked tirelessly on that and that was tremendous, but we have to allow for flexibility for the AJs throughout the state to make some changes.

Another thing is the administrator, and this happened mostly because of the governor, the governor would come out with an administrative order and all of a sudden, within 24 hours, the next day, that day we had to change all the protocols, everything. The burdens went to the chief clerks, the deputy chief clerks, the whole staff. It was crazy.

The court officers, we had the white cards, the orange cards, and all that. We didn't even have the cards. We had to implement it the next day. Then think about this too, the signage and everything we're doing, you change it in 24 hours, how do you deploy that to 26 facilities in six different counties? Thank

God the court officers really stepped up and were a blessing and helped out with PPE and getting everything to us.

Next one, we can't ever stop accepting files and need to accept all the lawsuits and documents electronically. We've come a long way with e-filing and EDDS and working there, but we still don't have mandatory e-filing throughout the Fifth District for all matters. The state, we really need to go there. We're well behind our federal courts with regard to e-filing criminal cases. I know we're working there, but during a pandemic we shouldn't have to tell people they need to come into the courthouse to file papers when they're scared to come in. We have to have a way not to do that.

The other thing that I'll talk briefly about is the case management software. Obviously, we went from ADBM to UCMS, but the reason, not having consistent software statewide, we weren't able to get the data that OCA and court administration needed to make those determinations. So what did we do? The biggest complaint I'll get from everyone during the pandemic was the countless reports that were required to be filed every day, the hours and time that was spent on that. First came the essential matters reporting. It came completely. There wasn't even a system for that until they put the SharePoint site together. But for 537 days there were 3,247 emails just on the essential matters.

Craig Doran: But who's counting?

Donald Doerr: I did. I went back. That's what I'm saying, I blocked a lot of this out, Judge.

But then the non-essential matters, April 12th, we repurposed a lot of our teams. That was a blessing too. The ADR team was not as busy, so they took on the task of doing the non-essential reporting. But just 5,600 reports between April 12th and September 15th, 1,568 SQL reports, and 19,000 emails just getting the non-essential reportings.

I'll get to that, but-

Craig Doran: I apologize for two reasons. One is you're a little bit over time and secondly this is getting scary because we're all going to begin to suffer from the recollection.

Donald Doerr: I'll wrap up.

Craig Doran: Try to wrap it up in the next minute and a half.

Donald Doerr: I'll wrap up, Judge.

So the daily attendance reports, we didn't require them, but I'll tell you, thank God for some brilliant people in our office that put these spreadsheets together and used Access databases. But we had to record every single day, who was in, who was not in? I was tempted to bring it, but it was three feet high the stack of

papers that we had to do. That's stuff that I guess we don't realize every decision you make to do these reports affects so many thousands of people in our court system.

I'm going to get to the good, the IT, the division of technology. I mean, Director Sisario is up there, but how we were able to deploy laptops. We had six laptops that you could use remotely in our whole entire district and we went to 250 laptops. A very good thing now, and we're doing it, is all our judges, secretaries, judicial staff, court attorney referees, chief clerks, and deputy chief clerks all now have laptops. No computer at their desk. The laptops can be moved, they could go home with them, they could go to different courts. It's a blessing.

Craig Doran: Last point please. I'm sorry to interrupt you, but we got to move things along.

Donald Doerr: I guess I just want to say the other thing we did is we had a Fifth District Corona notification group and I just looked at it. Midway through, we had a fillable pdf, and this is something, I don't know why I didn't send it to everyone else in the state, but we had a great one-page document that had all the information you would need. Because we were spending countless hours doing the covid tracing and everything, but we had a one-page pdf, you clicked a button at the bottom, it went all to all the people that needed to have it. That's the type of things and the electronic types of things.

The other thing we were able to do, a bright side, when the courts were not occupied, we went in there and put in new FTR drives. All 97 courtrooms we updated. So that was a great thing for technology.

I guess the thing I'll end it with is that there was so many people and the decisions that were made, but the chief clerks, and Porter, my fellow DE, hit on this, we were going back to the chief clerks and the deputy chief clerks so much and we were counting on them and asking for more and more and more. So I guess my question is, if you guys, what data do we need when we're not in the middle of the pandemic, what data does the court system need in order to figure out so we don't have to do all these manual reports, so that we could just push a button and get the data we need? But think about what we could do now while we're not in pandemic DEFCON 5 mode or something and figure out what we need, try to figure out ways to get that information and change our systems and develop things. I think that would be tremendously helpful for the next time we have to be faced with this, God forbid.

But on behalf of Judge Murphy and all the judges and employees in the Fifth District, I want to thank this panel.

Craig Doran: Thank you, Mr. Doerr. Anybody have any comments or questions for Mr. Doerr?

All your comments were wonderful, but that last one, critically important. If we could include that in our recommendations, what data do we need to collect so

that we don't have to burden our staff with these numerous reports every day? I know exactly what you're talking about, so thank you.

Donald Doerr: Thank you.

Craig Doran: Fifth District's fortunate to have you.

Last, but certainly not least, before we take a little bit of a break here, Ann Dillon Flynn, who is the Clerk of the Court, Fourth Department Appellate Division. Thank you so much for being with us.

Ann Dillon Flynn: Thank you for having me.

Craig Doran: Yeah, by the way, I need to remind everybody, speak into your microphones, get them up close to you, as close as you can so that the folks listening to our live stream can hear you as well.

Ann Dillon Flynn: Good morning. I'd like to thank Commission Chairman Hank Greenberg, Justice Doran, and all the members of the Pandemic Practice Working Group for the opportunity to speak this morning. My name is Ann Dillon Flynn, I'm the Clerk of the Court for the Appellate Division, Fourth Department.

By nature of our court as one that determines appeals, we were pretty fortunate to have avoided many of the challenges faced by the trial courts with regard to the pandemic. With that understanding, I'd like to use my time today to highlight a few of the technological advancements implemented in our court that were spurred by the onset of the pandemic in addition to a few of the challenges that we continue to face.

One of the most outward facing improvements to our court operations has been the digitization of our oral argument check-in procedure. Prior to the onset of the pandemic, our process for making sure that a panel of judges hearing cases had an up-to-date version of the day's calendar involved a significant amount of manpower and oftentimes some last-minute scrambling to make sure that the judges had the information they needed when they took the bench. If an attorney checked in late at the clerk's office on the morning of oral argument or called the court last minute to say that they would not be appearing, the day's calendar would need to be manually updated, disseminated throughout the court, and ultimately brought to the bench to replace the no longer up-to-date calendar that had previously been given to the panel of justices. Each time that the day's calendar required adjusting, that process would be repeated and our tech staff would manually make the necessary changes to the calendar on our court's website.

When we began holding arguments remotely at the start of the pandemic, we digitized our check-in process in a way that automated a lot of those tasks. Now the attorneys check in by following the prompts in either an email or a text

message that they receive on the morning of their oral argument or they check in at a kiosk outside the courtroom once they arrive at the courthouse, similar to the way that one might check in for a flight at an airport. Now when an attorney checks in, the day's calendar is updated automatically in real time. The judges view that live updated calendar on monitors at the bench and the court's website is automatically updated for public viewing.

Even though we have returned to in-person arguments, we have maintained this streamlined check-in process to I believe the benefit of both arguing attorneys and our justices and court staff.

The pandemic also required the departments of the Appellate Division to begin holding virtual bar admission ceremonies. Because the admission process requires by statute that a new attorney signed their name in a role or book upon their admission, we began collecting those signatures via email submission immediately following each virtual admission ceremony. Thanks to the Office of Court Administration's Department of Technology, there's an effort underway to create a statewide digital roll of attorneys that is a database encompassing the admission information from all four departments of the Appellate Division which can be centrally maintained for ease of access and information sharing amongst all of us, which I believe is really going to be a huge improvement.

Of course, these improvements lead to the natural conclusion that as we move to a more virtual world our need for technology services employees increases. Among our own justices and staff at the Fourth Department, our help desk ticket requests have increased by approximately 50% from the beginning, from pre-pandemic numbers, I should say, from approximately 800 tickets per quarter year period to approximately 1200 tickets per quarter year period.

As technology continues to play a more integral role in the daily operations of our courts, courts may need not only additional technology staff, but technical staff who are more proficient in their understanding of court operations. We as a court system should remain open to the re-imagination of and creation of court employee positions that live in the intersection between technology and court operations.

Turning towards our human resources and staffing, like many other courts, the Fourth Department has seen a decline in the number of applicants we've received for positions across the board since our return to in-person operations. For attorney positions, our applicant numbers have decreased to roughly half of what we received pre-pandemic, and for support staff positions, our applicant numbers have decreased to roughly one third of what we saw pre-pandemic, with many applicants asking whether telework or partial telework is allowed or whether vaccination against COVID-19 is required for employment. Those are the types of concerns that we're hearing from potential applicants.

I would like to note, however, that many of the attorneys working at our court preferred working in-person as conditions allowed during the pandemic with several citing mental health benefits to the safe socially distanced interaction with their coworkers and mentorship and professional guidance amongst the sizable group of newer attorneys that our court employs.

So I'd like to thank you all for being here, particularly those who are here from out of town, so much for your time this morning. Thank you.

Craig Doran: Thank you, Ms. Flynn. Anybody have any comments or questions?

We do appreciate the partnership and close working relationship we have with our Appellate Division colleagues. Thank you so much for being here with us.

Ann Dillon Flynn: Thank you, Your Honor.

Craig Doran: To all of you, we're going to take a truncated break right now before we move on to our...

This next panel consists of some very dedicated hardworking judges that we are so grateful took the time out of their schedules to be with us. We have the Honorable Mary Slisz, who is a justice of the New York State Supreme Court here in the Eighth Judicial District; the Honorable Mark Saltarelli, who is a judge in the Tonawanda City court, also president of the New York State Association of City Court Judges; the Honorable Paula Feroletto, who is the former administrative judge of the Eighth District, was the administrative judge throughout the bulk of the pandemic, and also I am honored to call her my friend; and the Honorable Keith Kibler, who is the supervising judge of the family courts here in the Eighth Judicial District.

So Judge Slisz, you are up whenever you're ready, and thank you so much for being with us this morning.

Mary Slisz: Thank you for the invitation to present today. My assignment is currently the Supervising Matrimonial Justice for the Eighth Judicial District and I'm in charge of one of the matrimonial expedited parts. I'm currently president of the Supreme Court Justices Association for the Eighth Judicial District.

The first lesson covid taught us is our court system was behind by decades when it came to the use of technology. Our IT departments were phenomenal in bringing us into the 21st century in a period of weeks. On March 16th, when I left the court building with my laptop, I had all my forms, letters, a full inventory of my cases, and my calendar. Judges in other parts of the state were not able to have access to these items, leaving them weeks behind in bringing the system back up. What took us three weeks for my part took six to eight weeks in other parts due to the fact that we had three different case management systems being used. It was frustrating to everyone.

We need to use the technology. It was baptism by fire. We took the Band-Aid off and we all did it. We need to take this time to conduct additional training of court personnel, staff, judges on using the technology and learning from each other. There are so many different things that technology does that we are not familiar with.

We need to avoid rolling out new software programs without talking to the end user of the program, the people in the courtrooms and our staff. I remember the day in July when that new Foxit PDF maker all of a sudden appeared and everything we had, our signatures, everything, vaporized. There was no instruction how to use it, even our own IT people didn't know that it was coming, but it was pushed to the end user. We need to have those communications.

We need to continue to have rooms set up in each court building for litigants who want to appear virtually but don't have the abilities at home. In this area we learned about, I think there was somewhere upwards of 40,000 students who couldn't get remote education, who didn't have internet, so we need to have those available if they want to come to the court building and not appear in the physical courtroom.

We thank you for putting matrimonials on NISA. It was the greatest thing that happened. It allowed all of us to have the documents without having to look for physical papers. The Virtual Evidence Courtroom, whoever designed that, thank them. We don't have to look for missing exhibits.

We need to employ a hybrid model. Litigants or participants who are hospitalized, confined to nursing homes, rehabilitation facilities need to be able to appear virtually, especially for Article 81s and mental hygiene proceedings. There's less anxiety for them. They're familiar with their surroundings. It alleviates the additional staffing needs for healthcare workers to come with them. It avoids the need to transport from the facilities to the courthouse. There's less risk of acting out with the participant and there's less danger and it's more secure for the healthcare personnel and court staff. Participants don't miss their scheduled meals and their medications, they're able to get them at the facilities and counsel are able to appear from the facilities. Our own ECMC hospital has a courtroom available on that campus, which was just finished right before Covid.

There's a cost savings to civil litigants who compensate attorneys on an hourly basis. Gone are the days when everyone sits in the back of the courtroom and they wait for their opponent to show up or they're waiting for a client who's late and all of that time is being billed to their client. Civil litigants realize less time lost from their place of employment. Employers who desperately need employees are being more accommodating to them, and when they know that they have a court appearance, they schedule their breaks or their lunch hour during that time so that they can appear remotely.

It avoids excessive absenteeism. It promotes job retention for litigants. It avoids the daycare expenses that people would have to incur. The long travel to courthouses in rural areas can be avoided and the long travel for people who live in well-populated areas like New York City, they spend a lot of time, so it would be a substantial savings to them. They save on tolls, parking fees, et cetera.

Most importantly, I have personally seen less anxiety for minority litigants who appear virtually because they appear on the screen, we have our conference, they realize it's going to be okay, and they are more inclined to continue to show up so that when we do need them to come to the courts for trials, hearings, settlement conferences, they've lost that anxiety level.

Attorneys are more prompt. They know when their court appearance is. Language interpreter pools have increased substantially. We are able to get language interpreters for the 157 languages that we cover. Attorneys for the children assigned counsel provider pools have increased because they are able to take cases in the rural areas that have less providers. Attorneys who provide VLP or pro bono services realize a great time saving, and as a result, we see more who are willing to take on additional VLP cases.

Most critical to the hybrid model is giving the judges the discretion to get working copies of their motions from counsel leading to faster decisions, better decision making because everything's in front of them. If we give the judge the discretion, they know what works for that judge, because what works for one judge may not work for the other, what works downstate may not work in Western New York. Conducting person proceedings as the judge determines in civil matters. Give the judge the discretion to determine what works for them, their cases, and the individual litigants.

What we've lost in virtual appearances and how do we fix it? Attorneys who fail to appear in a professional setting. Everybody has to have a camera on, a microphone on, a professional setting for their presentation. We don't want to see anymore grocery stores, restaurants, driving car experiences for us, sitting in the airport waiting for a plane, or doing their yoga on the floor during an appearance. The attorneys can properly identify themselves. It makes it easier for the stenographers, but it also makes the calendar flow much faster.

We've also seen a level of disrespect, not only for the tribunal, but for opposing counsel because we feel the freedom to say what we want when we are in that virtual world. I've personally employed bringing it to council's attention. You bring it to their attention once, perhaps twice, and then in my discretion we have an in-person appearance.

We've lost the ability of law students and attorneys to learn from sitting in the gallery during court sessions, but we can expand that ability for law students or



attorneys to join virtually or to sit in the courtroom during virtual appearances if they want to learn from others' experiences.

We've also lost the attorneys who run into each other in the courthouse and conference on another case and talk about it. My suggestion to them has been to please make sure you return your phone calls to each other, set up conference calls for discussions, meet in between court appearances, and respond to correspondence.

We have spent an astounding amount of money and technology and we can't take and put it over to the side, because the next crisis that comes, we aren't going to be up to date on it. So we have to use it, we have to continue to update it and to make sure that we do a hybrid format so that we can accommodate litigants. Thank you.

Craig Doran: Thank you so much. Excellent points. Anybody on the panel have any questions or follow up with the judge? Go ahead.

Craig Hannah: I think I saw my colleagues nodding and I really wanted to highlight the points you made about training, that we do need to train and retrain and train us and our staff to make sure when we have these new implications or programs and procedures that we're able to hit the ball running. So I do appreciate that comment.

Craig Doran: Anybody else?

We've heard the refrain about the concerns that we have with virtual technology and the things we lose, so the formality is something we in our own environments can be vigilant about. It occurred to me when we were talking about the loss of camaraderie in the legal community and the training, I think that there is a place for the bar associations here, for us to enhance us, meaning the judiciary, to enhance our partnership with the bar associations and make sure that we're utilizing each other's expertise to reach our potential, and in this particular instance, to perhaps fill those gaps that the virtual world will create. The camaraderie, the training, being in the presence of each other, there really is no substitute for that, and if we're not doing it during calendar calls in the courthouse, then there needs to be another place and I think our bar associations can be critical there. So excellent points.

Mary Slisz: I agree. I agree.

Craig Doran: Thank you so much for being with us. Next is the Honorable Mark Saltarelli, who I mentioned is a judge in the Tonawanda City court, but also the current president of the State Association of City Court Judges. This is at least Judge Saltarelli's second foray into our working group because he also participated in a remote listening session that we had with association presidents. So thank you for your involvement and participation, the floor is yours.

Mark Saltarelli: All right. Thank you. I want to thank the commission for inviting me here today. Our association represents approximately 170 judges for all the cities in the State of New York, outside of the city of New York. It was initially testified that-

PART 4 OF 5 ENDS [02:16:04]

Mark Saltarelli: It was initially testified that during the course of the pandemic there were centralized arraignment places where the respective municipalities police departments would take the defendants down to the centralized arraignment part, and our respective clerks from those cities would also have to go down to those arraignment parts. And this was done initially until the respective city courts could get the technology up to have the defendants arraigned at their own facilities. I think it took a little longer than necessary, but of course it had to do with communication. It is now, I think, every one of the city courts has a facility where virtual can be done for arraignments, where the defendants can have their privacy to speak to defense counsel either telephonically or in a room. So we have those procedures in place. I think the most important thing, however, is for judges to be trained to preserve the record.

Many times the defendants who are masked do not speak clearly into the recorded devices. And often I would have to request the defendant to remove their mask so that the plea colloquies, and other statements necessary to be made, are clear in case of appeal. And I realize that not all the judges think of that, but I think that should be part of the training process so that the record is made clear. The most frustrating part that many of our city courts found was the lack of priority given to treatment courts. They were behind the priority of the criminal courts. The participants in treatment courts are at high risk, as it was seen during the pandemic period. Overdoses increased, participants had too much time on their hands. The virtual setting did not work. Often, I'd find, virtually defendants laying in bed while they were talking to me or in other inappropriate dress or places.

We had no ability to test. And I think that these issues need to be overcome and given priority to protect the participants in those treatment courts. We should have the ability to test, even during the pandemic period, this can be arranged in order to social distance and protect the participants in the program so that they do not relapse and they can continue in their treatment process. One of the other issues that came up was most of our city courts are located in municipal buildings and the state, of course, maintained uniform rules with regards to masking and social distancing, which did not conform to the rules of the local municipalities. This created a frustrating experience for defendants and defense attorneys being allowed into the building without masks and then all of a sudden being told they must mask and maintain a certain distance within the courtroom and often became a very, almost created hostile situations involving the court officers and conditions within the courtroom.

So I think we should consider giving the AJs in the respective districts the ability to determine what is best in dealing with the local municipal courts. Finally, my final comments are regards to small claims, which many of our courts deal with. We need to ensure that the claimants have the technological ability to submit their evidence electronically while they're virtually appearing, so that the judge has access to those documents in advance and they can be exchanged between claimants. So if we have those items in place, that makes the small claims virtually able to be done effectively. And that's basically concluding my comments.

Craig Doran: Thank you so much, Judge. Anybody have any questions, comments for the judge? Judge Mendelson?

Hon. Edwina Mendelson: I have a comment. So nice to see you.

Mark Saltarelli: Thank you.

Hon. Edwina Mendelson: I very much appreciate the comments that you made about the particular impact on our problem solving and accountability courts and our treatment courts. And in my role overseeing those courts, I recognize that we really do need a strategic plan to address those issues now that we are not in crisis mode. Thank you for that.

Mark Saltarelli: Okay.

Craig Doran: I know on that subject, very clearly, these folks that are participants in these courts and in particular our treatment courts, mental health, veterans, et cetera, I recall very vividly during the pandemic that we struggled with the very point you make. That these are among the most vulnerable in our society. The pandemic has made them more vulnerable and sometimes their only lifeline is the court and the connections they have with that court. That's why the model works. I think one of the things that we need to be vigilant about is the relationship that our courts have with our non-court partners in the treatment courts, the agencies that provide the treatment to those participants.

I know in the seventh district we were very creative, as we had to be, in actually utilizing their help and their assistance to fill those gaps where the testing and having a place where the participants could go because our buildings were closed, but if they needed a connection, a physical connection, the partnership with those agencies, critical. And were blessed to have so many of them, but the interruption of court operations, I think, raises to the forefront the need to keep those relationships solid. And I think that's something we need to include in our recommendations, that the jurisdictions that have those courts, which I think is all of them, need to step up the maintenance of those relationships. They are absolutely critical. So, thank you. Thank you for being here and thank you for the work that you do.

Next is the Honorable Paula Feroletto.

Hon. Paula Feroletto: Thank you.

Craig Doran: Whenever you're ready.

Hon. Paula Feroletto: Let me first thank the panel and running into yesterday, Judge Doran, it reminded me of all of the great people we worked with during the pandemic who worked so hard. And one of the things, I would say, that is so important is the breadth of what had to be done with the courts, from small claims to treatment courts, foreclosures, the city courts, the specialty courts, the breadth of what got done is simply amazing. And you have to thank Judge Marks for being able to get that done. And then each of the leaders in the different groups, I know I have Christine Sisario mention more than once in my remarks, but somehow some of that micromanagement got a little too far at some points, making it difficult for things to get done.

Craig Doran: Judge Feroletto, I'm sorry to interrupt you. Would you move that microphone closer? I'm afraid that our audience out there in television land won't be able to hear you.

Hon. Paula Feroletto: I would echo what was said by Mr. Dore from the fifth, the reporting requirements were onerous compared to what the work was. And I know that people were working 12, 13 and 14 hours a day or more, seven days a week. So, it all started, it's March of 2020, and on Monday, March 9th, Judge Mendelson was in the eighth Judicial District holding a conference on Raise the Age. And we'd all been hearing things, things were spreading. I stopped there on my way to Niagara Falls and it's like, "Is it safe to hug people?" Can you all put yourself back in those days? But the Raise the Age was such an important thing that we had gotten accomplished with so many team members who were going to be so important to have relationships with, as we went into the pandemic. That was our last in-person conference was on Monday, March 9th, and Judge Mendelson was here.

We had been working on centralized arraignment parts since that legislation was passed in 2016. There was a lot of infighting. Everybody had their own little fiefdoms who wanted to do it, who didn't want to do it, who would not do it, who was the most important person. And the pandemic came along and we had centralized arraignment parts working well in one county and not in the other seven counties. And we did rip the bandage off. Things had to get done to get people arraigned. On Wednesday, March 11th, as things are coming down the road, I write to all of the eight counties, "Suppose we have an outbreak in the jail, could we do arraignments remotely from your jail facilities with the chief clerks?" Well that would be great. And we have 11 cities too. Some of them have jails and some of them didn't, except the criminal procedure law only allowed remote appearances in four of our eight counties.

So that was going to be an impediment to trying to do anything remotely at that time. That still has not been changed. It was allowed for a while during the pandemic, but the criminal procedure law, and maybe Judge Egan had touched on that and it's Friday the 13th. We're here, we're trying to conduct interviews. Of course that person never got hired, but I keep getting called out of my meeting. We have to talk on the phone, we have to talk on the phone, we have to talk on the phone. And then it's Saturday the 14th. Of course we're all talking on the phone and I'm told that at the end of that phone call, one building in each of my counties is going to be open. And then I'm like, "Boy, I wish it was Judge Doran with that big building in Rochester where everybody's there, because we had access to justice questions, two of my counties, City of Niagara Falls and the city of Lockport, people cannot get between those cities easily, even with the car it takes 40 minutes, with the bus, the bus does not go direct, it goes through Buffalo, it's three hours.

Which building are we going to have open? I call one of my county court judges down in Cattaraugus County. "When I get off this phone with you, Ron, we need one of these two buildings. Is it only in the big city where we've got the family court or is it Little Valley where we've got the jail? What do you think? Where are the most people that we can? Who's got more space? What are we going to do?" So that's on Saturday. By Monday morning, at eight o'clock, I wrote right to the mayors of our 11 city courts to say, "You're going to be closed." It was 8:05. I had my email, I feel like John Doran, it was post-traumatic stress disorder. But all of these arraignments are going to take place. And we had the list of the counties and where they were going to be. And by the way, to all the police agencies, your town and village arraignments between 9:00 and 5:00 are going to be in these buildings and the centralized arraignment parts are going to arraign after that, which is only in one county.

And then I start to worry, because we don't have New York State court officers in all of those buildings. Some of them where the city police or the county sheriffs and they would get reimbursed by the city when they showed up. And I'm like, "They're not going to get paid." And you start thinking of the ramifications that are going down the road, who's not going to be getting paid. It was a bit frightening. We had temporary employees working, "Can we please keep them on? Can you please not fire them? It was supposed to be their last day on March 18th." I'm like, "These people know what they're doing. Can you please keep them? We need them so we're not short on staff." Someone mentioned the hiring freeze was very, very difficult and I realized we don't have money budgeted, but the hiring freeze was very difficult for the courts, especially for our poor chief clerks who were doing so much work.

I had a chief clerk who lived in Grand Island who would swing by 77 West Eagle, where amazing IT team was trying to cobble together computers and laptops from different parts. Dave Solazzo will probably remember it well. And she would be delivering them to chief clerks and people who needed them down in the southern tier when she went to Chautauqua. Ms. Buckley lives in the remote

southern tier; she enlisted her husband to be delivering computers. She'd get them halfway and he had nothing else to do, so he'd be taking them around. The work that people did that was not in their job descriptions, was absolutely amazing. And I think part of it is having been in the job for some period of time before the pandemic struck was helpful to me, because you knew the people you could count on and you know have good people who will do the work.

So much of the message going up was like, "Please trust us. We can do this. You don't have to micromanage us. We can get it done." I know that Judge Saltarelli was talking about the treatment courts, but I really have to give some kudos to Jennifer Don, who worked in our Lackawanna treatment court. And she pulled together a plan and she got these people on the computer. She had a schedule. It was a thing of beauty that we shared with everybody else. It was something that we at least could get people involved even if it was on the phone. And at some point, people appreciated seeing another person. So that was a good thing to do. And what we needed was people who were problem solvers. "What can we do? We can't do it in person, so let's do what's the next best thing? What can we do?"

And having the problem solvers around you was so important to keeping the courts going. I'm going to echo something that Judge Slisz said as well. I know as administrative judges, before the pandemic started, we were talking about how behind we were with technology, not the fault of our technology departments. Let's face it, the court budget is very person-oriented, paying salaries. A huge portion of our budget goes to salaries and benefits. We can't be there anymore. The federal courts were doing e-filing before the year 2000. It's 2022 and I know that one of the counties still won't allow e-filing in our district, but E-filing was so important. It's wonderful with the matrimonials and we need to do it in more of our courts and be able to do it. Getting the ED system up and running and people familiar with it.

Our partners in the community, the churches, the stakeholders, the volunteer legal services, signing notaries remotely, the solutions they came up with, those partnerships outside of the courts are very important things that we all need to work on and keep and continue. The training of judges, I knew how to remotely sign before the pandemic started. Thank goodness, Dave Solazzo sat with me in my office, I was getting nervous while I was doing emergency risk protection orders off hours and it's two o'clock in the morning and you're trying to get the remote police department. You need to know how to remotely sign and be able to do your paperwork remotely. But the training of judges, when judges come on, they may not know how to do remote signatures. You have to be able to remotely sign. You have to be able to access your documents on NYSCEF so you can see them.

And I remember talking on an AJ meeting, here's how you do the URPOs without having to have them come to your house and have your husband notarize their signature. So I digress. But what we need to do is keep that ability

to go remotely going. We had seven feet of snow in Buffalo in 2014 and our family court was closed for one week. It took us four months to get caught back up. I don't know where we are yet with this, but we need to be able to have that remote capabilities. We need to have our employees be able to remember and recall how to do it. A lot of people are hands on, "Can we do this?" If we get a blizzard next week, can I not be behind four months if I can keep this going remotely? So we have to figure out a way to keep that technology going.

Our litigants know how to do it and I have to thank Christine Sisario. We kept getting memos, "Who can do this? This is what you have to do." The foreclosures, the IT team that sent out, literally, thousands of notices on foreclosures because you had the right to have a hardship presentation, how to get that done. Technology was so important. So we need to invest in our technology, our technology budgets, and our people. I'm not sure if our pay scales are competitive anymore. They used to be, but I don't know if they've been revisited in a long time. So, thanks very much. I had more, I had all of Judge Marks's memos. It was sort of like, okay, it's March 12th, but that changed on March 13th and then we had March 15th. So, thank you.

Craig Doran: Thank you so much, Judge Feroletto. Anybody have any questions, comments for the judge?

Carolyn Nussbaum: I know we are behind, so I'll be brief. But I wondered, Judge Feroletto, if you can address the eighth judicial district, like the seventh, like the fifth, like the sixth, covers a very diverse geography and we've got counties that are not on e-filing, not on NYSCEF and we've got litigants in very rural areas with limited broadband. Can you just address, even if we have the best technology in the courts, how do we accommodate those counties and the people who reside within them?

Hon. Paula Feroletto: I've found that the kiosk rooms do work very well. I've been doing some matrimonials and I have let the individual who may have a difficulty come to court, go to the closest court to them. And it might not necessarily be the court where the matter's pending, but if they can go to a city court and use the kiosk room, that's where they're going. We had judges who didn't have Wi-Fi access at their homes in some of our rural places. It's a problem. So for litigants that don't have access to it, I think you need to keep the kiosk rooms going. It's important to have them up to date and have a safe and secure place where they can go.

It also helps if you've got some partners. I know down in Westchester they had a program with some of the churches where people could go and use computers there. I think the libraries are always a great resource. So while we're not in pandemic mode, those partnerships and relationships we have with other people are really important. So that in Chautauqua County, the Salvation Army, we've got something with remote orders of protection. I mean those facilities

and locations you need to have in the outlying county so someone can go somewhere to get to court.

Carolyn Nussbaum: Thank you.

Hon. Paula Feroletto: You're welcome.

Craig Doran: Judge Mendelson?

Hon. Edwina Men...: I just wanted to say that Christine and I looked at each other because this is very much on our radar and we are strengthening what exists and expanding these virtual court access networks throughout the state of New York. Thank you, Judge Feroletto.

Hon. Paula Feroletto: Thank you, Judge Mendelson. Always a pleasure to see you.

Christine Sisario: Hi Judge Feroletto, I have a question about the training. So we've heard from everybody, every type of job, but in particular about judges and needing training. And I keep thinking about what's the best approach and I'm just curious if you or any of the other judges on our panel here, if we mandated certain technology training when you became a judge or when something new comes out. Because it's always, "Oh, I'm too busy. Oh I'll do it next week." You can't really do it live, in person, because of scheduling. We do have all kinds of options that are go-at-your-own-pace online training, not everybody likes that. So I'm just curious if folks have thoughts about what might be the best approach. If you don't have an answer this very second, email me some other time. But I just wanted to put that out there as a need that we really, realistically, need to figure out what would be best.

Hon. Paula Feroletto: I thought, probably, right at New Judges School, having a one-on-one and have them doing it, because there's nothing better than doing it yourself and writing down your own little cheat notes, which I kept on how to sign stuff after Mr. Solazzo taught me on my laptop, for about three months until I'm like, "Okay, I can do this without looking at my cheat notes." But I think starting right at New Judges School because once they get in... And then judges can be proud, some of them are too proud to say, "I need help with something."

Christine Sisario: We do, for the first time, it was I think 2020, there was any mention of technology at the New Judges School and I gave a three-hour presentation about how to use Teams and some other stuff. But it had never even been part of the new judge training to even talk about technology. So that's happening. It's great and I think that's a good suggestion and we'll work it out. Thank you.

Hon. Paula Feroletto: Thank you.

Christine Sisario: Yeah.



Craig Doran: Anybody else? Judge Feroletto, thank you. And thank you for being a model for all of us in leadership throughout the pandemic and otherwise. I've noticed that what you spent most of your time talking about, and this is a testament to you, is not the detail or the intricacies of what happened, but the quality of the people and the extra, those intangibles that we are so fortunate to have working with us in this system that allowed us to do all these other things. And you are always, and continue to be, a cheerleader for the people that we are blessed to have working in our system. So thank you for that. The other thing that I want to highlight in what you talked about are the collaborations with the entities that we work with. Critical in the treatment courts with remote access. In many of our communities, the only place in the community where people can gather is a library or perhaps a firehouse or a church. And we have to get over our traditional siloed world, "We're the courts, we're not allowed to be breaking down those barriers." We have to.

Final thing, and this is a little bit controversial, but sometimes I believe the best training is to actually do it. Because if you put something on it, we got pretty good at running remote chambers and remote courtrooms, we're not doing it anymore. When you stop doing it, you forget how to do it. So how do we keep that practice up of having the platoon system or having our staff that is ready on a moment's notice when a blizzard hits, to be able to not close the courts, but in a moment's notice, be able to continue to operate the courts remotely? I'm thinking that, really, the best and most effective way to do that is to be doing it all along so that we can pivot in an instant. And I know we're the government and we have to be accountable and that's controversial, but I think we have to talk about it. And I wonder if you agree with that?

Hon. Paula Feroletto: I would say yes. And I was even wondering about that, especially with our family court. A lot of the litigants are very savvy. I had most of my pro se litigants, were on the phones better than some of the attorneys when this started. They were probably doing FaceTime more than the attorneys were, right? If we could even schedule, "We're going into Blizzard season. Can we have two days a week where we know these litigants have access to Wi-Fi, they have access to their computers. Can we set up two remote days a week?" So if we're closed for a week, we're not losing five court days, we're losing three or something along those lines. Or even as a pilot, should we try, "Hey, let's do, this will be our remote day." Support magistrate should be able to do those hearings easily, remotely. There's things you're going to need to do in person, but visitation matters, couldn't you get everybody remotely coming in and figuring it out. I don't know, just a thought that I was having.

Craig Doran: Excellent.

Hon. Paula Feroletto: In terms of being able to keep it going.

Craig Doran: Thank you, Judge Feroletto. Judge Kibler, supervising judge of the family courts. Thank you for being here. You also participated in one of our remote sessions,

so you've gone above and beyond the call of duty here in helping us with our work. We're grateful that you're here with us today. The floor is yours.

Hon. Keith Kibler: Thank you. You're welcome. And thank you Judge Doran and Judge Mendelson for saying those kind words about family court and how family court is probably the most important court in our state. With all due respect to my colleagues.

Craig Doran: Did you say that?

Hon. Keith Kibler: That it's near and dear to our heart. In any event, we've heard from Ms. Buckley today and the passion and heartfelt words that she gave us. And I consider myself one of the luckiest guys around to be a supervisor of not only her but the other chief clerk, deputy clerks and main staff that give their heart and soul to family court. So, my thanks to all of them, they make my life a lot easier. Most of my colleagues have already talked about anything I was going to bring up. But I'm going to do a little spin here. As we mentioned, the eighth district is a little bit diverse. We have Erie Family, which is the largest family court and busiest court outside of New York City. Short 45-minute drive to the south and east brings you to beautiful Wyoming County where we have more cows than people and the largest agricultural producer in the state.

So therein lies the importance of our virtual world. That rural nature of our district outside of Erie and perhaps Niagara, requires us to be resourceful. And honestly, we do not have the attorneys in family court, whether it's the attorneys for the children or the assigned attorneys from the assigned counsel program. I am sharing attorneys from three, four different counties in my district. And it takes a lot of coordination, not only with the judges, but the clerks to try and get everything scheduled and with the attorneys themselves, with their schedules. As we're going back to more in person, the availability of these attorneys is becoming very, very difficult to conduct our business the way we would like. So I'm running, still, virtual court and in person court, as is most of the district as we're getting more to in person. I'm having first appearances and maybe second appearances virtual, until I can get all counsel on board and assigned and know that I have their availability through their schedules.

Because like I said, they're in two or three different counties. It's gotten so bad that I have an attorney on my assigned counsel program from Monroe County, which is a good hour drive or more to my courthouse. And I know Judge Slisz said we want to be more respectful of the virtual world and we've got to be more professional. Yesterday he texted my law clerk and said, I'm stuck. I can't make it on time for a scheduled appearance. He pulled over on the side of the road and we did the appearance, he's in his car and that's the gentleman from Monroe County. I don't have a choice, folks. We have to conduct business as we can and whatever it takes, we have to do that. And we have to be respectful too, of our clients. Transportation is difficult. There is no mass transit to get to the courthouse. They're relying on friends, family for gas money for a ride to the courthouse.

So the virtual world of this works. We don't want to throw the baby out with the bath water. We need to keep this, at least portions of it. Let it be a tool for our judges to be able to use where they deem fit. And to piggyback Judge Slisiz, it's discretion. And Judge Doran, talking about your sweet spot. Where is that? I don't know. But I think the sweet spot is the discretion of the judges. But if we're talking family court here specifically, if we're talking neglect or abuse cases and we're removing children from parents, I darn well better want to see them in front of me. They deserve that, to be in front of me and in person to see the judge that's doing this and why and the reasons, that shouldn't be done virtual.

So I think we can maybe find that sweet... I don't think they're mutually exclusive. I think we can have rules and protocol that certain cases should be in person and continue to do that, others virtual. Maybe some of you judges on the bench are gut judges. I'm a gut judge. I can feel it. I can tell after the first or second appearance whether I'm going to be able to settle this virtually or I'm going to need to bring them in. And that's how I gauge my cases. And I'm most of my colleagues, speaking with them and coming here, getting their input, have that same feeling that, look, there's a place for the virtual appearances and when we need to bring them in, we'll bring them in and get it done.

And to jump on Ms. Nussbaum's question, we're actually piloting a program for a rural access kiosk in one of our libraries. Wyoming County, Cattaraugus County, and Erie County all connect in a corner. And there's a library in our Wyoming County that we've set up to allow access to individuals that don't have Wi-Fi or Broadband to be able to go there and access courts. And again, it's access to justice, right? That's what we're all about. So we're in the process of that. I just don't want to see this go away because I think there's some value to that. I guess I'll conclude. I know everybody's ready for lunch. So, any questions?

Craig Doran: Thank you. Any questions or comments for the judge? Outstanding perspective. Thank you for your candor. It's very helpful to us to have that perspective.

Hon. Keith Kibler: You're welcome.

Craig Doran: And to everybody, thank you so much for being with us.

PART 5 OF 5 ENDS [02:49:11]