

Family Courts in the Virtual Age: A Roundtable Discussion

Sept. 25, 2020

Kristen Conklin: Good afternoon and welcome to our live virtual round table on New York's Family Courts in the Virtual Age.

My name is Kristen Conklin and I am the Executive Director of the [New York State Permanent Judicial Commission on Justice for Children](#). We at the commission, along with the [Office for Justice Initiatives](#) and the [Child Welfare Court Improvement Program](#), are pleased to bring you today's program thanks to the generous grant from the [Redlich Horwitz Foundation](#).

Before we begin, just a few reminders.

This round table is being recorded and will be made available on our websites at a later date. All the attendees are muted, so please put any questions you have for our presenters in the chat. But please understand that with over 900 registered attendees today, we will not be able to get to all of them. Please also use the chat to access our technical assistance team who will be able to help with general technical issues that you may encounter.

Presenters, please remember that you will be on camera throughout the hour today and please mute yourself to eliminate any background noise when you are not speaking.

Former Chief Judge Judith Kaye, who chaired the Commission for many years, often said that her passion was her work to improve the lives of New York's children and families. Judge Kaye raised the stature of the quintessentially important Family Court by valuing the work of the judges, attorneys, court personnel, and a myriad agencies and professionals that help families in times of crisis.

There is no doubt that we have endured crisis in many forms in 2020. The vital work of New York Family Courts continues throughout, albeit in a different format. Today, our presenters will address the Family Court's response to the COVID-19 pandemic and analyze the implications, both now and in the future, for virtual representation.

I now have the pleasure of introducing to you our highly-esteemed and accomplished round table presenters: the Honorable Edwina Mendelson,

Deputy Chief Administrative Judge, Office for Justice Initiatives; the Honorable Craig J. Doran, Administrative Judge for the Seventh Judicial District; the Honorable Jeanette Ruiz, Administrative Judge, New York City Family Court; and Mr. Henry M. Greenberg, Esq., immediate past president of the New York State Bar Association and chair of the Chief Judge's Commission to Reimagine the Future of New York Courts.

Mr. John Caher, Senior Advisor for Strategic and Technical Communications for the New York State Office of Court Administration, will get us started today.

John?

John Caher: Thank you, Kristen. Since we've only got an hour and there's an awful lot to cover, I'm going to dive right in. While I'm here to help steer the conversation, it's my intention to be a little more than a fly on the wall. We have a panel of experts and those are the people we need to hear from.

So, let me get this rolling with something of a loaded question. Before any of us ever heard the word "COVID," access to justice was an issue and a problem in, well, all of the courts, but maybe more so in the Family Courts.

So let's focus on that for a minute, and maybe Judge Mendelson could get us started with a global bird's-eye perspective of the access to justice issues that have arisen during this pandemic. Maybe Judges Ruiz and Doran and Mr. Greenberg could then weigh in on what we're seeing at the ground level.

Judge Mendelson: Thank you so much, John. This pandemic has both exacerbated our gaps to justice as well as opened up avenues for improving access to justice.

COVID-19 has impacted us all and there's no doubt about that. But it does not impact us all in the same way. I heard it said recently that we are all in the same storm, but we are not in the same boat and that resonates with me, particularly when I'm thinking of our court users in our Family Courts, those who are facing essentials of life legal issues are struggling in their lives and because of the changes to court operations.

They've been also struggling to fully participate in our court process. We began this crisis as a court in crisis mode. But as we've been moving along, we are being very thoughtful and deliberate about maintaining positive improvements and trying to provide the ability for those who

have legal issues or concerns be able to appear in our courts and receive justice. Both Judges Ruiz and Doran are on the ground working in our courts' operation, so I'm going to turn it over to them to talk about how they've been responding.

Judge Ruiz:

I'll start. I couldn't agree with you more, Judge Mendelson, that the pandemic has had both impacts. For me, it's really highlighted the "digital divide" in a very stark way and also made us so much more aware of the divide and made us really look at how we're delivering legal services to the communities we serve. So, for example, setting up hotlines became a real big priority from the outset because we realized that one of the ways, and in too many instances the only way, that litigants in family court could participate and access the court was through the phone.

So, creating the hotline was very critical to getting started.

Judge Doran, from your perspective, what do you think was the most critical thing that was highlighted for you?

Judge Doran:

I think I look at what we've been through over the last several months as an awakening for our court system. The Family Courts, as we all know, tend to be the trauma centers of our system. They tend to be the emergency department for the ills that are affecting society. I think that we're all seeing that this pandemic has really exacerbated a lot of those things. But the opportunities that have arisen for us in the wake of all of that have really allowed us to see remarkable results.

They've allowed us open doors, I'll say, to collaborations, for example. I know something that the Permanent Commission has long stood for and promoted is working with the agencies outside of our court system that do so much for children and families in our communities. I think this pandemic has accelerated the need for us to engage in those collaborations. We've seen remarkable things happen in just such a very short period of time because of that. So I really view this as, in many respects, although the challenges in our system and without our system are many, the opportunities for improvement have presented themselves and allowed us to do so many great things that I think perhaps, without the pandemic, might have taken us a lot more time to get to.

Judge Ruiz:

Yes. I agree with you. I think we also here in New York City are working much closer with the attorney advocacy groups and many of the city and state agencies that intersect regularly with the litigants who come to Family Court and really using them as vehicles for communicating about what we're doing, how we're doing it. I think the communication has

been probably one of the greatest challenges because we never asked for email addresses, for example, of any of our court users. So, we had really no electronic way, other than our website, to communicate. So, creating those arteries of communication has been critical to making sure that, at a minimum, the public is informed of what we're doing and how we're doing and how to access our court. So I have to agree with you 100% on that.

Mr. Caher: Let me jump in for a moment, if I could. Judge Mendelson indicated you are not all in the same boat. Judge Doran is in a boat on Canandaigua Lake. Judge Ruiz is on a boat in the Hudson. You have much, much different issues. Judge Ruiz, you referred to the "digital divide." But in your region, while someone may not have the technology, they probably have access to Internet. In Judge Doran's, they may not have access to either and they also don't have access to mass transportation. So could you discuss the differences in different parts of the state?

Judge Doran: I'll address some of the unique challenges we have outside of New York City.

Certainly, we have urban areas that are much the same as the issues in the City, but we also have extremely rural communities. The issues in the rural communities as we endeavor to make better use of virtual technology, obviously, Internet availability, the ability of folks to even have the devices, the hardware necessary to link up with the Internet, has caused us to be very creative which, frankly, I think is a wonderful thing, so that we've had to adapt our virtual settings to allow for those folks that perhaps don't have the ability to link into a Skype meeting, for example.

So we've adapted by providing phone numbers, providing opportunities for people to call in to a Skype meeting. Across the board, that was a very quick adjustment made to our technology. We also, in all of our courthouses, have created what we refer to as "kiosks." Even if there is a virtual proceeding underway, if for some reason a litigant cannot access the virtual technology, that litigant still has the option of appearing personally in the courthouse and being able to be linked to the proceeding through the technology that we made available in these kiosks.

Of course, transportation always is an issue and will continue to be an issue. Again, as I said a few moments ago, the pandemic has really forced us to be creative, forced us to be collaborative. I think that the result that we'll see when we emerge from this, and I'm not going to call it the "new

normal," I'll call it the "better normal." When we get there, we will see far better access to justice than where we were before the COVID struck us.

Judge Ruiz:

Well, in New York City, we also have our unique challenges. The New York City Family Court has one of the greatest challenges: volume. We have enormous volume in New York City. That creates its own difficulties even before COVID. We also have public transportation. Very few litigants drive to our courthouses. We don't have parking lots at our courthouses. So people can't sit in their cars and, for example, and wait to get texts to come into the courthouse. So, there are a lot of differences. Judge Doran mentioned there are also a lot of opportunities.

For me, the greatest thing is that it's really shined a light on the digital divide, but also on the effect of the pandemic on the lives of our litigants way beyond the court system and the issues that that has brought on. It was critical for us, for example, when we started to really ensure that we could provide at least some access to the life and death cases that are heard in the Family Court.

For example, I know there's been a lot of talk and focus on domestic violence and the impact of domestic violence on individuals who in this pandemic may be living together under the same roof and facing the danger of life and death, if you will, not just for themselves but for their children. We have heard over 3,600 family offense matters in the last six months. We have engaged, as I said, the 18B panel lawyers and the DV legal groups have been really, really phenomenal in stepping up and helping many of these individuals file a petition in our court and even at times representing them, albeit sometimes on a limited representation, as well as having our clerks available on the phone to help individuals who wish to file a family offense petition.

We've actually drafted it for them and made sure that they were heard on the day they were filed and that the relief that was sought at least was heard. This included exclusions hearings, so the temporary orders of protection weren't just stay away. In some cases, it was excluding an individual. So, this has been really critical, I think, to the work of our court and something that we were able to do really almost overnight, which is quite remarkable.

Mr. Caher:

Obviously, the Family Courts didn't close for a minute. What Judge Ruiz refers to as the life and death matters were dealt with. But there are a whole lot of matters that maybe don't rise quite to that level that I imagine are piling up. I'm wondering if there's a concern that as things

get back to our new or, as Judge Doran said, the better normal we'll be a little overwhelmed. I'm curious to know Judge Mendelson's perspective from the court administrator's standpoint and Mr. Greenberg's from an attorney/client perspective. What's going to happen when the flood gates open, so to speak?

Judge Mendelson: I'll go first. I would caution that although I'm a court leader, I am so fortunate to be a *policy* court leader. I'm not the operations court leader as are Judges Ruiz and Doran. So actually, they're most equipped to talk about backlogs in our courts. But I will tell you that it's a significant problem in our Family Courts throughout the state. Yes, the volume is different in downstate than it is outside of New York City, but there are still many types of cases that didn't rise to the level of an essential matter or an emergency matter and that has not necessarily been addressed at this point.

I know that our court leaders throughout the state are strategically planning in our Family Court, operations leaders and our court leaders are planning for ways to use alternative dispute resolution, to use conferencing, to use as many measures as possible to try and tackle those backlogs as they arise.

Judge Ruiz: Just to add to that, for example, in New York City Family Court we started with three virtual courtrooms on March 26th. We're now up to 28 virtual courtrooms. We have incrementally tried to increase and strategically figure out how do we build a new virtual court and how do we ensure that we have a solid structural foundation upon which to build?

It requires a lot of thoughtfulness, a lot of figuring out because no one really has done this before. None of us have a roadmap. None of us learned in law school how to build virtual courtrooms and courthouses. But we're doing it and we're doing it strategically. So we have incrementally increased the number of matters we can hear.

For a lot of the practitioners, they know this. We're changing platforms. We're going from Skype for Business to Teams. We expect to be doing that in the next 30 to 60 days. I am very hopeful. I'm always one of those people that sees the glass half full. But I'm very hopeful that once we have Teams in place and we've fully migrated, Teams has features that Skype for Business does not have, which is really going to enhance our capability.

My ultimate expectation is that we have about 120 jurists in New York City and my expectation and my hope is that before the end of the

year, we're going to have 120 virtual courtrooms so that we can be restored to our full capacity and then still try to strategically plan for how do we handle the backlog while at the same time and in real-time continue to handle all the emerging cases and do that successfully. That's kind of the plan that I and our executive team in New York City have been working on.

We have to just continue figuring it out. As I think Judge Doran said, creativity is really key here and using all the tools at hand to keep moving forward because it's clear that the pandemic is certainly here for a bit longer than perhaps I expected when it all first happened. So that's what we're doing in New York City.

Mr. Greenberg:

Let me just briefly sort of address from a private practice/ organized bar perspective, both the technology challenge and the access to justice challenge. Just to state the obvious, COVID-19 is an external event. It's been the single most impactful thing the legal profession and our state's court system has ever experienced statewide. Nothing comes remotely close to it. September 11 for Lower Manhattan was a comparable trauma to the operation of those courts in that part of the state. But now we're talking about from Niagara Falls to Montauk.

Starting on or about March 22 at 8:00 p.m. when Governor Cuomo's New York Pause Executive Order went into effect, for the first time in the history of the state of New York was forced to close, save emergency operations, we had never experienced anything like it. What COVID-19 did by force of circumstance was accelerate processes that were already underway, the movement towards technology, and forced all of us to do what we had never thought to do in the New York State court system, which is go virtual and to do it instantaneously.

Judge Ruiz, Judge Doran, Judge Mendelson have done an unbelievably skillful job under unbelievably challenging circumstances. But they had to improvise. We did not have a virtual court system. Our technology and our basic technological capacity was—and I don't think I'm speaking out of school—never constructed to deal with anything remotely like this. So through a series of extraordinary improvisations, Band-Aids, whatever it took, we stood up, you stood up the virtual court system, and that was miraculous. But here we are today and what we know is that the essential basic technological capacity of the courts, software, hardware, needs to go from 30 to 65 miles an hour, and it needs to get there rapidly.

That will not be easy. That's not just thinking about it. That's not just talking about it. That's going to require in these unbelievably challenging times fiscally, deep investments in order to build digitalized courtrooms, in order to create online dispute resolution systems. That's going to require a substantial investment of time, energy, effort, and, yes, resources.

On the access to justice front, I think I can say without fear of contradiction that when the crisis fully passes and fully subsides and when people are not only able to but feeling free to resume litigation, utterly uninhibited in any way in terms of how cases are filed and all of that, we are likely to see the greatest surge in the demand for legal services in New York history.

We're already seeing it in some pockets. We will certainly see it in the landlord/tenant space, which we're not here to talk about but, thank goodness, there's a moratorium on eviction proceedings that now are in place. When that moratorium lifts, that court, which in New York City is all of 50 judges, is going to have to cope with hundreds of thousands of pending cases. The impact on the poor and minorities has been devastating, both physically in terms of the disproportionate impact of the illness itself and what it's going to do with access to justice.

New York stands tall. It stands proud. No other state, I think, has devoted as many resources on the access to justice concerns in the Family Court area. No state can match us.

But the perfect truth is that the justice gap is wide and COVID-19 is going to turn it into a chasm. Again, that's going to require resources. That's going to require investment. I can tell you, for example, at the New York State Bar Association, we've recognized I think as all people have, that as extraordinary as legal organizations are in New York, and they are extraordinary, they do unbelievable work.

Before COVID-19, they were working on strapped budgets and under fiscal constraints, before COVID-19. With COVID-19, when there aren't the resources and, if anything, many of them are actually looking potentially at cuts like so many state agencies are, they're not going to be in a position to meet those demands and to meet all of the needs and challenges in Family Court realm and in other realms. So, the organized bar, private attorneys are going to have to step up. We're going to be needing to see *pro bono* activity on an unprecedented scale. It's an incredible challenge, but I think we're enormously fortunate to have

leaders like Judge Mendelson, Judge Doran, Judge Ruiz to help us through the crisis.

Mr. Caher: Judge Doran, like Mr. Greenberg, you're also on the Commission to Reimagine the Future of New York Courts. What can you add from your perspective?

Judge Doran: The synergies that are emerging as a result of that Commission couldn't be better timed.

It's amazing to me as we've all journeyed through this COVID together, some of the, I won't call them accidental benefits, but collateral benefits that we're realizing, the emergence of the Commission and the talent that the Chief Judge has amassed in that Commission and Hank's leadership. There is an incredible volume of work being done by many of our partners in the private sector that will so substantially complement what we've been doing in the court system to allow us to exponentially enhance our capacity, our ability.

Frankly, I've been a judge for 20 years. I've been in court administration for, I guess, 15 years or so. I've never seen a moment in time like this one where there's such a great relationship between the court system and the private sector, whether it be the providers of legal services, whether it be the private bar, whether it be attorneys who work in our courts. These amazing collaborations are just coming together in such a remarkable way, and a very rapid way, that will allow us to substantially enhance our ability to serve the public.

Just a couple of comments about upstate to complement what Judge Ruiz said about New York City.

We have been able to take advantage of virtual technology, which has obviously required great cooperation among the bar, great cooperation, again, among some of the providers that we work with, legal providers and otherwise, which has allowed us to, frankly, and I'll use Monroe County as an example. Largest county in the district that I supervise. Rochester's in Monroe County. We are keeping up with the backlog because of our ability to utilize virtual technology. When we began the journey through COVID, as everybody will remember, we never closed the courts, but we certainly contracted our operation substantially in a very short period of time.

We then converted our operations to an all-virtual court, again, in a very short period, literally in a matter of days. We then began to convert

judge's chambers to an all-virtual operation. Throughout that period, we never closed, never disallowed the opportunity for petitioners to walk into a courthouse personally and file a petition if they needed to.

What we did was limited the matters that were being handled to only those matters that were deemed essential. We then began a slow walk back to expanding matters that we were handling in-person. From no matters being handled in-person to gradually as we moved through the phases and calibrated our journey along with the Governor's phases that we moved through, we gradually moved from matters that were presumptively virtual to more and more matters as we moved our way through the phases to matters that were presumptively in-person, all along though encouraging judges, court staff, and litigants to rely as much as possible on the virtual technology. So the result of that, for example, in our support unit in Monroe County Family Court, 95% of the appearances are virtual, including hearings.

In my opinion, if anybody had asked me would we be able to do that eight or 10 months ago, would we be able to say in September of 2020 that 95% of the support matters were being handled virtually, I don't think anybody with a reasonable mind would have said that that was possible. Yet we've been able to do it because of the remarkable work that's going on right now within our court system and with our partners outside of the court system.

So to those that are concerned about the backlog, those that are concerned about the pace at which we're moving forward, I want to assure everybody that we have been extremely careful to balance the needs, to limit foot traffic in our buildings, with the need to make sure that we're providing access to justice, the need to assure that people who have matters that need to be brought to the court system will have an opportunity to bring those matters to the court system.

As Judge Ruiz said, we are certainly not perfect. Every day is an experience for all of us, kind of learning our way through this and communicating with each other and listening to litigants, listening to the entities that we work with, and really adjusting the way in which we're traveling through this. Our Chief Judges, Judge DiFiore and Judge Marks, frankly, they are engaged like I've never seen leaders be engaged before in the day-to-day operation of our court. It's been an all hands-on-deck. I hope someone's keeping a journal.

But at some point, it would be extremely beneficial for folks to look at how we've done this and how all these synergies have really come

together to make us, I think, incredibly successful given the circumstances.

Ms. Conklin: If I could jump in with a few questions from the chat box, some of the questions that have been populated, you all have answered already.

But since you brought up support matters, Judge Doran, there was a comment and a criticism regarding virtual support matters. An individual said that the time certain and the virtual appearances and email submissions of evidence has been, in their experience, beneficial and perhaps improved adjudication of those matters. But some have been critical about those cases not being processed fast enough in terms of getting docket numbers so that the matters can proceed.

In terms of those matters and other matters, do you see or envision or know of a plan whether or not they would be compelling virtual trials or what they will look like going forward?

Judge Ruiz: In New York City, I know the support magistrates are working really hard. They're using FTR, which is our recording system, "For the Record." We don't have many court stenographers in Family Court. So the FTR has been a really, really essential tool for us in contacting litigants and trying to have matters heard in court. So this is something we're working on. There's a new document system delivery called EDDS, and that also I think is going to be helpful in helping us to make sure we have all the petitions and that we're documenting them and filing them.

I can tell you in New York City, over 50% of our inventory is support cases. So it's a huge and very important area. Fifty percent of our filings constitute something in the area of 60,000 to 70,000 petitions a year. We have now also a lot of modification petitions that are being brought about by individuals either losing employment, losing their jobs, or individuals really seeking to establish cases as well as upward modification. We have a chief magistrate who many of you may know and who works really hard and diligently. We're really trying to get through, but it's a huge number.

As we continue to develop our digital capabilities, that will greatly improve going forward.

Ms. Conklin: Thank you, Judge. I have one more question from the chat that I'll pose at this point and perhaps it'll be best directed to Judge Mendelson and Mr. Greenberg. There is a concern about access to *pro bono* representation during this time and moving forward.

Judge Mendelson: I'll take that first and it does include Mr. Greenberg. A collaboration and partnership with the state court system and the State Bar Association was created during this crisis early on. It's called the COVID-19 *Pro Bono* Recovery Task Force. It is chaired by former Chief Judge Jonathan Lippman and is supported by a variety of major law firms. The mission of this Task Force is to facilitate the delivery of effective, comprehensive and efficient *pro bono* legal services in urgent civil and criminal matters to all New Yorkers in need during and in the wake of COVID-19 and beyond.

When Hank Greenberg was the president of the State Bar, he was the initial leader in this great work. The current State Bar president, Scott Karson, is continuing these endeavors. The Task Force is working closely with local bar associations, legal services organizations, and major law firms, providing a mechanism for enhancing the impact of *pro bono* volunteers in a number of areas.

I'm going to first focus on the areas that one wouldn't think of in terms of Family Court and there's a reason for that. They are addressing unemployment insurance benefits and appeals, housing matters, life planning, Surrogate's Court COVID-19-related cases, *pro bono* assistance and advice for nonprofit organizations and those with healthcare issues.

I deliberately mention those topics first before I talk about what we're focusing on in this network for Family Court specifically because the families we serve have increasingly complicated lives and they have complicated legal challenges that are not simply or not only in our Family Court system. So the people that Judge Ruiz and others in our Family Courts are seeing in Family Courts don't only have Family Court issues. They have other legal issues that impact the essentials of life, that also impact their proceedings in Family Court, in particular housing.

When someone has housing instability, that could even result in child protective/foster care-related matters coming to the courts. If someone has an issue receiving their entitled benefits, that may impact their appearance in the Family Court.

Judge Ruiz was just talking about how very much child support drives our Family Court volume. Unemployment is high and the ability to have a child support order modified appropriately as is necessary for either side of those child support cases are critically important. Child support is one of those areas where we do not have the right to counsel in our Family Court system unless there's danger of incarceration.

So this task force in terms of the Family Court space is working with Legal Information for Families Today and other legal services organizations to work to provide free legal representation, advice all the way through to representation in child support matters, in matters where people are victimized by domestic violence, and in the guardianship arena. We have learned from this COVID-19 crisis that there are, sadly, many families that have lost a parent or guardian resulting from COVID-related illnesses and to navigate our court system in guardianship in either the Family Court, the Surrogate Court or the Supreme Court is quite difficult without an attorney. So we are facilitating a process for free, *pro bono* attorneys to work in that arena as well.

Mr. Greenberg: I think Judge Mendelson has done a great job describing it. What I will add is the challenge, the public policy challenge we've had putting it together.

Pre-COVID-19, a variety of stakeholders in the world of *pro bono* legal services were able to operate well, but in isolation from one another, rarely with the collaboration and synergies and lateraling of the ball that was needed to meet the COVID-19 crisis. You had legal services organizations. They would do their thing. You had law firms, large, medium, and small. They would do their thing. You had our 15 law schools. All of them have law school clinics and law students who would provide *pro bono* services under the supervision of the clinic. They would do their thing.

You had bar associations. Some of them essentially function as legal service providers, all of whom worked in isolation on the whole and by and large. And then COVID-19 struck. One of the things we discovered given this huge demand for *pro bono* representation because the volume was overwhelming the LSOs was getting everyone to talk to each other. Judge Mendelson and the Task Force she referred to and Judge Lippman had done something which in its own way was unprecedented, which was beginning the conversation between everyone so we were maximizing the resources, leveraging the resources that we had.

The other thing we learned from COVID-19 that was interesting, while I wouldn't describe it as the solution to the access to justice crisis, it was a little bit of an epiphany in terms of how it could assist the crisis, was technology. One of the things we had to sort of in-the-speed-of-light develop at the Bar Association was transforming our website and developing a capacity where potential clients could be matched with attorneys. Pre-COVID-19, somebody has a legal problem, how do they find a Legal Aid Society? Well, they look in the phone book or they go on-

line, or they talk to somebody. And then they eventually find through way to a potential resource.

What we were able to do as a result of COVID-19 through the volunteer contributions of technology gurus like Jack Newton who runs Clio, which is one of the largest providers of legal service technology and software packages for law firms and other technology gurus, was create on our website a platform where we could match clients with *pro bono* lawyers. Might seem like a simple thing to do, but it's enormously complex because you have confidentiality issues. You have attorney/client privilege issues. You have how do you find a lawyer to match with a client when the LSO is overwhelmed.

So one of the good news stories I think of how we've dealt with this crisis through the great work of Judge Mendelson's Task Force was to create that technological capacity, which I think is going to live well beyond the crisis and provide assistance to this vexing challenge of providing sufficient legal resources for all of those who need it.

Mr. Caher: It sounds like we've learned a number of lessons and that maybe the pandemic has forced us to do things that maybe we should have thought about doing before. So, what pandemic-era practices will continue post-pandemic?

Judge Mendelson: I have a recommendation. We, as a practice in our courts, would always require every person who wanted to do anything regarding a court case to come to court physically for every single court appearance or every single request to file paperwork in a court. We always presumed that people could come to the court, even if it meant waiting for hours for only a few minutes of a clerical leader's assistance or a courtroom opportunity. One of the things I am sure we are going to maintain is being very deliberate about meaningful court appearances.

Virtual court operations force us to only do one thing at a time in our court space, so we are taking time certain beginning and ending of matters. It's not perfect, but we're taking it seriously and we are not requiring people to leave their homes, their jobs, their children who are being schooled in their homes a lot of the time. We're not forcing people to leave in order to participate in the court experience. I think that that's something that we are going to maintain going forward.

Judge Doran: I also think, John, building on that, certainly it goes without saying the virtual technology that we've implemented, that's not going to go away. I believe that on into the future we will continue to do as much as we

possibly can virtually. Whereas in 2019, no one would have ever thought of holding a hearing virtually, I think there'll be much more of an appetite for doing that. I think the bar will be supportive of that. I think the bench will be supportive of that. That's going to continue. That's going to be a way of life for us.

That's what I mean by better than normal. We're going to do things that a lot of folks would have said before COVID, "Why doesn't the court system do this? It makes so much sense. It's so much more efficient." Well, there's a number of reasons. We could talk about that all day, why we didn't do it before. But the fact of the matter is we're doing it now. It makes sense. It's efficient.

I'll give you another example. We have in several courts throughout the state engaged in pilot programs to use text messaging technology to let folks know when their case is ready.

We know in particular in Family Court that's an enormous issue for practitioners who are sometimes required to be in 10 places at the same time. Ten courts, 10 parts are waiting for the same lawyer to show up. The litigants sometimes are put in a position of having to sit in a court waiting room waiting for inordinate periods of time for their case to be called. We're implementing the use of technology now. We know that many people, if not most people, have cell phones, iPhones, whatever the technology is. We want to use that technology to our benefit so that we can be more customer service oriented.

I think some of those pilots, those projects will become part of our culture moving ahead after COVID.

Mr. Caher: What sort of security and privacy issues arise, particularly in the Family Court setting? You've got people participating in a virtual family court hearing. You can see them. You don't know who's around the corner, who's listening. It may be a closed proceeding. You don't know if they're recording it and they're going to post it on YouTube. What sort of new emerging issues are we going to have to confront?

Judge Doran: I'd certainly say that if you are a judge and you're presiding over a virtual proceeding, and we've endeavored to make some of these protocols part of the uniform procedures that we're pushing out throughout the courts. But if you're a judge, you need to make the ground rules known at the beginning of the proceeding. You need to be clear that no one is to record the proceeding. You need to be clear that if there are other parties, perhaps if it's a Family Court matter where there's a child

involved, the judge should be crystal clear that that child, unless otherwise expected, that the child is not listening in to the proceeding.

I would say that we have to rely on judicial leadership there. We have to rely on the attorneys in the matter to be onboard with the safety protocols that we're trying to put into place.

I'll also say that I know that our court technology folks are extremely vigilant about security in terms of the platforms that we're utilizing.

We're using Zoom right now. Zoom is a favorite of many people. The reason the court system doesn't use Zoom, frankly, is because with the Skype platform, we could be assured that the appropriate security measures were in place if documents needed to be exchanged or, frankly, if we wanted to make sure that it was somewhat of a private proceeding.

We'll also have a similar assurance as the migration to Teams to be certain that we have appropriate security protocols in place to assure the privacy of the matter and the privacy of the parties.

Judge Ruiz:

Yes. Just to add, the Microsoft Teams will in fact include greater security features and other features that I think will definitely benefit the hearings and the participation of litigants in virtual proceedings.

I wanted to get back to something that Mr. Greenberg said earlier. The New York City Family Court has been completely digital since 2016. That just gave us such a great advantage as we converted to virtual. I did want to acknowledge, and I think you alluded to it, Judge Doran, the great, great, phenomenal IT LAN staff of the New York City and New York State Court System.

They have been just incredibly ... I mean I'm even at a loss for words. But phenomenal is one that comes to hand. They work tirelessly every day, seven days a week, and are available and accessible. But for their great talent and energy, I mean they have really enhanced our operations and continue to do so every single day. So I did want to make sure that we also acknowledge actually all of our judges and all of our court personnel and our clerk leadership because everyone's really been working super hard and diligently to build a structure that we can continue to build on and get that to really operating at a full capacity, hopefully in the not-too-distant future. So I just wanted to make sure we added that.

Ms. Conklin: Thank you so much, Judge. I also wanted to note we had a follow-up question about Teams and whether that function will still allow for phone numbers to be provided the way Skype does.

I see everyone's nodding their heads "yes" and so I'll just go ahead and say "yes." I'll also note that we have a comment, which I believe is also accurate, that Teams will allow for essentially breakout rooms for private consultation between attorneys and their clients which will facilitate communications during proceedings as well. Is that correct?

Judge Ruiz: Correct. Another major feature is that Teams will be able to record the proceeding both visually and by audio. This will enable really accurate transcripts to be prepared and that is critical because we are a court of record. That's been one of the really challenging things, well, among many challenging things that has been one, making sure that we have adequate transcripts. So that's also going to be a really terrific feature of Teams and we hope to have that, as I said, certainly before the end of the year but hopefully much sooner than that.

Ms. Conklin: Great.

One of the questions that I've seen now a couple of times is does the new, as Judge Doran put, "better than normal" landscape include allowing people to choose to participate in their hearings in-person or virtually or will there be decisions made on that in the future?

Judge Ruiz: Well, let me just say, it depends on the volume. We have Plexiglass courtrooms in each of our five county courthouses. We do have in-person for litigants who don't otherwise have the ability or technical ability to access the court. So we're already building that and we anticipate that as time proceeds that we're going to be able to do more and more as long as it can be done safely, as long as we take all the precautions. The distancing is a really big challenge in Family Court if we were to allow everyone to come to court because of the volume, at least in New York City, the volume.

Our courts are not really very big and our courts are also more like high-rise apartments. We have elevators and they're small. So there are a lot of issues or safety measures that have been put in place and would have to be vigilantly monitored as we have more individuals coming to the courthouse.

But, we certainly know that there'll be individuals coming to the courthouse. There will always be individuals who would choose to appear virtually. So both are an option, if you will.

Judge Doran: I would just add to that that during COVID I think we have to be very cautious about requiring people to appear in-person where they might be in a high-risk category or they might reside with someone who's in a high-risk category. So during COVID and post-COVID are completely different environments in terms of the degree to which we require people to appear personally. My hope is, and I trust this to be the case, that the Commission that Mr. Greenberg is chairing, one of the items that will emerge from that will be recommendations to the court system on protocols that could be utilized moving into the future in proceedings.

For example, could there be hybrid proceedings where one party is appearing in-person in the courtroom and another party, for one reason or another, would like to appear virtually? One of the things that I would love to see emerge from this conversation are some consensus protocols that would be viewed as fair to the bar, fair to the litigants, that would provide for the opportunity to have parties be more comfortable in how they're appearing. We've always been kind of rigid in the court system. We have to follow statutes. We have to follow precedent. But I think one thing that COVID is teaching us is that within all of those confines, we can also be creative and we can be more consumer-friendly and more access-oriented even than we already have been.

Ms. Conklin: Thank you, Judge. I was just sharing the link regarding [the volunteer pro bono attorneys](#) with all of our attendees. Thank you very much to Mr. Greenberg for providing it.

I also wanted to ask Judge Mendelson if it would be appropriate to share [the Access to Justice](#) site so people can follow up on some of the things that you talked about as well?

Judge Mendelson: Sure. We have very vibrant web presence, which we are updating now to try to provide accurate information to the public about our court operations. We are updating all of the most popular places on our website. There is something that we oversee called [CourtHelp](#), which has been a very, very popular web resource which provides information of all types of cases that what courts can and cannot do in a variety of topic matters, including those involved in the Family Court, all of those topic areas. We're updating that now.

I wanted to just mention that while we're talking about the court's websites and things of that nature that Chief Judge DiFiore did ask me to lead an endeavor where we took a look at the impact of our virtual operations on unrepresented court users. There is a [report](#) that's available on our site and that we can make available to you as well on the impact of COVID-19 on unrepresented court users.

I think sometimes we presume that everyone appearing in our courts have attorneys. There are a lot of vulnerable populations that are even more disadvantaged in this crisis season than others, low-income and moderate-income court users, the elderly, those with mental and physical disabilities. They're especially vulnerable in these times. I would add to that list those with limited English proficiency and those who are reading at low reading levels or unable to read. All of those people, we assume they can just take a look at the website. Not everyone is able to reach justice in the ways we would like. So, we learned about the digital divide. We make assumptions about people's access to the courts. But we are trying our best to do a lot of community outreach and finding attorneys for people who have needs and trying to meet those needs.

Ms. Conklin: Thank you, Judge. I am cognizant of the time and there are two questions that have come up multiple times in the chat. So I'm going to pose them both to all of you and we'll wrap up thereafter. The first one is whether or not there is consideration for attorneys to have access to the UCMS system. The second is what, if any, timeframe is there to allow for the filing of non-emergency cases?

Judge Doran: I'll jump in on the second question. Judge Marks, very early on as we began the reaction to the COVID emergency, almost immediately issued an administrative order suspending the filing of any proceedings other than essential matters. That administrative order has since been modified. So as we speak right now, there is not a limitation on the filing of any matters, generally speaking, with some exceptions because of the layers of executive orders that are in place and some statutory provisions with certain case types that I don't believe, as I'm thinking of it right now, would be relevant in Family Court.

There are not limitations in place now on the filing of petitions. There may be a stay, so to speak, on the period of time that one has to respond or answer a petition based upon executive orders that are in place. But as far as I know, and correct me if I'm wrong, my colleagues, there is not any prohibition right now on the filing of matters.

Judge Ruiz:

In New York City there is no prohibition of filing. We have EDDS and those can be placed in EDDS. The question then becomes how soon they can actually be given a date for an appearance. That's where there might be the delay. Again, this is all related to the volume. As we increase our capacity, obviously we're going to be able to get to these matters sooner rather than later. We're certainly very cognizant of how important all the cases are in Family Court. While there are cases that are being seen daily, those are new cases that are involved, as I said earlier, really critical life or death cases.

But we're hearing other cases. I saw a chat question about adoptions. We are starting to handle adoptions, those that were near ready to be heard when COVID struck. So those are going to be heard. Once we get through those then we can start doing the newly filed adoptions. We are, as I said earlier, incrementally trying to get through all of that.

We also have secure email for those lawyers who don't have access to UCMS. It's too complicated to get into that whole issue here. But we do have secure email. So if you're the attorney of record on a particular case, then you can access orders and petitions and filings related to the case that you are assigned to. So just contact us if you're interested in getting a secure email set up.

Ms. Conklin:

Wonderful. Thank you so much.

With that, we hit the 2:00 hour. So, I want to thank our wonderful round table presenters, Judge Mendelson, Judge Doran, Judge Ruiz, and Mr. Greenberg. Thanks also to John Caher for facilitating our discussion today.

I'd like to thank all of our attendees for taking the time to be with us today, and on behalf of the [Permanent Judicial Commission for Justice for Children](#), the [Office for Justice Initiatives](#), and the [Child Welfare Court Improvement Program](#), I'd like to thank the [Redlich Horwitz Foundation](#) for making today's program possible, and also special thank you to our colleagues at [WRI](#) for their technical assistance.

Thank you so much to all of you and have a wonderful day.