

From the Judge's Side of the Bench

The Judicial Frontier: The Good, the Bad, and the Ugly

by Hon. Rossana Fernandez

In the advent of COVID-19, the pandemic has suddenly thrust lawyers and judges alike into what some have described as organized chaos. Video conferencing, email, and scanning documents have become the norm and human contact has been virtually eliminated. Although this may not have been the ideal situation or the fashion in which we envisioned the legal profession and its evolution, it may be a blessing in disguise. Practically speaking, the legal field and the manner in which we engage in a courtroom has not evolved very much in the last century. Technology has evolved exponentially, which makes the present time very exciting. We have all become pioneers in our own right and we will be better off for it.

THE GOOD

The new frontier in the practice of law is certainly filled with varying levels of complexity. What now? If you have the ability, update your technology. Update your computer to allow for video conferencing and more memory for simultaneous access to documents and conferences. What if that isn't an option or funds are currently limited? If you have a smartphone, this will allow you access to video conferencing aids and other applications.

Where do you start? In-person conversations will be limited for months to come. Download the most prominently used video conferencing application onto your computer or smartphone for access to court proceedings and other video conferences. Take the time to watch a tutorial, or better yet, contact a friend or other friendly colleague to assist you with the basics. Telephonic conversations may still be functional but more often than not, the option for video conferencing will prevail. Remember, video conferencing is merely a means to an end and decorum should not be forgotten. Dress appropriately for court appearances. Be sure your devices identify you and your client clearly. Test your audio and video to ensure they work properly before a scheduled event. Ensure you learn about the "chat" function, which allows you to communicate while another person is speaking. You may also wish to inquire about breakout rooms, which allow you to speak to your client privately, yet remotely, when involved in a deposition and/or court appearance.

What about correspondence letters? As we continue to modernize communication, traditional letters will be written far less than an electronic message. If you are new to utilizing electronic mail, then a little elbow grease will go a long way. Importantly, it will assist you in communicating effectively and efficiently. First, ensure you have a comprehensive list of the email addresses for the clients, attorneys, insurers, and court personnel you interact with the most. Input this information into your address book. This will save you time in the middle of a busy day. Create "folders" for your cases. Each time you receive an email relative to a particular case, including signed documents or court orders, you will have a centralized location for easy accessibility of that information. Remember, video conferencing allows you to "share" documents with one another and accessibility will be key.

What if signatures are required on documents or motions and I don't have modern equipment? Don't panic. A simple search on the internet or your smartphone for "applications" will provide you many options. Determine what you need to select the best option. You can print, sign, and scan the document by converting it into a PDF file you can email directly to clients, corporations, insurers, or the court. Is your computer ill-equipped for printing excessive volumes of paper? Search for options that allow you to view a document on your computer (or smartphone) with options to sign with your finger (or stylus) without changing the integrity of your original document.

Although the initial closure of courthouses across many counties shocked judges and attorneys alike, it gave birth to creativity and technological advances in the legal field. Fortunately, most households possess a computer or smartphone, which grants access to a treasure trove of built-in functions and applications ("apps") that have facilitated court appearances, document production, client signatures, and scanning. Patience is key when educating yourself. Once you get past the panic, you will develop a new positive outlook. You will be able to "appear" in one part of the county and 15 minutes later, "appear" in another part, all the while reducing the time normally spent in traffic traveling between

courthouses or meetings. Arguably, once perfected, our current approach may simplify court access for litigants who would otherwise have to disrupt their daily lives, including employment, or travel long distances to attend court mandated appearances or other necessary meetings.

What is another unintended benefit to remote proceedings? Typed orders and the death of carbon paper. We may not realize how important it is to be able to read a court order or other handwritten document until years and years later when every letter becomes crucial to decipher. The pandemic, remote proceedings, and email have perhaps resolved this issue as penmanship is a tool used less and less to the typed word.

THE BAD

If the incorporation of technology into the legal profession catapults it into efficiency and preservation of documents, then how can it possibly have a negative effect? Lack of technology. Misery abounds without the ability to access video conferencing or electronic mail due to a lack of proper technology. If you can, update your equipment. For others, be empathetic that financial investments may not be an option. Be creative, be kind, and be patient.

Technology has unsympathetically taken away our ability to interact socially. The art of communication, hand gestures, and eye contact has been lost. Bitterly typed words can too easily replace respectful salutations. We must labor to remind ourselves to be cordial. Typed words may not be as forthcoming from an individual who struggles to type. We have to be cognizant that some litigants and clients do not have the same ability to express themselves through print as they do orally. Worse, some individuals lack the basic ability to type. We need to remind ourselves daily to be patient at many levels.

Technology has appeared to extend our hours of operation. A full day's work may have been eight to nine hours pre-pandemic. The attachment to our computers and the lack of cues during the day, such as blurred lunchtimes and interruptions in our office, may have effectuated the unintended consequence of overly extended workdays. Be kind to yourself. Be kind to your colleagues and set limits. Limit the emails you send "after hours." Focus on mental health and schedule time with family and friends.

THE UGLY

Video conferencing has magnified our wrinkles, our gray hair, and facial expressions. We eat, drink, wear tank tops, and have developed a lack of decorum. Our new frontier is alluring and exciting but we must not allow the impropriety of bad habits to dismantle the formalities and decorum of our profession. Let's remember tank tops are inappropriate for video conferencing in the professional setting. Eating and drinking can be delayed for 20-30 minutes while "appearing" in court. Most importantly, pants are not optional.

CONCLUSION

Once the initial terror of technology and the unknown dissipates, the newly found access will catapult the legal profession into a new era. Gone are the days of carbon paper and handwritten orders. Traffic will no longer be a struggle as we race between courthouses or meetings. We will have difficulties returning to the inefficiencies of the past and at best, we hope to return to a hybrid of technology and in-person proceedings for essential matters. Let's continue to be patient. Let's continue to be kind. Let's mentor each other as we meander through this pandemic together.

The Honorable Rossana Fernandez is a Cook County Circuit Court judge, who presides over a domestic relations courtroom in the Third Municipal District.