



Remote Court is Here To Stay in New Jersey

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For The Westfield Leader

AREA — It looks like virtual court proceedings could be here to stay.

That's according to the New Jersey Supreme Court and the Acting Administrative Director of the Courts the Honorable Glenn A. Grant, after a letter went out to New Jersey's attorneys last month asking for feedback as to whether certain areas of court operations would be better kept virtual.

The letter, dated July 16, asks for practicing lawyers in the state to provide feedback and comments on the proposal while also outlining certain areas of court operations not being considered for remote court proceedings.

The State Supreme Court's notice to the Bar and public explained that after consulting "attorneys and other court users," including "advocates for self-represented litigants" and "persons with disabilities," continuing routine court operations remotely would "reduce time and money costs for attorneys, clients and court users who otherwise would be required to miss work, school, or other obligations," according to the State Supreme Court notice.

Certain areas of judicial business, such as criminal jury trials and grand jury trials, would continue in the courtroom. Some court operations, first with approval and authorization of the presiding judge, would proceed remotely if all parties involved agreed.

These court operations would potentially include sentencing hearings in criminal, family juvenile delinquency and municipal matters, along with parental rights trials and other hearings where constitutional interests are at stake, according to the State Supreme Court's memo.

Court matters slated to go remote include, "Motion arguments and case management conferences in all trial divisions of the Superior Court and Municipal Courts," reads the memo. In criminal court, cases being considered for a virtual option include "central judicial processing; first appearances on defendants in custody, sexually violent predator hearings," and "most proceedings that involve state prisoners."

In civil courts, remote proceedings include "landlord-tenant proceedings, special civil and small claims trials, civil arbitrations, mediations and involuntary commitment proceedings," according to the court memo.

Remote proceedings also will include routine matters in family court and municipal court.

One of the major benefits of the courts continuing remotely in some capacity would be the cost savings to clients and the freeing up of courts, leading to more efficient judicial functioning, according to two attorneys interviewed by *The Westfield Leader*.

Michael Magaril, an attorney practicing family law, specifically divorce law, expressed support for certain, more routine court proceedings continuing virtually.

"I think there are many types of proceedings where continuing cases remotely is a good idea," noted Mr. Magaril, who supports the notion of more remote proceedings and the positive benefits it would have on clients.

Mr. Magaril pointed to the significant cost associated with hiring a lawyer, with the client being charged for the attorney's travel time and simply waiting for a court hearing to be called. Mr. Magaril even called a courtroom coffeehouse "the most expensive restaurant in New Jersey."

Mr. Magaril explained that since the pandemic in March 2020, his remote court proceedings have gone well, with minimal technical difficulties.

He did, however, warn against some areas of court operations going remote, explaining that the nature of the proceedings should determine whether an area of court proceedings goes virtual.

"One of the shortcomings of doing things on Zoom is it's not always easy to judge the credibility of witnesses as they testify," explained Mr. Magaril. "A lot of people that do a great deal of trial work don't want to do trials over Zoom, simply because the judge can't get a read, especially on credibility."

Robert Stahl, a criminal defense attorney based in Westfield, also supports continuing more routine court proceedings remotely, but echoed Mr. Magaril when it comes to more "substantive matters, such as pre-trial motions, when a person's rights and freedoms are at issue." Mr. Stahl said those court operations should be held in-person, and individuals facing justice "have a right" to be in-person.

Mr. Stahl said there is a "powerful impact being in-person, in front of the judge," and said things like "body language, feeling the atmosphere of the court," along with "seeing where a judge is going with the questioning" and being able to "respond forcefully to questions and points by your adversary" are indispensable qualities to a just courtroom setting when a client is facing serious charges.

"There's something lost over Zoom," explained Mr. Stahl when referring to criminal proceedings.

In terms of the positive benefits to more routine operations, Mr. Stahl sees virtual proceedings as freeing up time for the judges and the courts, resulting in greater efficiency.

With a deadline for attorney input set to expire on Monday, August 16, the Supreme Court will enter a phase of evaluating submitted feedback to proposals outlined in its July memo.

"All in all, I'm happy to see we're using technology to improve the quality of the functioning of the court system," said Mr. Magaril when reflecting on the positive aspects of remote court proceedings. "Crises change society. We had a crisis, and in that, we found new ways of doing what we've always been doing. Some of them are more efficient, some of them might even be called better."