



NEW YORK STATE  
BAR ASSOCIATION

# Report and recommendations of the **Emergency Task Force on Solo and Small Firm Practitioners**

*The Pandemic Blueprint: A Lawyer's Guide  
and Recommendations for the Solo and  
Small Firm Practitioner*

October 2021

THE PANDEMIC BLUEPRINT:  
A LAWYER'S GUIDE AND RECOMMENDATIONS  
FOR THE SOLO AND SMALL FIRM  
PRACTITIONER

The New York State Bar Association Emergency Task Force for  
Solo and Small Firm Practitioners

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## INTRODUCTION

In March 2020, the New York State Bar Association's President Henry M. Greenberg established an Emergency Task Force charged with examining the impact of the COVID-19 crisis on all aspects of solo and small firm practice. The Task Force embraced its specific mission to make recommendations on how solo and small firm practitioners can maintain their practices during the health crisis and determine how the Association, its members and the profession-at-large can aid these lawyers during this unprecedented period of uncertainty.

Members of the Task Force are practitioners located throughout the state and practice in urban, suburban and rural settings. Most practice in small and solo settings, though some practice in large firms. Task Force members provide direct legal services to individuals and businesses. All were affected by the pandemic. Out of this sensitivity grew an urgency to assure the public that their interests would continue to be served.

To carry out that objective, the Task Force advocated to the executive branch of New York to classify the practice of law as essential which led to a resolution adopted by the Association's Executive Committee in support of essential classification. The Task Force also coordinated with the Office of Court Administration on re-instituting new filings in civil matters and expanding the scope of electronic filings. Several Task Force members were featured in various continuing legal education seminars for NYSBA members on a variety of topics applicable to the pandemic.

Over time, the Task Force recognized that it had accumulated a trove of information and recommendations that would be useful to small firms and solo practitioners. Disseminating that information in a comprehensive report will prepare solo and small practitioners for the next crisis, hence, the creation of this Pandemic Blueprint.

As of this writing, there is no definitive end in sight for the COVID-19 pandemic, nor is there any way of knowing when the next pandemic or similar catastrophe will strike. The Blueprint offers guidance on handling a future crisis. Parts of the Blueprint are practical and designed specifically for day-to-day management if another catastrophic event occurs. Other parts of the report are aspirational, designed as a clarion call to the Office of Court Administration (OCA) and New York legislators to modernize court operations to meet the everyday and technological challenges of the 21st century, especially for solo and small firm practitioners and the thousands of New Yorkers they represent.

## EXECUTIVE SUMMARY

COVID left an indelible, devastating, and incalculable imprint on the legal profession, particularly on small and solo New York law firms. The tragic and untimely deaths of attorneys and judges throughout the state permanently altered the New York legal landscape. The lack of comprehensive disaster plans, statewide court closures, the failure to designate attorneys as essential workers, restrictions on in-person gatherings, and the economic fallout that followed all contributed to the severe and negative impact suffered by small and solo practitioners.

There is no one compendium of model practices for how solo and small firm practitioners should deal with a pandemic nor is there a one-size-fits-all solution to the next catastrophic event. It is the genuine hope of the Task Force that no other crisis akin to the COVID pandemic ever occurs again. However, in view of the threat posed by coronavirus variants and the consequences of the national reckoning with systemic injustice, climate change and globalization, events like this pandemic will not be isolated.

The Task Force concentrated its focus across several different areas. The Blueprint covers each of those categories which are summarized below.

### I. LAW OFFICE MANAGEMENT

The COVID -19 pandemic exponentially increased day to day stresses on the operation and functioning of law offices, especially solo and small firm practices. Attorneys had to navigate the challenges that came with preparing for and learning to work remotely. Attorneys dedicated daily time to learning family leave laws, unemployment insurance procedures, and navigating the frequently released Governor's Executive Orders. Once offices were allowed to re-open, attorneys devoted time to establishing, enacting, enforcing, and revisiting policies to ensure compliance with government mandates and the safety of staff and clients. The Task Force identified actions appropriate for most law offices. The Task Force collected a list of resources, including CLE programs available on demand through NYSBA, which cover the many aspects of law office management required not just for the COVID-19 crisis but for future pandemics as well.

## II. COURTHOUSE SAFETY

As the pandemic stretched into the summer of 2020, concerns increased regarding the lack of access to justice with courthouses shut down, and thoughts turned to how to safely resume court functions and in-person operations. In July 2020, The Commission to Reimagine the Future of New York Courts issued their initial report on restarting in-person operations. In August 2020, the Task Force surveyed NYSBA members regarding their experience and comfort with returning to in-person court appearances. At a September 2020 New York Senate hearing to examine the re-opening and operation of the courts, The Legal Aid Society of New York City (LAS) offered testimony that included recommendations regarding safety measures that should be implemented in the courts of New York City. The Task Force found that many of the recommendations studied and proposed by these groups should apply statewide.

## III. CRIMINAL MATTERS

The COVID-19 pandemic forced criminal practitioners and defendants to confront specific procedural and constitutional challenges. How to minimize the risk of exposing participants to the COVID virus so that defendants can appear at trials and sentencing posed the greatest challenge. Defense practitioners also considered the implications for defendants who waive the right to an in-person appearance during sentencing in those situations where this option is available.

## IV. CIVIL MATTERS

The pandemic compelled OCA to adopt measures to enable access to the courts without requiring personal appearances. The increased use of electronic filing and the use of Microsoft Teams made virtual appearances and trials possible. The Task Force took a fresh look at prior recommendations contained in various earlier reports, such as the Comprehensive Civil Justice Program 2005: Study and Recommendations and the Report of the Commission to Examine Solo and Small Firm Practice. Many of the ideas in those reports are reflected in the Task Force recommendations.

## V. VIRTUAL EVIDENCE

The Task Force compiled a list of issues and concerns caused by the use of virtual hearings and trials. One of the more difficult issues to resolve has been the submission and

presentation of evidence during a virtual trial. In March 2021, New York instituted Virtual Evidence Courtrooms within the NYSCEF system as a solution to the difficulties encountered in managing evidence during virtual trials. To eliminate inconsistencies caused by each judicial district having developed its own rules for virtual trials, the Task Force recommends that OCA, in consultation with the Bar, promulgate uniform rules for the administration of virtual hearings and trials and develop a statewide electronic evidence policy.

## VI. GOVERNOR'S EXECUTIVE ORDERS

Governor Andrew Cuomo issued many executive orders in response to the pandemic. Notable areas affecting solo and small firm practitioners included statute tolling, virtual notarization, and moratoriums on evictions and foreclosures. Many of the Executive Orders (EOs) expired but were extended on multiple occasions, many at the last minute. EOs became moving targets that were difficult to follow. The nomenclature used to catalog and reference the EOs made them tedious and time-consuming to track. The Task Force recommends an index be created for EOs. Search results could direct the user to the relevant EOs and show highlighted text.

## VII. THE PRACTICE OF LAW AS ESSENTIAL

Early in the pandemic attorneys were prevented from having their staff report to the office in person by the restrictions covering in-person working arrangements because law firms did not fall under the umbrella of an essential business. The Task Force presented a resolution to NYSBA's Executive Committee which called on state bar leaders to appeal to state officials to make them understand the critical role lawyers play in the delivery of justice to New Yorkers. A Resolution to classify the practice of law as essential was adopted by the Executive Committee. The Task Force recommends that the practice of law be deemed essential by New York State leaders.

## VIII. ECONOMIC ASSISTANCE TO MEMBERS

After courthouse doors closed and attorneys were forced to shut down their physical offices, the Task Force distributed information to NYSBA members about available financial assistance. Government programs, such as the Paycheck Protection Program (PPP) and the



Emergency Economic Injury Loans/Grants (EIDL), were available to law offices and the Task Force sought to ensure that state bar members knew about these programs. The Task Force shared information regarding the details of mortgage and rent relief. The Task Force sponsored and participated in a CLE program on PPP loan forgiveness. The Task force successfully advocated for state and federal courts to accelerate the voucher procedures used to compensate court-appointed assigned counsel, particularly for “interim” vouchers where the cases were not yet concluded.

## SECTION ONE: LAW OFFICE MANAGEMENT

As a result of the COVID-19 crisis, law offices need to know the steps to take in the event of a future crisis. These issues involve not only maintaining certain procedures to remain safe, but also an alertness to the plethora of federal, state and local statutes, rules, executive and administrative orders, and the regular changes and updates to all of those.<sup>1</sup>

Notably, wearing a mask and social distancing are a given. Sanitizing facilities and equipment is also recommended. In addition, protecting attorneys, staff, and clients requires measures such as staggering workforce hours, working from home, and reorganizing the office to provide barriers and distance. Staggering workforce hours could mean that portions of the staff come in on different days of the week, or on different hours of the day. All of this must be coordinated with childcare, family health care and other factors that affect the population in general and offices specifically.

Lawyers must understand family medical leave laws, unemployment insurance, and daily updates from government agencies. Failure to understand these laws will detrimentally impact offices and employees.

Upon return to the workplace setting, there must be constant daily vigilance. Every employee, client, and any other person coming into an office must be screened to ensure compliance with the most recent directives from the Office of Court Administration (OCA) or the Governor's office. Items to be screened for include prohibited or ill-advised travel, contact with a person who has tested positive, experience with illness-related symptoms, and observance of all required quarantines. All screening forms need to be updated on a regular basis.

Additional screening methods include temperature taking (which may not always be effective but at least sets a minimum standard), and basic observation of people who appear to be exhibiting symptoms despite saying that they have none during their visit.

Communication is the key to safety. Law offices should keep employees apprised of any positive tests on the premises, whether for coworkers or visitors, and assure employees

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<sup>1</sup> For example, New York enacted a comprehensive revamp of the state's workplace health and safety laws, known as the "HERO Act." The law is intended to protect employees against exposure to disease during airborne infectious disease outbreaks.

that management is taking all necessary safety steps. Employees should be encouraged to be tested regularly. There needs to be two-way communication so that employees are comfortable with management and vice versa. Without good communication, safety measures will not succeed.

Listed below are safeguards the Task Force identified for the average office.

These measures are not exclusive.

1. Delineate appropriate social distancing throughout the office and throughout the building.
2. Install barriers where appropriate.
3. Prohibit sharing of desks, offices, and cubicles, and limit access to break rooms and other common areas.
4. Regularly clean surfaces according to Center for Disease Control (CDC) guidelines.
5. Encourage employees and attorneys to wipe down lavatory faucets, door handles, etc. with available wipes and cleansers. Wipe down common equipment before and after each use.
6. Ensure ventilation systems are adequate and install HEPA filtering devices.
7. Reduce break room population by a minimum of 50%.
8. See clients only by appointment so that appropriate safety measures can be effectuated in the waiting rooms, conference rooms, lobbies, etc. Wipe down these rooms before and after each use. Use only those conference rooms that are large enough to allow reasonable social distancing. Centralize scheduling of those rooms so that attorneys can stagger appointments for clients coming into the office.
9. Receive deliveries outside of the office if possible and terminate non-work-related deliveries to the office.
10. Consider the personal circumstances of staff which may include childcare in the event of school closures or infection, or care for elderly family members.
11. Implement an effective infection communications plan. If a person is exposed to an infection, that person must report it and be tested. Designate a specific person to be responsible for knowing all of the relevant rules and procedures. Have any exposed persons report to that individual. Conform all quarantines to current state standards.

12. Maintain a daily reporting form for both staff and visitors. Keep a log of visitors with names and contact information as well as time and date of visit in the event that they need to be contacted.
13. Schedule a staggered return for staff returning to work to ensure the greatest level of safety.
14. Inform staff of family leave benefits, family medical leave, quarantine standards, and other benefits that are available to protect them.
15. Provide staff with the ability to take a leave of absence in the event they cannot work remotely and they cannot safely come back into the office.
16. Take the temperature of everyone including staff, lawyers, and visitors before permitting entry into the office.
17. Monitor changes in health agency recommendations and implement them as needed.

### Firm Management

Addressing the needs and requirements of a pandemic requires a constant review of staff and systems that comprise and support law office function. From a management perspective, this process requires partners to be alert, nimble, and flexible. Even with the best and most thoughtful approaches, first responses may not be perfect and strategies that worked once might not work later, so plans should be revisited frequently.

### Partner Meetings and Firm Management

Each firm is different and management styles vary widely, but the following are some practices to consider:

- Have daily check-in calls with managing partners or all partners, depending on the size of the firm. The calls could last 15 minutes or longer, depending on the issues involved. Although not all of the calls may be necessary, schedule all of the calls in advance to reserve the time, and schedule corresponding partnership meetings.
- Review and revise the partners' organizational chart to confirm that the assignments still make sense and to prevent uneven distribution of administrative work among the partners. Encourage partners to handle only those tasks that are their responsibilities in the organizational chart unless otherwise requested. This streamlining helps to

ensure that each partner's administrative time is kept to a minimum and prevents multiple partners from unknowingly duplicating the same administrative work.

- Review the firm's budget and adjust as needed. In the COVID-19 pandemic, firms needed to spend more on technology as opposed to amounts budgeted for meals and travel. Consult with the firm's accountant to determine the effect of any tax law changes and the impact and eligibility of applications for government aid and assistance.
- Hold a one or two day partners' management meeting for in-depth discussion of firm management concerns. If pandemic or crisis issues overtake a usual management meeting, plan another meeting to discuss day-to-day issues. Do not neglect the routine business of the firm separate from the demands of crisis management.
- Review staffing needs and reallocate or adjust staff as needs change. Early in the COVID-19 pandemic, it was theorized that administrative staff might be reduced as firms became automated and relied more heavily on technology. Instead, administrative staff assumed new roles in scanning documents and supporting other staff who were working from home. In addition, plan for a loss of staff due to illness or emergency. Review and adjust policies regarding requests for paid time off.
- Review technology and cybersecurity needs. Consider whether the technology in place provides optimal support and whether other better technologies exist.
- Review and revise communication channels for meeting agendas, personnel matters, budget items, etc. During the pandemic, email use by clients, staff, and outside contacts increased. Consider using another platform such as "Slack" for management issues.<sup>2</sup> Slack provides an organizational framework and saves all communication in threads, which preserves running conversations on topics and a history of discussions.
- Be mindful of management and office morale. As everyone struggles to complete work under difficult circumstances, be attuned to staff stress and mental health needs. Consider personal check-ins and perks for all staff, including partners, which might consist of simple notes, food deliveries, or a workplace online event.

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<sup>2</sup> Slack is a platform to streamline communication and workflow among people through the integration of hundreds of applications all in one place. Slack makes it possible to message a coworker, have a group chat, share files, and start a virtual meeting in Zoom or Microsoft Teams – all without leaving the Slack platform. See <https://slack.com/>

### Administrative Team

Review the administrative team, which may include an office manager, administrative assistants, and receptionist. Make the office manager a part of all planning to take advantage of the office manager's insight into staff needs. Enlist the office manager to reaffirm the plans and messaging for the staff including guidance and updates to pandemic and crisis policies such as mask usage, physical distancing, and enforcement of these policies. Revisit administrative roles and adjust job descriptions where needed. Communicate with the administrative staff as they adjust to new roles and different jobs.

### Attorneys and Staff

Supporting attorneys and staff with good communication is key to this stressful time.

- For efficient messaging, consider office memos with quick staff meetings to review important terms. Make the memos clear and provide relevant information and examples. Include the underlying rationale and public policies behind office procedures so that staff can understand why they were issued. Use law school case briefing techniques for these memos (i.e., Issue, Facts, Decision, and Rationale) to provide a clear and cogent outline that both staff and attorneys can understand and refer to later.
- Hold (or continue holding) regular staff meetings. If in-person meetings are not possible, meet by Zoom or other online platforms. Publish online meeting protocols and remind staff of meeting guidelines.
- Entrust the office manager with holding staff meetings without attorneys for procedural and training matters. This permits staff to candidly exchange questions and ideas in a smaller setting.
- If work from home (WFH) is needed, assess staff needs at home including technology, assistive devices (e.g., phone stands), office equipment (e.g., chairs, keyboards, and monitors), and supplies. Permit staff to choose the items they need, whether from a set budget amount or a menu of options.

- Review scheduling needs. In the COVID-19 pandemic, many staff with children needed flexible schedules to manage children and family needs. When “flexing” schedules, staff and attorneys need to be aware of other’s schedules and recognize that while everyone is working, it may be at different times, and they will need to be patient while waiting for an answer. Conversely, those who are flexing cannot expect on-premises support during off hours.

### Continuing Legal Education

NYSBA has offered many webinars on law office management during this pandemic which can be found on the state bar’s website. The programs include:

- The Lawyer as Employer:  
<https://nysba.org/products/the-lawyer-as-employer-2020/>
- Legal Project Management:  
<https://nysba.org/products/legal-project-management-2020/>
- Lawyer as Employer: Handling Coronavirus Issues in the Workplace:  
<https://nysba.ce21.com/ViewerUnAutheticatedlink?x=gjB9j2OG1kB3a0PxmDncAQ==&ce21=true>
- A Pandemic Law Practice: Collaboration, Culture & Security:  
<https://nysba.org/events/a-pandemic-law-practice-collaboration-culture-security-webinar/>
- Mindfulness for Lawyers in a Time of Stress:  
<https://nysba.ce21.com/ViewerUnAutheticatedlink?x=qdNuwl1IqICOT9KJsE20VMw==&ce21=true>
- COVID-19: Legal Malpractice Perspectives on Small and Mid-Sized Law Firms:  
<https://nysba.ce21.com/ViewerUnAutheticatedlink?x=b3UUWag1JKcfLw0b7G53CA==&ce21=true>
- Resilience Training: Performance & Interpersonal Management Skills:  
<https://nysba.ce21.com/ViewerUnAutheticatedlink?x=KJNPcwau73a7j35rPz8MSw==&ce21=true>

- Legal Ethics in the Age of COVID-19: What Lawyers Need to Know:  
<https://nysba.ce21.com/ViewerUnAuthenticatedlink?x=Z7QDcHD4csG8eWUIY96yEQ=&ce21=true>
- Human Resources Issues in the Time of COVID-19:  
<https://nysba.org/events/human-resource-issues-in-the-time-of-covid-19-webinar/>
- Successful Client Relationships are Based on Responsive, Ethical Communications:  
<https://nysba.ce21.com/ViewerUnAuthenticatedlink?x=8I@@12eEkyXWjSGmCuAuPauJg=&ce21=true>
- Attorneys Guide to Navigating the Pandemic:  
<https://nysba.ce21.com/ViewerUnAuthenticatedlink?x=a0SpGDTucS87jAi37NLjKg=&ce21=true>
- Finding the Compassion Balance: Mindful Lawyering & Vicarious Trauma:  
<https://nysba.org/events/finding-the-compassion-balance-mindful-lawyering-vicarious-trauma-webinar/>
- Employment Handbooks: Updating and Addressing COVID-19:  
<https://nysba.org/products/employment-handbooks-updating-and-addressing-covid-19/>
- What Makes a Virtual Lawyer Happy:  
<https://nysba.org/products/what-makes-a-virtual-lawyer-happy/>
- Ethics, Impairment and COVID-19: The Toll of the Legal Profession:  
<https://nysba.ce21.com/ViewerUnAuthenticatedlink?x=JUdKxPGdmayQDasPQ96cbw=&ce21=true>

### Disaster Preparedness in General

Unlike some previous natural disasters, the COVID-19 pandemic cut people off from their physical office space and their fellow employees and colleagues. The preparation for pandemics is nevertheless similar to that for natural disasters and can keep such isolation to a minimum. Preparation can be as straightforward as securing the current workspace and files, and being able to work remotely with an internet connection.

Points to remember for disaster management include:

- Contact all employees to provide them with a status report and assign tasks.



- Recognize that the firm will need to work with each of the following entities:
  - Building management
  - Emergency management and other governmental agencies
  - Utility companies, including electric, gas, water, and phone
  - Insurance agent
  - Banker
  - Payroll company
  - Key vendors
  - Post office.
- Establish an emergency communication system to help the firm communicate with the courts, other lawyers, staff, clients, and vendors. Set up direct forwarding of calls from the office to an off-site receptionist or to individual cell phones. Voice-over-internet protocol (VOIP) readily allows for call forwarding. Firms may still need to contact their telecommunications vendor to implement VOIP. Use texting where appropriate to stay in touch with clients. Internally, consider using an online platform so that staff and attorneys can contact each other easily without having to resort to phone calls.
- If the firm cannot physically occupy the office, communicate that information to clients and to the Post Office. Set up temporary mail forwarding if necessary. Arrange for security protection for any unoccupied office space.
- Update the firm's website to let clients know that the office is open but not available for in-person visits. Be sure that anyone answering the phone informs all callers of limitations on in-person contact. If an attorney is working remotely, this information can be included in a revised e-mail signature block.
- Move files to cloud storage such as One Drive/Box/Dropbox so that they can be accessed remotely. Make sure that file backups are not kept in the same geographic location as the office. A true disaster can dislocate those connections as well.

- Decide what paper records are absolutely necessary to maintain. This is important even outside of a pandemic. Secure original hard copies of vital documents in fireproof safes. This includes wills, unrecorded deeds, trial evidence, firm accounting, bank, and insurance records.
- Make sure all attorneys and staff have an encrypted list of login information including URLs, user names, and passwords for the services they need so that they can continue to work. Nothing is more frustrating than not knowing how to log into something because the login and password is sitting in a binder at the office.
- Consider a cloud-based LPM (law practice management) system to give the firm access to contacts, communications, documents, and calendars for the practice. Physical calendars only work if they can be accessed. LPM allows everyone access to upcoming deadlines, current tasks, and client contact information.
- Contact the court and opposing counsel as needed for adjournments, scheduling, and the like. Collect those contact numbers in advance. Do not rely on the courts and the government to automatically push out dates. While courts may respond to law firm closings, they may not reschedule matters immediately. If the firm moves to a temporary location, update all records with the courts and court administration.
- To ensure the financial health of the office, prioritize collecting accounts receivable. Anticipate and prepare for work disruptions, including a drop off in referrals.
- Review insurance policies for appropriate coverage. For those who have business-interruption coverage, submit an insurance claim for any covered damages the office sustained. Determine eligibility for other forms of emergency relief and submit a claim if eligible.
- Ensure all attorneys have in place an Advance Exit Plan to protect clients' interests in the event of disability or death. For more information on such plans, see <https://nysba.org/attorney-resources/planning-ahead-guide/>.

## SECTION TWO: COURTHOUSE SAFETY

As New York emerged from the pandemic's strong grip and as OCA and the judicial district administrative judges contemplated a gradual reopening of courthouses, their focus shifted to courthouse safety. This section of the Blueprint addresses such safety concerns.

Because of constitutional and due process issues, criminal courts were slated to be among the first to reopen. Due to the volume of people who access criminal courthouses in the metropolitan area, this section spotlights such courthouses. However, the recommendations apply to every courthouse in the state.

In June 2020, out of concern over in-person court operations in housing and criminal courts, The Legal Aid Society of New York City (LAS) retained CrowdRX. This entity performs disease screening to ensure workplace safety. LAS sought to assess the safety of New York City courthouses. It also solicited advice and guidance for criminal defense and civil legal service providers, their clients, unrepresented litigants, and OCA on safety measures that should be implemented before resuming in-person court appearances.

Between late June and August 2020, CrowdRx toured 25 courthouses as well as several immigration jails, immigration proceeding buildings, and the Rikers Island Justice Center. CrowdRX, and an expert hired by UAW Local 2325, raised significant concerns about the courts' reopening protocols that they found were unaddressed. CrowdRX's findings were included in LAS's testimony at a New York Senate hearing on September 4, 2020 on the reopening of the courts and can be found online.<sup>3</sup>

LAS convened working groups of a cross-section of its managers, staff attorneys, investigators, and social workers, to develop recommendations for steps to take before resuming in-court appearances. The recommendations from September 4, 2020 were the following for New York City:

- Personal protective equipment (PPE): The court system must establish and enforce mandatory use of PPE and provide PPE for the public entering the courthouse who do not have their own PPE.

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<sup>3</sup> [https://www.nysenate.gov/sites/default/files/the\\_legal\\_aid\\_society\\_-\\_joint\\_senate\\_hearing\\_on\\_the\\_re-opening\\_of\\_the\\_courts.pdf](https://www.nysenate.gov/sites/default/files/the_legal_aid_society_-_joint_senate_hearing_on_the_re-opening_of_the_courts.pdf)

- Cleaning protocols: All stakeholders with expert guidance must establish and adopt stringent cleaning protocols throughout the court and court-based offices.
- Court facilities: All courthouses and their interior spaces must be assessed and altered per medical and expert guidance so that:
  - the HVAC is MERV 13 or higher, or remediated per specifics;
  - court rooms are configured for social distancing per specifics;
  - holding cells are reconfigured for social distancing in all phases including transportation, movement, counsel meetings, and court appearances;
  - restrooms for the public, stakeholders, and defendants are configured to prevent COVID spread;
  - hand sanitizers, soap, and hot water are available;
  - stakeholders reduce the number of staff in each court part to a minimum but safe number;
  - arraignment parts in small courtrooms are moved to larger courtrooms, arraignment parts that are located in basements that use poorly ventilated elevators should be moved to more safely accessible courtrooms;
  - repurpose large courtrooms with audio-visual equipment so members of the public can view proceedings while maintaining appropriate social distancing.
- Health screenings to enter the courthouse:
  - Everyone entering the courthouse including all staff from all stakeholders, court staff, judiciary, district attorney staff, department of corrections staff, NYPD, and members from agencies associated with the criminal system, must be screened outside the building;
  - If an individual is denied entry because of the screening, protocols are required to minimize adverse consequences including creating a containment room if the individual requires emergency medical services;
  - If an individual develops symptoms after entering the courthouse, protocols are required to address those situations including the health and safety of that individual, the people with whom they have come in contact, and privacy rights.

- Training and enforcement:
  - All stakeholder staff must be educated as to the public health risks of COVID and other communicable diseases and the proper procedures to mitigate risks of infection;
  - Designated professionals should be assigned to ensure that the cleaning protocols and practices are maintained;
  - Committees involving all stakeholders should be established in each county to assess these recommendations and monitor compliance.

The LAS testimony did not address local criminal courts outside the metropolitan area. However, in September 2020, OCA prepared a plan for the reopening of town and village courts. Safety and due process concerns in town and village courts outside of New York City remained a problem. The variety of local criminal courts outside of New York City is extraordinary, ranging from rural town and village courts to large urban city courts. All judicial districts created courtroom protocols for reopening and operating each of the courts under their jurisdiction. However, many town and village courts lack the resources and the expertise to create guidelines for court operations. To ensure that town and village courts operate safely, it is essential that county health officials provide guidance.

Also, around this time in July 2020, a commission created by OCA, The Commission to Reimagine the Future of New York Courts, issued an initial report on restarting courthouse in-person operations (See <https://www.nycourts.gov/LegacyPDFS/press/pdfs/Commission-on-Future-Report.pdf>). The report prioritized health and safety and recommended that each court generate its own plan for restarting in-person grand juries, jury trials, and related proceedings based on local conditions.

In August 2020, the Task Force surveyed New York State Bar Association members to gauge their confidence in returning to courthouses. Most reported that they had not yet returned to court for an in-person appearance. Of those that had already experienced an in-person appearance, they reported that they did not feel comfortable for their safety. Over sixty-two percent of all respondents reported that they would prefer not to appear in person during the duration of the pandemic (See Appendix A).

### **SECTION THREE: CRIMINAL MATTERS**

Criminal practitioners and defendants confronted specific procedural and constitutional challenges during the pandemic. The Task Force observed the following problems and offered recommendations on how to address those problems.

#### Criminal Procedure Law Section 260 - Jury Trials

Criminal Procedure Law §260.20 provides generally that a defendant must be present in person during the trial of an indictment. As discussed in the preceding section, in July of 2020, the Commission to Reimagine the Future of New York's Courts' report included recommendations for re-starting in-person jury trials.

Pursuant to that report, the best practices for jury trials necessitate consultation with local and state health officials to ensure that safety measures are in place to create a safe environment and instill confidence in all participants. Health and safety considerations were also the focus of those involved in the criminal justice system, and resulted in the survey and report issued by CrowdRx on August 11, 2020, discussed in the section above.

Plans for jury trials and other in-person proceedings that have been implemented and approved should be reviewed periodically with the involvement of stakeholders not only from the judiciary but from defense counsel and prosecutors.

#### Article 350- Non-Jury Trials

This article of the Criminal Procedure Law (CPL) applies to non-jury trials in local criminal courts or, in certain cases, by judicial hearing officers.

Best practice in these cases should incorporate all of the provisions regarding the health and safety of the participants as provided in the analysis of CPL Article 260. These best practices in local criminal courts for both jury and non-jury trials create significant challenges for the solo and small firm practitioner. The variety of "local criminal courts" in New York State - from large urban city courts to rural town and village courts - is extraordinary. The lack of resources available to many town and village courts, including the lack of expertise in creating guidelines for court operations, is very problematic and has resulted in disparate application.

Best practices would dictate that uniform guidelines for town and village courts be adopted and implemented by all judicial districts with input from the county district attorney and defense providers.

#### CPL Article 360- Jury Trials in Local Criminal Courts

This Criminal Procedure Law section deals with jury trials in local criminal courts and best practices would be the same as those discussed above.

#### CPL Article 380- Sentencing

Criminal Procedure Law §380.40 (1) provides that, in general, the defendant must be personally present at the time sentence is pronounced. CPL §380.40(2) provides the exception, which includes sentences for misdemeanors or petit offenses with an appropriate waiver.

The New York State Court of Appeals in *People v. Rossborough*, 27 N.Y. 3d 485 (2016) held that a defendant convicted of a felony may expressly waive the right to be present at sentencing. While a defendant has the right to be present, under *Rossborough*, a defendant being sentenced on a felony could consent to a waiver of the right to be physically present and agree to a virtual appearance.

#### Strategy Issues Related to Waiving An Actual Appearance and Appearing Virtually

The Task Force examined the impact of the pandemic on solo and small firm defense counsel in criminal settings, and in particular the rights of defendants. The defense practitioner must consider strategy issues related to the waiver of in-person appearances. For example, will the sentencing court permit a defendant appearing virtually for sentencing to have a copy of the pre-sentence report before sentence is imposed? In the event the defendant waives the in-person appearance, the Task Force offers the following statutes and comments for consideration:

- A. CPL §390.20 requires a pre-sentence report in most felony cases;
- B. CPL §390.50 provides for the confidentiality of pre-sentence reports; however, it also provides that not less than one court date prior to sentencing the pre-sentence report be made available for examination and copying by the defendant's attorney;

- C. CPL §390.50 has been interpreted to permit a defendant to have a copy of the pre-sentence report only with the sentencing court's permission. Therefore, if defense counsel seek to consent to a virtual appearance, they must also seek the court's permission to provide a copy of the pre-sentence report to defendant prior to sentencing.
- D. CPL §390.60 provides that a copy of the pre-sentence report accompanies the defendant to the correctional facility. Best practice would be to ensure that any errors in the report are corrected before sentencing. This document will be utilized by the correctional system in determining programming, security levels, and potential release dates.
- E. CPL §390.50(b)(2) provides an opportunity for victims to make a statement at sentencing. Notice to defendant is required and best practices mandate that defense counsel consider whether a victim appearing in person at sentencing will impact the decision for the defendant to appear virtually or in-person.



## SECTION FOUR: CIVIL MATTERS

The pandemic compelled OCA to adopt measures -- many long overdue -- to enable access to courthouses without requiring personal appearances, and to streamline litigation processes - all aimed at effectuating progressive and systemic change. The statewide shutdown forced the bench and bar alike to become more adept at using technology to access the court. Both now recognize that nearly every pre-trial matter can be conducted electronically. It is essential to build upon the momentum behind the technological advances that were initiated in 2020 and create a functional, 21<sup>st</sup> century-court system that uses the latest technology.<sup>4</sup> There are also specific changes that should be made to the Uniform Rules to ensure that New York courts can withstand future challenges.

Several of the proposals outlined below have been proposed to OCA before. In the *Comprehensive Civil Justice Program 2005: Study and Recommendations*<sup>5</sup>, First Deputy Chief Administrative Judge Ann Pfau recommended expansion of the then-fledgling “e-court concept” to include e-scheduling and automated preliminary conferences. And in 2006, a panel of statewide attorneys appointed by the Honorable Judith Kaye issued the *Report of the Commission to Examine Solo and Small Firm Practice* which urged comprehensive change in all pre-trial proceedings and discovery, along with the use of technology in judicial proceedings<sup>6</sup>.

OCA tabled many of the recommendations in Judge Pfau’s report and nearly all of the recommendations in the Commission’s report. If the New York judicial system intends to remain the benchmark for substantive and procedural excellence, the proposals below will need to be revisited and implemented.

### **Scheduling and Calendaring**

The Task Force recommends the following:

- Continue to schedule all pre-trial proceedings by email using Google calendar or a similar application.

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<sup>4</sup> The Online Courts Working Group of the Commission to Reimagine the Future of New York’s Courts made a variety of recommendations concerning the use of technology for virtual proceedings.

<http://www.nycourts.gov/whatsnew/pdf/OCWG-Report.pdf>

<sup>5</sup> [http://www2.nycourts.gov/sites/default/files/document/files/2018-05/Civil\\_Justice\\_Program\\_2005.pdf](http://www2.nycourts.gov/sites/default/files/document/files/2018-05/Civil_Justice_Program_2005.pdf)

<sup>6</sup> <https://www.nycourts.gov/LegacyPDFS/IP/jipl/pdf/ssfreport.pdf>

- Continue to conduct all conferences and motions by Microsoft Teams or a similar video-conference platform. Conducting pre-trial proceedings by videoconference has already become routine and is more efficient when specific times are designated and adhered to, thus avoiding wait time in the courtroom, and obviating the need for travel to the courthouse.
- Remedy the ongoing problem in Family Court where cases are not called on a time-certain basis causing attorneys and litigants to wait indefinitely and sometimes all day. In addition, use Microsoft Teams for conferencing for support matters in Family Court instead of by telephone calls that are initiated by the Court. While these conferences are generally scheduled on a time-certain basis, the court does not always make the call when scheduled which hampers an attorney's ability to attend other court proceedings while waiting for the Family Court magistrate. Conversely, if the call is not timely and counsel participates in another Court proceeding, the call from Family Court may be missed altogether.

### **Preliminary Conferences**

The Task Force recommends the following:

- Modify the Uniform Rules to create a statewide uniform and downloadable preliminary conference form, similar to the uniform preliminary conference (PC) form that the Suffolk County matrimonial part has implemented. The uniform PC form can be e-filed within 45 days after an answer is interposed or within 30 days after an order is issued in connection with a motion to dismiss a complaint.
- Adopt statewide uniform procedures for the adjournment of preliminary conferences, for example, one adjournment on consent of counsel not to exceed 20 days and a second adjournment only for good cause; Require specific dates in the PC form for the disclosure of experts and a date by which to file the note of issue.

- Require a detailed discovery plan and a discovery cut-off date that cannot exceed nine months in the PC form. If counsel can stipulate to the terms in the PC form, the document can be e-filed to a non-judicial case manager (which Judge Pfau recommended in her 2005 report) or Part Clerk who can upload relevant data to the Court's calendar. If counsel cannot agree on the discovery plan or the cut-off date, each counsel should be required to submit a one-page summary of the underlying issue(s).
- Indicate on the PC form whether counsel requires the court's intervention. If there are issues such as discovery, the court can make an order based on the written summaries or it can schedule a conference with a designated court attorney or referee who is trained to address and resolve pre-trial discovery disputes.
- Hold a compliance conference ninety days after issuance of the PC form, with the Court Attorney/Referee. At that time, address outstanding discovery and discovery disputes, encourage early settlement/resolution, and schedule a pre-trial conference. If settlement cannot be achieved at that stage, schedule a follow-up compliance conference to address remaining discovery and settlement. Every effort should be made to avoid discovery motion practice.

### **Uniform Mandatory E-filing and Uniform Rules**

The Task Force recommends the following:

- Continue implementation of uniform mandatory statewide e-filing in all courts. E-filing promotes efficiency in the court system and benefits counsel and litigants especially when motions do not have to be physically filed and served. E-filing must accommodate attorneys, particularly in certain rural counties, who do not have access to high-speed internet. Ensure that all court files, including historic files, are accessible to attorneys. The gains in e-filing that have already been achieved are undermined if counsel cannot access an older file because it has not been scanned and uploaded. While it is a Herculean undertaking to upload historic files, it is a task that needs to be done only once and can be accomplished over time.

- Redesign and regularly update OCA’s website. There should be one website for attorneys, judges, and pro-se litigants with links and access to (i) e-filing; (ii) Part information including an email address for the judge and the judge’s secretary, the court attorney and Part Clerk, and Microsoft Teams link and conference call telephone number with participant code; (iii) all court rules including uniform rules for the New York State Trial Courts and separate rules for the Court of Appeals, each Appellate Division, the Commercial Division and individual Part rules; (iv) downloadable forms for general use such as a retainer agreement, health care proxy, power of attorney, notice of appearance, Request for Judicial Intervention, stipulation to adjourn, bill of costs and the PC form; (v) separate categories of downloadable forms organized by area of law, i.e. housing/landlord-tenant (forms to include petition and answer) and matrimonial and family law (forms to include statement of client’s rights, affidavit of net worth, judgment of divorce, findings of fact and conclusions of law); and (vi) miscellaneous statutes and related documents, such as maintenance and child support statutes and sample questions for inquest for each branch of relief under Domestic Relations Law §170, etc.
- Achieve consistency in e-filing, even on an interim basis. Needless confusion occurs when the court issues conflicting directives requiring counsel to upload certain documents to EDDS, upload other documents to NYSCEF, and email other documents as pdf attachments to a judge’s individual Part.
- In order to ensure accurate and consistent usability, implement a help desk and chat feature for e-filing users. Inquiries to the help desk and chat feature should be monitored for systemic problems.
- Implement easily accessible, streamlined statewide uniform rules after consultation with the Bar.

## SECTION FIVE: VIRTUAL EVIDENCE

The continued administration of justice during the global pandemic has required our Court system to establish innovative methods to replace in-person court appearances and trials. Judges throughout New York State have been called upon to decide novel issues due to the COVID-19 pandemic.

New York Judiciary Law §2-b(3) authorizes the court “to devise and make new process and forms of proceedings” that are “necessary to carry into effect the[ir] powers and jurisdiction.” This authority is vested in the Courts by the New York State Constitution, Article VI, § 30, which gives courts latitude to adopt procedures not specified in the statutes where such procedures are consistent with general practice as provided by the law. Since the onset of COVID-19, New York courts have exercised that authority by using technology to conduct court appearances, including virtual hearings and trials. Such authority was employed during COVID-19 despite objection by the parties. Interestingly, decisions rendered by the trial courts during this time reached opposite conclusions.<sup>7</sup>

The Task Force surveyed, considered, and researched the current climate regarding these matters. Some of the issues and concerns collected by the Task Force that arise during virtual hearings and trials included:

- Technical Issues: witness/camera placement including witnesses being “coached” during trial; objections; the use of the mute button; allocution by witnesses and attorneys about the “rules” of video trials;
- Virtual Platform Microsoft Teams Limitations: the limited number of people who may appear on screen; recording of proceedings by litigants/attorneys; interruption of internet service and/or freezing/bad audio/video; use of breakout rooms;

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<sup>7</sup> See, for example *S.C. v Y.L.*, 67 Misc.3d 1219 (a) (Sup Ct. NY Co. May 18, 2020) which held that criminal contempt is a bar to a virtual hearing and *C.C. v A.R.*, 69 Misc. 3d 983 (Sup. Ct Kings Co. Sept. 30, 2020) which held that criminal contempt is not a bar to a virtual hearing.

- Evidentiary Issues: best evidence rule and the introduction of scanned documents; better use of attorney certifications (see CPLR 2105 “Where a certified copy of a paper is required by law, an attorney admitted to practice in the courts of the state may certify that it has been compared . . . with the original and found to be a true and complete copy. Such a certificate, when subscribed by such attorney, has the same effect as if made by a clerk.”); procedure regarding evidence being admitted and objections; more pre-trial conferences in advance of trial to discuss specifics; “holding back” rebuttal or cross-examination evidence;
- Testimonial Integrity: keeping potential witnesses out of a virtual courtroom; how will judges be able to determine who is being coached or using notes; judge’s ability to assess witness demeanor;
- Comment: It is vital that counsel circulate advance copies of all documents they intend to introduce into evidence or use at trial. If additional documents need to be produced during the hearing, a mechanism for such production should be stipulated in advance of the hearing.

The Task Force discussed these issues with court reporters. They suggested and observed the following:

- Pre-marking of exhibits is crucial;
- Microsoft Teams allows for too many people on the screen; make an attempt to “pin” those people who will be regularly addressing the court;
- Mute your microphone if not speaking;
- Ensure that your full name is on the screen when signing in;
- Avoid speaking at the same time as someone else;
- Participants should identify themselves each time they speak;
- At the beginning of a proceeding the court reporter should have all participants’ cell phone numbers and the attorneys should have the court reporter’s number. This will enable contact with any participant who is dropped from the call.

## **Evidentiary Considerations in Virtual Hearings and Trials**

At the outset of the health crisis, each judicial district adopted its own set of rules and protocols which were updated throughout the pandemic. In addition to the judicial district rules, individual trial parts or groups of parts in certain counties (e.g., matrimonial parts and commercial parts) also promulgated specific rules for virtual trials. In March 2021, New York issued instructions for the submission of evidence through the Virtual Evidence Courtroom (VEC). For judges who participate in the VEC format, attorneys and unrepresented litigants submit evidence electronically through VEC located on the NYSCEF website.<sup>8</sup>

Virtual hearings and trials are likely to continue for the foreseeable future. For that reason, the Task Force recommends that OCA promulgate uniform rules for the administration of virtual hearings and trials. A statewide electronic evidence policy for all civil cases should be the next step in managing this emerging area.

The Task Force researched what should be considered for state-wide rules by studying how two judges in Kings County, New York, the states of Maryland and Florida, and the National Center for State Courts handled such issues. A summary of what the Task Force learned is listed below.

### **Honorable Cenceria P. Edwards Rules For Virtual Bench Trials- Kings County Civil Court Part 71**

1. All virtual bench trials are conducted via Microsoft Teams.
2. Parties shall inform court attorney, Dwayne Thomas, immediately upon receipt of these rules if any litigant and/or witness will require an interpreter.
3. Parties shall stipulate to matters and documents that are not in dispute and submit same via executed stipulation form, via email, to court attorney, Dwayne Thomas, seven business days prior to trial. Also, include in the stipulation that parties consent to a virtual bench trial.
4. Parties shall provide the name and contact information of all persons who will testify.

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<sup>8</sup> <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EvidenceCourtInstructions.pdf>

5. Parties shall mark, label and submit all exhibits (along with summary lead sheet) seven business days prior to trial.
6. Parties shall submit, via email, all exhibits, evidence lists, including documents, photographs, and videos, to the Judge and opposing counsel seven business days prior to trial.

Court Rules During Trial

IT IS NOT PERMISSIBLE TO RECORD VIDEO OR AUDIO OF THE TRIAL.

- Please make sure you are fully familiar with Microsoft Teams prior to trial and if you have any questions/concerns email same to my court attorney one week prior to trial.
- Be sure to test your audio and visuals with litigants and witness before trial.
- Parties are reminded that the trial shall be recorded and only one person shall speak at a time in a clear and audible voice.
- All parties shall remain muted unless they are speaking.
- Each time you speak please identify yourself by name and whether petitioner's or respondent's attorney.
- For each objection state your name with your basis for objection. Your objection shall be made after the other party has finished speaking.
- Reminder, all conversations shall be recorded and shall be transcribed as part of the trial record.
- All witness will be held in the waiting room until they are called to testify.
- Please remind your client/witness they must speak clearly and head nodding or hand gestures cannot be recorded so all responses must be verbal so that the court reporter can properly record the testimony.
- Please remind your client/witness to look at the camera when speaking.
- If attorneys desire to speak with their client during trial, please inform the court and request a brief recess.



**Kings County Matrimonial Part Uniform Rules and Protocols During Pandemic  
Emergency [as of September 10, 2020]**

Suggested Protocol for Virtual Oral Arguments in Matrimonial Proceedings, Honorable  
Jeffrey Sunshine

- Everyone identify themselves after case called in.
- Everyone identify how they are appearing (by phone or virtual).
- Everyone identify themselves each time they speak in order to be seen on the virtual system.
- No recording allowed except by the court reporter.
- Where practicable, when you are not speaking phone or video must be muted.
- When anyone speaks, including the Judge, identify themselves each time.
- Counsel and litigants may NOT interrupt each other or talk over each other.
- Judge articulates on the record before the argument begins the motions sequence and the papers being considered and confirms with counsel or litigants on the record. If appropriate, ADR alternatives are discussed.
- Appointments in advance for oral arguments with strict limited time period.
- Plaintiff or movant goes first.
- If court reporter has a question or cannot hear – the Court Reporter shall interrupt, and EVERYONE must stop speaking.
- Children are not to overhear the proceedings. If this is not possible due to safety concerns, the litigant or their attorney must notify the Court.
- If litigant is represented by counsel, then counsel speaks on behalf of the litigant.
- Professional attire by counsel is expected during virtual court appearances consistent with the rules established by the Appellate Division, Second Department for virtual appearances.

### **Guidelines for Remote Hearings in the Maryland Trial Courts:**<sup>9</sup>

- Any platform used by the courts must provide for encryption for all remote court proceedings, role-based user security, and password protection.
- The court where the hearing is being scheduled should be contacted for more information regarding the process for participating in a remote hearing.
- All hearings will be recorded by the Judiciary and serve as the official court recording. The court or other designated court personnel are the only persons authorized to record the remote hearing by electronic means, stenography or any other method. Any recording, photograph, broadcast, or live stream by a party or other person of a remote hearing without the permission of the court is strictly forbidden.
- Any platform used by the trial courts to conduct remote court proceedings will include a means by which attorneys may confidentially speak with clients.
- Except as otherwise directed by the judicial officer, all remote judicial proceedings will be conducted in accordance with the same standards as hearings traditionally conducted in a courtroom.
- All remote judicial proceedings will be conducted in accordance with the Maryland Rules.
- If a remote hearing is disrupted due to audio or video technical difficulties, the judicial officer may delay, postpone, or require an in-person appearance.
- If a party is not able to participate by remote means, they should contact the court promptly.
- As remote proceedings rely on utilizing email contact information and telephone numbers to participate, a court may request that three court days prior to a remote hearing, or at such other time as the court may direct, the parties file a list containing the names and email addresses of the attorneys, parties and witnesses (if any) who will attend the hearing. Court personnel may also ask parties directly for email or telephonic contact information to ensure remote hearing details are adequately provided.

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<sup>9</sup><https://mdcourts.gov/sites/default/files/import/eservices/pdf/remotehearingsguidelines.pdf>

- All persons must use their real names (not nicknames or aliases) while online to ensure they will not be prevented from entering the hearing.
- On the day of a video hearing, it is the responsibility of the attorneys to ensure their clients and witnesses are available and ready to proceed at the appointed time.
- Where a witness attends the remote hearing, the witness will be sworn or affirmed by the clerk or the judicial officer prior to commencement of their testimony. In addition, unless otherwise ordered by the court:
  - 1) The witness is to be alone, in a secure room with the doors closed. A record will be made by the judicial officer of those conditions;
  - 2) Participants should wear appropriate attire and present themselves as they would if they were appearing in a physical courtroom;
  - 3) Participants are to ensure that there will be no interruptions or distractions for the duration of their appearance at the remote hearing.
- To the extent possible, the courts advise that exhibits should be pre-filed at least two court days in advance of your remote hearing. To properly prepare for remote hearings and to address any issues with the exhibits prior to the hearing, it is critical that the court receive the exhibits as timely as possible.
- There are two options for pre-filing proposed exhibits with the court which are pre-filing or emailing.
- The court may allow exhibits not submitted prior to the hearing to be used at the hearing, such as documents used for impeachment. At the court's discretion, the court may consider allowing a party to transmit an exhibit to the court during the hearing via email, e-filing, or other method approved by the court.
- Attorneys of record and self-represented litigants may receive a notice via email or telephone prior to a video hearing with access instructions.

**The Florida Supreme Court COVID 19-Working Group promulgated the “Best Practices-Management of Evidence in Remote Hearings in Civil and Family Cases”<sup>10</sup>**

This guide summarizes the requirements for the conduct of in-person and remote hearings specified in Florida Supreme Court Administrative Order 20-23, Amendment 1, and provides links to other general resources addressing remote hearings.

The guide envisions trial judges will issue administrative orders to establish procedures for the filing and management of exhibits and the taking of witness testimony in remote hearings. In issuing these orders, the trial judge should consider:

- Differences between represented and unrepresented parties;
- Differences among physical exhibits, exhibits that can be reproduced electronically, and witnesses;
- Exchanging and stipulating to exhibits before trial;
- Advance filing of and rulings on objections;
- Advance exchanging of witness lists;
- Ensuring that witnesses have authenticated exhibits;
- Ensuring that witnesses have remote access;
- Marking, indexing, and displaying exhibits;
- Emphasizing that due process and the rules of evidence still apply but encouraging flexibility;
- Resetting a trial date if technological issues become insurmountable;
- Maintaining the public’s right of access to judicial proceedings; and
- Ensuring litigants have an adequate record for post-trial proceedings.

With respect to witnesses, the presiding judge of a remote hearing should:

- Conduct essential and critical proceedings safely using all methods feasible to minimize risk of COVID-19 exposure to all, and conduct non-essential and non-critical court proceedings virtually unless a judge determines that remote conduct of the proceeding is subject to certain specified exceptions;

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<sup>10</sup> <https://www.flcourts.org/content/download/635272/file/management-of-evidence-remote-hearings.pdf>.

- Host the remote hearing so that the court can control witnesses' admittance into and removal from the hearing;
- Advise witnesses that during their testimony they must be alone in a quiet room, may not use a virtual background, must turn off all electronic devices except for the device enabling participation in the hearing or be subject to contempt of court, and refrain from exchanging any electronic messages during their testimony.
- Confirm that the witness is alone by having the camera scan the room before and after testimony and noting this for the record.
- Keep witnesses in a Zoom waiting room until they are called to testify and remove them from the hearing following their testimony.

### **Managing Evidence for Virtual Hearings – A National Perspective**

On June 25, 2020, the Joint Technology Committee of the Conference of State Court Administrators, the National Association for Court Management, and the National Center for State Courts, offered the following proposals for managing evidence in virtual hearings.<sup>11</sup>

Prior to a Hearing: It is helpful to hold a conference prior to the hearing to discuss the process and “test drive” the technologies that will be required. Planning is key. Individual judges/courts should provide detailed instructions outlining the process of submitting evidence.

Evidence Workflow: The court must provide a way for evidence to be submitted electronically and clearly communicate the process for doing so. While each judge and each court may have unique aspects to their workflow, evidence management processes occur before, during, and after a hearing. In some instances, evidence submission can eliminate the need for a hearing.

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<sup>11</sup> [https://www.ncsc.org/\\_data/assets/pdf\\_file/0019/42814/2020-07-27-Managing-Evidence-for-Virtual-Hearings-002.pdf](https://www.ncsc.org/_data/assets/pdf_file/0019/42814/2020-07-27-Managing-Evidence-for-Virtual-Hearings-002.pdf)

Evidentiary File Formats: The choice of file format should be approved by the court and the parties. Some courts require evidence to be converted to a preferred format while others simply specify that the evidence be “readily accessible” and compatible with the court’s systems. Where practicable, digital evidence should also be retained in its original format, along with any required proprietary viewing software.

Naming Conventions for Exhibits: Evidence files should be marked in a consistent way so they are easy to locate and can be labeled and identified clearly for the record. Courts may wish to specify naming conventions with a sequenced document identifier (e.g., S-1 Victim Statement, or DEF\_001\_BankofAmerica\_Statement). Any changes made to evidence files (including filenames) should be nondestructive and reversible.

Exhibit Numbering: If Bates-stamped numbers are preferred, they can be added to PDF files automatically using Adobe Acrobat or another PDF Bates numbering tool. Photos can also be pasted into PDFs and Bates stamped.

Document Preferences: Courts should specify PDF or PDF/A file format, image orientation, whether documents should be submitted in color or black and white, and if documents may be submitted as a single combined file or if each document should be submitted in a separate file.

Markup Restrictions: In some instances, both marked and unmarked versions of evidence should be submitted. The Judge may review and annotate document-based evidence electronically; many PDF viewers provide annotation features.

File Size Limitations: Participants’ computers and/or laptops may have file size limitations that cannot handle viewing exhibits.

Deadlines: For submitting evidence (e.g., five days prior to a hearing) and for filing any objections to exhibits.

Platforms and Mechanisms for Sharing: Parties should be informed about the court’s evidence submission platform and provided with step-by-step instructions for use.

How Recordings Will Be Handled: Private recordings may need to be shared more securely. Some courts are using conferencing platforms to make recordings part of the hearing recording. In some instances, parties may need to share videos in advance.

Screen Sharing: For security and privacy, conferencing platforms should be set to block participants other than the judge and/or clerk from screen sharing. For a participant to share evidence during a hearing, the individual managing the video conference platform would need to temporarily permit screen sharing.

Stipulations: Required if giving up rights to examine real evidence.

Physical Evidence: Who should have physical custody of evidence? Pictures or videos can be used to display physical evidence virtually, regardless of who retains physical custody of the item. In some instances, it may be sufficient to hold evidence up for display during a virtual hearing. Courts must specify which method is preferred/required.

Contact Information: Phone and/or email for all recipients (SRLs, opposing counsel, court clerk, law clerk, secretary, etc.).

Technical Support Options: Contact information (website, phone number) for technical assistance.

During a Hearing: Evidence for each day's hearings should be stored locally and available to judges on their devices. To prevent confusion, documents should generally be organized into individual case folders. Parties should "come" prepared to have digital access to any evidence to be used during the hearing. Usually, this means downloading all exhibits to a device available during the hearing to avoid any delays due to bandwidth, Wi-Fi access, or other technical issues. Additional evidence may be emailed or shared via video conference platform using either "screen sharing" (giving screen control briefly to someone other than the judge) or the platform's document sharing functionality, if the judge allows it. Evidence that is presented during the hearing (e.g., exhibits used in rebuttal) may be viewed via screen sharing, circulated by email, or shared via link to a cloud storage platform. Any document submitted during the hearing that was not previously available for prehearing filing can be forwarded electronically to the appropriate parties while the hearing proceeds, provided the opposing party does not object. If the document is very lengthy and/or the opposing party requests additional time, the judge may then grant a short adjournment (from a few hours to a day).

After a Hearing: After the hearing, the “view” versions of evidence (e.g., copies circulated electronically) no longer matter unless the evidence was annotated in some way during the hearing. Any document or page annotated becomes a new Exhibit that must then be filed and/or uploaded to the case file. For instance, if a detective report is used during the hearing and the Witness annotates this exhibit (drawing with pen the path the perpetrator followed during the commission of the crime), the copy with the witness marking becomes a new Exhibit. If the evidence was used without any annotations, the clerk’s copy can be uploaded to the case management system.

The court retains and files evidence. If the court has a case management or document management system that includes file attachment capabilities, evidence should be attached to the case file. In courts that require hardcopy, originals utilized during the hearing may need to be delivered to the court following the hearing. Parties and attorneys retain copies in case of appeal. Judges retain their virtual notes.



## SECTION SIX: GOVERNOR'S EXECUTIVE ORDERS

Beginning in March 2020, Governor Andrew Cuomo aggressively responded to the health crisis by issuing a series of executive orders (EOs). The initial EOs declared a state of emergency, directed a lockdown of all non-essential work and addressed health and safety concerns such as quarantines, travel restrictions, school closings, large gatherings, and authorization of out-of-state physicians to practice medicine in New York. Over time, the scope of EOs expanded to include every sector of commercial activity in the state. As they pertain to solo and small firms in New York, several EOs are noteworthy, particularly:<sup>12</sup>

- EO 202.7 which modified in-person notary requirements and authorized the use of audio-video technology to provide notary services;
- EO 202.8 which suspended enforcement of an eviction proceeding for any residential or commercial tenant, as well as a foreclosure of any residential or commercial property;
- EO 202.14 which modified Estates Powers and Trusts Law (EPTL) 3-2.1(a)(2), EPTL 3-2.1(a)(4), Public Health Law 2981(2)(a), Public Health Law 4201(3), Article 9 of the Real Property Law, General Obligations Law 5-1514(9)(b), and EPTL 7-1.17, to allow witnessing of specified documents to be performed utilizing audio-video technology provided certain conditions were met;
- EO 202.15 which authorized the Department of Taxation and Finance to accept digital signatures in lieu of handwritten signatures on documents related to the determination or collection of tax liability; and
- EO 202.28 which authorizes landlords and tenants or licensees of residential properties to enter into a written agreement by which the security deposit and any accrued interest may be used to pay rent that is in arrears or will become due.

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<sup>12</sup> See Appendix B for further summaries of several other selected Governor's Executive Orders.

The EOs had expiration dates but were extended on multiple occasions, many at the last minute. In that regard, the EOs became moving targets that were difficult to follow. The nomenclature used to catalog and reference the EOs made them tedious and time-consuming to track. Solo and small firm practitioners repeatedly expressed this sentiment to the Task Force.

The Governor's website provides a dropdown menu for all issued EOs and clarifies that COVID-19 directives are contained in the series of EOs beginning with 202 and 205. A search of the EOs on the Governor's website can be refined by specifying date restrictions and keyword queries, but the results can be inconsistent. For that reason, the Task Force recommends an index be created for the EOs. Search results should direct the user to the relevant EOs and show highlighted text. IT staff should tag the EOs with metadata so as to be searchable on Google and other internet platforms when similar words and phrases are used. For example, while restaurants yielded 410 results, pubs and eating establishments yielded none. If the goal is to have information available to an unprecedented number of persons, including unsophisticated users seeking guidance for individualized and community issues, a simple SEO (search engine optimization) approach can help reach those in need. Analytics can then also be employed to monitor and track search activity to inform further as to the effects of the pandemic and needed improvements for communication.

## SECTION SEVEN: THE PRACTICE OF LAW AS ESSENTIAL

Throughout 2020, New York solo and small firm practitioners provided vital legal services to their clients notwithstanding the overwhelming risks and challenges they faced in doing so. The Task Force played a crucial role in assisting attorneys navigate the obstacles created by the pandemic by providing guidance on how to maintain a law practice and continue to serve the public without compromising anyone's health, safety, or welfare.

The Task Force opposed the shut-down of law offices. Apart from the economic blow to solos and small firms, a shut-down severely limits an attorney's ability to serve the public and is detrimental to the public's access to justice – a principle that our Association holds as sacrosanct.

At the outset of the health crisis, Governor Cuomo issued Executive Order 202.6 which set forth a list of restrictions covering in-person working arrangements. This Executive Order, together with Executive Order 202.8, authorized the New York Empire State Development (ESD) to establish formal guidelines on identifying businesses deemed “essential” and thereby exempt from shutdown restrictions. In general, lawyers were not deemed “essential.”

Law firms and local bar associations sought clarification from the ESD on whether restrictions pertained to all areas of practice and all attorneys in general. When the ESD did respond to inquiries - and a common complaint brought to the Task Force was that the ESD was not responsive – the rules permitting practice remained unclear. The Task Force also sought guidance and clarification from the ESD. It sent a letter to ESD's general counsel, but it too was ignored.

Whether an attorney was deemed essential during the pandemic depended on the state where the attorney practiced. A Clio blog post <https://www.clio.com/blog/lawyers-essential-services/> reported that as of April 6, 2020, 42 states had issued stay-at-home orders. Of the 42 states, 12 states deemed legal services non-essential, 23 states deemed legal services essential, six states had exceptions to what was non-essential, and several states did not take any position.

The Task Force urged the classification of the practice of law as essential. The Resolution attached in Appendix C was the culmination of the Task Force's presentation to NYSBA's Executive Committee for its consideration at its November 6, 2020 meeting. The attached Resolution, which the Executive Committee adopted, calls on state bar leaders to

appeal to state officials to fully understand the critical role that lawyers play in the delivery of justice to New Yorkers. A blanket ban on the practice of law is contrary to the urgent needs that New Yorkers face in the most common of times but crucially in the time of COVID when economic issues, family issues, end of life issues, and business failures all require access to and advice from attorneys.

On December 22, 2020, the CDC issued recommendations about the then next phase of vaccine eligibility. In addition to people over 65 and people over 16 with compromised medical conditions, the CDC recommended that this next distribution phase—dubbed Phase 1c—include vaccines for “essential workers not previously included” in earlier phases. The CDC guidance included legal workers in that group along with workers in transportation and logistics, water and wastewater, food service, construction, information technology, media and public health workers, among others.<sup>13</sup> New York State’s accelerated vaccine roll-out eliminated the need to proceed category by category in terms of eligibility for this pandemic.

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<sup>13</sup> [https://www.cdc.gov/mmwr/volumes/69/wr/mm695152e2.htm?s\\_cid=mm695152e2\\_w](https://www.cdc.gov/mmwr/volumes/69/wr/mm695152e2.htm?s_cid=mm695152e2_w)

## **SECTION EIGHT: ECONOMIC ASSISTANCE TO MEMBERS**

From the outset of the pandemic, the Task Force recognized that the COVID-19 crisis would have a particularly devastating financial effect on attorneys in small firm and solo practices. Courts were closed. Offices were shuttered. Attorneys could not serve their clients, or financially support themselves or their staff.

Early in the pandemic the Task Force gathered information about financial assistance available to firms, particularly economic relief through the CARES ACT and the Small Business Administration (SBA). The Task Force disseminated information to NYSBA members as it became available regarding various SBA loan and grant programs. In particular, the Task Force focused on the Paycheck Protection Program (PPP) loans/grants and Emergency Economic Injury Loans/Grants (EIDL).

The Task Force distributed information about PPP loan forgiveness procedures and mortgage and rent payment relief. The Task Force also sponsored and participated in a CLE program on PPP loan forgiveness.

When it became clear that the SBA programs were proving insufficient to meet the demands of small businesses, the Task Force recommended other ways for small firms and solo practitioners to avail themselves of economic relief.

The Task Force succeeded in accelerating the procedures by which attorneys handling court-appointed and assigned counsel matters in state and federal courts are compensated.

Normally, attorneys who serve as assigned counsel are paid at the conclusion of the matter to which they are assigned. Due to the shutdown and delays in moving cases forward, publicly paid attorneys faced an immediate cessation of income. The Task Force recommended that courts and other governing bodies streamline the processing and payment of vouchers not only for final bills for matters that were completed but also for interim bills on matters still pending.

In furtherance of this plan, the Task Force composed the letters that NYSBA's President sent to the chief judges of each of the four federal districts in New York State, the administrative judges of each of the four Appellate Divisions, appropriate assigned counsel plan administrators, and bar association leaders. NYSBA issued a press release and President Hank Greenberg wrote a letter to the editor of the New York Law Journal in favor of the Task Force's position. Due in large measure to these efforts, the processing of vouchers was expedited and attorneys were

timely paid for the services they provided indigent clients in federal and state courts.

The Task Force also supported a resolution from the Committee on Legal Aid, the Committee on Mandated Representation, and the Criminal Justice Section which called for the immediate vaccination of criminal defense and family court attorneys, Attorneys for the Children, prosecutors, family court and criminal court judges, and incarcerated defendants awaiting trial. The Task Force also reviewed the work of organizations such as AMEND at the University of California in San Francisco and the Marshall Project which likewise advocated for distributing COVID-19 vaccines to incarcerated individuals. (See Appendices D and E).

The Task Force was acutely aware that the increasing backlog of civil, criminal, and family court matters would increase pressure on the Office of Court Administration and other local, state, and federal court administrators to resume in-person court appearances, hearings, and trials. In the fall of 2020, the re-opening of courthouses, particularly in New York City, proved short-lived. The predicted spike of COVID-19 cases occurred, which forced most courts to return almost exclusively to remote proceedings. The Task Force recognized that vaccination was an essential step to fully reopen courts for in-person appearances. As a result, the Task Force endorsed a resolution proposed by the Criminal Justice Section, which urged the Governor to prioritize front-line attorneys and incarcerated individuals for vaccination. A copy of the Resolution adopted by the Executive Committee is included in Appendix F.

The House of Delegates subsequently adopted the report of the Health Law Committee which recommended that vaccines be equitably allocated and distributed, and that health care workers and other essential workers have priority access to vaccines.

#### Recommendations:

Based upon the Task Force members' experience of living through the pandemic this past year, the Task Force recommends the following in the event of either the resurgence of the COVID-19 virus or another health care emergency:

1. The practice of law be deemed essential;
2. Attorneys, court staff and members of the judiciary as well as inmates incarcerated in local, state and federal correctional institutions be prioritized for the receipt of any vaccine, once generally available, and that information regarding the availability,

- efficacy and safety of the vaccine be made readily available to the public, particularly those in underserved communities;
3. Procedures and processes be put in place by NYSBA to allow for the transmission of information to members regarding economic assistance available on the local, state and federal level;
  4. Federal and state court administrators keep in place the streamlined procedures for the payment of final and interim (for cases not yet completed) vouchers to attorneys who perform assigned work, especially in the event of a court shut down.

## SUMMARY OF RECOMMENDATIONS

### I. LAW OFFICE MANAGEMENT

Law offices should aim to reduce the spread of COVID-19 in the workplace. The recommended measures for the average law office include delineating social distancing, installing barriers when social distancing cannot be maintained, prohibiting or greatly reducing the amount of employee shared spaces and in-person contact with people other than other staff members, and regular sanitization of surfaces. Records to assist in contact tracing should be maintained. Law firms should accommodate staff's personal circumstances when possible and communicate with staff regularly regarding policies and possible virus exposure. An effective plan for implementing, maintaining, communicating and revising office policies to comply with mandates and guidelines should be developed and enforced.

Additional considerations for some law firms include facilitating communication between partners by scheduling daily calls, reviewing and revising the office's organizational chart for needed adjustments to the responsibilities of partners and staff, adjusting the firm's budget to accommodate new and increased areas of expense due to new demands placed upon the firm by the pandemic, increasing communication among all staff members, and ensuring all attorneys have an Advance Exit Plan in case of death or disability.

### II. COURTHOUSE SAFETY

Courthouse safety during in-person interactions should focus on reducing the spread of COVID-19 while providing access to the justice system. Recommendations include ensuring that all participants are screened for symptoms of infection prior to entering the buildings, the use of personal protective equipment while inside, high sanitization standards, and to provide equipment when necessary. Courthouse interior spaces (including holding cells) should be reconfigured or otherwise altered to reduce the spread of infection. The Task Force recommends that input on protocols be solicited from all stakeholders, including the Bar, and that staff be trained in the dangers and mitigation measures of infection.

### III. CRIMINAL MATTERS

Local and state health officials need to make informed decisions during the development, implementation, and revision of uniform protocols to enhance the safety of



participants during in-person appearances. Where in-person appearances may be waived, the Task Force recommends that defense practitioners consider not only the physical safety of their clients, but also the implications of waiving an in-person appearance as part of case strategy. Best practices would dictate that uniform guidelines for town and village courts be adopted and implemented by all judicial districts with input from the county district attorney and defense providers.

#### IV. CIVIL MATTERS

The Task Force urges the implementation of mandatory statewide e-filing and the enabling of electronic online access to entire case records for all courts. Technology should be used to electronically schedule pre-trial proceedings to reduce congestion in the courthouse. Reduce delays in case progression caused by adjournments or issues caused by discovery through the creation and implementation of a Preliminary Conference Form.

The OCA website should be enhanced so as to be able to provide users with a comprehensive source for all necessary information and forms.

#### V. VIRTUAL EVIDENCE

There should be standardization and consistency of process and protocols in virtual hearings and trials to reduce confusion for participants and promote efficiency. The Task Force recommends that OCA, in consultation with the Bar, promulgate uniform rules for the administration of virtual hearings and trials and develop a uniform statewide electronic evidence policy.

#### VI. GOVERNOR'S EXECUTIVE ORDERS

The Task Force recommendations regarding Governor's Executive Orders revolve around improving usability and accessibility of the information contained in the documents. The creation of an index, improved searchability of keywords with highlighted keywords in results, and implementation of metadata tagging to enable the Executive Orders to be searchable on Google all improve the usability and accessibility of the information contained in the Executive Orders.

#### VII. THE PRACTICE OF LAW AS ESSENTIAL

The practice of law should be deemed an essential occupation by New York State

leaders. Many offices faced difficulties providing critical services to clients due to forced shutdowns and mandatory workforce reductions. Classifying the practice of law as an essential occupation allows law offices to continue operations during a pandemic.

#### VIII. ECONOMIC ASSISTANCE TO MEMBERS

NYSBA members need reliable information and guidance on how to access economic assistance. NYSBA should put into place procedures and processes to allow for the transmission of information to members regarding economic assistance available from local, state, or federal governments. Court administrators should provide streamlined procedures for the payment of final and interim (for cases not yet completed) vouchers to attorneys who perform assigned work during a pandemic or other crisis that results in court shut-downs.

Attorneys, court staff, and members of the judiciary, as well as incarcerated inmates, should be prioritized for the receipt of any vaccine, once generally available.

## CONCLUSION

The COVID-19 pandemic took everyone by surprise. Most New Yorkers had never before experienced anything like the myriad of drastic disruptions in daily living. The extraordinary number of lives lost, severity of health impacts on those sickened, as well as the extended duration of the virus' circulation, will cause COVID-19 to be forever known in American history as a monumental health catastrophe. Its aftermath will be felt for quite some time. No part of society escaped COVID's reach, including New York's legal system.

The Task Force hopes that the information and recommendations contained in this Blueprint will provide guidance to those looking to know how to persevere during the remainder of this pandemic and to those who may endeavor to keep their law practice functioning should a future pandemic occur. This Blueprint's recommendations, while developed in response to COVID-19, can apply to any future pandemic that requires restrictions similar to those imposed by COVID. It may be easier to continue many of the recommendations rather than completely discard the protocols designed to curb transmission. That will avoid the need to embark on a dramatic restart in the event of a future pandemic. Safety and sanitization procedures kept in place may help reduce the severity of any similar event.

As of this writing, daily life is beginning to regain some resemblance to a pre-pandemic definition of "normal," but it will never be truly the same. COVID-19 caused lasting changes to New York's legal system. Many new practices, such as the use of technology to conduct remote court appearances, are here to stay. Such COVID changes, among others, now have a momentum of their own that will prevent a reversion to pre-pandemic standard operating procedures.

**APPENDIX A**  
**SURVEY OF BAR MEMBERS AND RESULTS**

Q1 Have you participated in a virtual appearance? And if so, was it through Skype or exclusively by phone?

Answered: 106 Skipped: 0

## Q1 Have you participated in a virtual appearance? And if so, was it through Skype or exclusively by phone?

Answered: 107 Skipped: 0

#	RESPONSES	DATE
1	Yes. Skype.	9/9/2020 9:54 AM
2	I have and yes its been through Skype.	8/28/2020 5:02 PM
3	Skype	8/27/2020 10:48 AM
4	Skype and phone conferences.	8/27/2020 9:42 AM
5	Yes. Skype and phone	8/27/2020 9:17 AM
6	Zoom	8/27/2020 8:58 AM
7	Phone and Zoom	8/27/2020 8:41 AM
8	Yes. I have used Skype. I am not happy with that platform.	8/27/2020 8:32 AM
9	Skype and phone.	8/27/2020 6:48 AM
10	Both by Skype and also other times just by phone	8/26/2020 9:39 PM
11	Both	8/26/2020 9:20 PM
12	Skype	8/26/2020 5:56 PM
13	yes. skype	8/26/2020 5:35 PM
14	yes. both skype for business and by phone	8/26/2020 5:11 PM
15	Skype	8/26/2020 4:52 PM
16	Yes via Skype for Business.	8/26/2020 4:50 PM
17	by skype	8/26/2020 4:49 PM
18	By Phone, Skype doesn't work for me.	8/26/2020 4:42 PM
19	no	8/26/2020 4:41 PM
20	No	8/25/2020 9:35 PM
21	No	8/25/2020 2:37 PM
22	Both Skype and phone	8/25/2020 2:09 PM
23	I have not yet appeared in a Virtual appearance	8/25/2020 11:13 AM
24	Skype	8/25/2020 10:39 AM
25	Both	8/25/2020 9:45 AM
26	both	8/25/2020 9:38 AM
27	Yes; I have done both Skype/Zoom and by phone.	8/25/2020 9:03 AM
28	yes	8/24/2020 9:39 PM
29	Skype and phone	8/24/2020 9:18 PM
30	Skype	8/24/2020 7:48 PM
31	Yes. Skype and phone	8/24/2020 6:07 PM

## Court Reopenings and Virtual Appearances

32	Yes. Skype for business	8/24/2020 6:03 PM
33	both	8/24/2020 5:50 PM
34	Skype and by phone	8/24/2020 5:38 PM
35	Skype for Business	8/24/2020 5:38 PM
36	Yes. Via Skype	8/24/2020 5:09 PM
37	I have participated in several virtual appearances via Skype.	8/24/2020 5:08 PM
38	Yes via skype	8/24/2020 5:06 PM
39	Both	8/24/2020 5:02 PM
40	yes by skype	8/24/2020 4:57 PM
41	Skype	8/24/2020 4:54 PM
42	Yes.....both	8/24/2020 2:56 PM
43	Video - not through Skype	8/24/2020 2:12 PM
44	Yes, by Skype	8/24/2020 6:30 AM
45	Yes. Both Skype and telephone	8/23/2020 9:01 PM
46	yes - skype	8/23/2020 7:53 PM
47	By phone.	8/23/2020 5:16 AM
48	yes, skype	8/22/2020 9:43 PM
49	yes; Skype	8/22/2020 4:14 PM
50	Phone.	8/21/2020 4:54 PM
51	Yes. Tried two times to use Skype both on my office computer and personal laptop without success. Had to rely on my cell phone putting me at a disadvantage over opposing counsel.	8/21/2020 4:28 PM
52	Yes; Skype	8/21/2020 1:41 PM
53	Skype via phone. No difference as a phone conference	8/21/2020 10:39 AM
54	Yes, by Skype and Zoom	8/21/2020 10:13 AM
55	Yes By Skype, Google Meetings, Microsoft Teams and by phone.	8/21/2020 10:06 AM
56	Both	8/21/2020 9:42 AM
57	Yes. Both Skype and by phone. One judge uses Skype to call in.	8/21/2020 8:57 AM
58	Zoom	8/20/2020 10:04 PM
59	Yes, through Skype	8/20/2020 9:34 PM
60	Skype	8/20/2020 8:52 PM
61	Yes both.	8/20/2020 7:45 PM
62	Yes. Zoom, I believe.	8/20/2020 7:16 PM
63	Federal Court by phone and zoom mediation.	8/20/2020 5:58 PM
64	both	8/20/2020 5:38 PM
65	Have participated in Skype, phone and 1 Zoom court appearance. The majority of cases before Judges has been by Skype and all others by phone.	8/20/2020 5:33 PM
66	No	8/20/2020 5:27 PM
67	yes. Skype.	8/20/2020 5:26 PM
68	Usually Skype and once by phone when Skype was not working/available	8/20/2020 5:17 PM

## Court Reopenings and Virtual Appearances

69	Skype.	8/20/2020 5:15 PM
70	Yes. Both via Skype and phone.	8/20/2020 5:15 PM
71	Yes - Skype	8/20/2020 5:14 PM
72	Skype	8/20/2020 8:34 AM
73	Yes, through Skype	8/19/2020 10:21 PM
74	Yes, Skype in Family Court; phone in Supreme Court	8/19/2020 5:10 PM
75	No	8/19/2020 3:27 PM
76	No	8/19/2020 3:16 PM
77	Yes, Skype for Business	8/19/2020 2:57 PM
78	yes , some with skype State courts some with zoom Federal cases. Web ex for state administrative agency hearings	8/19/2020 2:52 PM
79	both	8/19/2020 2:28 PM
80	Yes Skype I'm just gonna wait to get them back fix up them Yes. Skype	8/19/2020 2:27 PM
81	yes, skype and phone	8/19/2020 1:50 PM
82	yes, both	8/19/2020 1:49 PM
83	Yes. Both via Skype & telephone.	8/19/2020 12:35 PM
84	YES, SKYPE	8/19/2020 12:08 PM
85	Skype mostly and telephone once or twice	8/19/2020 11:55 AM
86	Yes, all have been Skype for Business	8/19/2020 11:34 AM
87	Yes. Skype and phone	8/19/2020 11:29 AM
88	yes...it has been both skype and phone	8/19/2020 11:26 AM
89	Yes By phone and zoom	8/19/2020 11:25 AM
90	yes, both	8/19/2020 11:24 AM
91	Many and I've done both by phone and Skype.	8/19/2020 11:23 AM
92	skyte and phone	8/19/2020 11:16 AM
93	Yes, both.	8/19/2020 9:16 AM
94	Both	8/19/2020 7:42 AM
95	Skype	8/18/2020 10:03 PM
96	Skype	8/18/2020 8:17 PM
97	Yes	8/18/2020 8:04 PM
98	It was through WebEx the NYS Workermers Compensation Board	8/18/2020 6:38 PM
99	both ways	8/18/2020 5:55 PM
100	By Skype and by phone.	8/18/2020 5:55 PM
101	Skype	8/18/2020 5:48 PM
102	Skype and phone	8/18/2020 5:48 PM
103	Skype	8/18/2020 5:47 PM
104	Skype and Zoom	8/18/2020 5:38 PM
105	Yes, several, on Skype for business.	8/18/2020 5:32 PM
106	Yes, by telephone no Skype yet.	8/18/2020 5:28 PM

## Court Reopenings and Virtual Appearances

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107	Not yet, one appearance (motion oral argument) is scheduled to occur by Skype in September 2020	8/18/2020 5:28 PM
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Q2 What stage in the proceeding was your case and please state the reason for your appearance, such as motion return date, preliminary or pre-trial conference, first appearance, etc.

Answered: 103 Skipped: 3

**Q2 What stage in the proceeding was your case and please state the reason for your appearance, such as motion return date, preliminary or pre-trial conference, first appearance, etc.**

Answered: 104 Skipped: 3

#	RESPONSES	DATE
1	Motion Return Date, dispositive evidentiary hearing/bench trial.	9/9/2020 9:54 AM
2	All conferences were preliminary	8/28/2020 5:02 PM
3	Hearing - Family Court guardianship	8/27/2020 10:48 AM
4	Preliminary and second conferences, motion return dates, pre-trial conferences	8/27/2020 9:42 AM
5	Preliminary conferences, custody proceedings, adoption finalizations, first appearances	8/27/2020 9:17 AM
6	Appearance and disposition	8/27/2020 8:58 AM
7	settlement conference	8/27/2020 8:41 AM
8	It was a scheduled court appearance	8/27/2020 8:32 AM
9	Hearings.	8/27/2020 6:48 AM
10	First appearance Further conferences Hearing	8/26/2020 9:39 PM
11	All of the above	8/26/2020 9:20 PM
12	Pre-trial	8/26/2020 5:56 PM
13	It was a Character & Fitness subcommittee hearing on my client's reinstatement application.	8/26/2020 5:35 PM
14	pretrial	8/26/2020 5:11 PM
15	Covid conference.	8/26/2020 4:52 PM
16	Status, decision of motion, guilty pleas and sentences in Supreme, Criminal Term.	8/26/2020 4:50 PM
17	preliminary conference	8/26/2020 4:49 PM
18	Preliminary, first appearance	8/26/2020 4:42 PM
19	n/a	8/26/2020 4:41 PM
20	N/A	8/25/2020 9:35 PM
21	Appearances were for return of a motion; preliminary conference and pre-trial conference.	8/25/2020 2:09 PM
22	I have appeared on a motion return date, status conferences, and an inquest	8/25/2020 10:39 AM
23	Preliminary conference	8/25/2020 9:45 AM
24	I have attended several at all stages of proceeding including support hearing by telephone.	8/25/2020 9:38 AM
25	Pretrial conferences, early settlement conferences, and compliance conferences.	8/25/2020 9:03 AM
26	all of the above	8/24/2020 9:39 PM
27	Pre-indictment conferences, prettified conferences	8/24/2020 9:18 PM
28	Pre-trial. P.C. Conference, Compliance Conference & Pre-trial Conference; Emergency TOP Applications.	8/24/2020 7:48 PM
29	Motions, status conference, Settlement conference	8/24/2020 6:07 PM
30	pre-trial conference on state court matters; arraignment in federal court	8/24/2020 6:03 PM

## Court Reopenings and Virtual Appearances

31	all of the above	8/24/2020 5:50 PM
32	Motion and pretrial conferences.	8/24/2020 5:38 PM
33	Conferences	8/24/2020 5:38 PM
34	I have participated in numerous appearances for numerous matters all in different stages of litigation.	8/24/2020 5:09 PM
35	I appeared twice on the same proceeding for a status conference and a third time for a settlement conference.	8/24/2020 5:08 PM
36	Postjudgment conference following motion return	8/24/2020 5:06 PM
37	I have appeared in all apperances listed above	8/24/2020 5:02 PM
38	status conf, motions, preliminary and pre trial	8/24/2020 4:57 PM
39	Criminal disposition	8/24/2020 4:54 PM
40	Motion return date; first appearances	8/24/2020 2:56 PM
41	Status conference and oral argument on motion to dismiss.	8/24/2020 2:12 PM
42	All stages.	8/24/2020 6:30 AM
43	First time on; compliance conferences; status conferences	8/23/2020 9:01 PM
44	motions, preliminary, pre-trial and other conferences	8/23/2020 7:53 PM
45	Bond hearings--immigration court.	8/23/2020 5:16 AM
46	motion return date	8/22/2020 9:43 PM
47	oral argument on motion settlement conferene	8/22/2020 4:14 PM
48	Compliance conference.	8/21/2020 4:54 PM
49	The case was on for a preliminary conference on the same case twice with another preliminary conference on another case the first week of September. I'm dreading it.	8/21/2020 4:28 PM
50	Today was an OTSC hearing in Family Court	8/21/2020 1:41 PM
51	motions after summary judgment heading toward a damages inquest	8/21/2020 10:39 AM
52	Motions, preliminary conferences, Pre-trial conferences	8/21/2020 10:13 AM
53	Pre=trial	8/21/2020 10:06 AM
54	motion and pre trial conference	8/21/2020 9:42 AM
55	Order to show cause, and compliance conferences	8/21/2020 8:57 AM
56	Conferences, pre-trail, motions	8/20/2020 10:04 PM
57	Surrogate Court return date; Surrogate court conference	8/20/2020 9:34 PM
58	Otto hearing, writ of habeas corpus, criminal sentencing, many pre-trial conferences, CAP arraignments	8/20/2020 8:52 PM
59	Initial Conferences / First Appearance	8/20/2020 7:45 PM
60	It was for a motion to be relieved.	8/20/2020 7:16 PM
61	Initial conference and court ordered mediation.	8/20/2020 5:58 PM
62	pretrial conference settlement conference	8/20/2020 5:38 PM
63	The majority of my cases have had appearances on family offense proceedings especially when there is an exclusion against the party, so the first appearance and exclusion hearing occurred within a short period of time.	8/20/2020 5:33 PM
64	N/a	8/20/2020 5:27 PM
65	Settlement conference	8/20/2020 5:26 PM

## Court Reopenings and Virtual Appearances

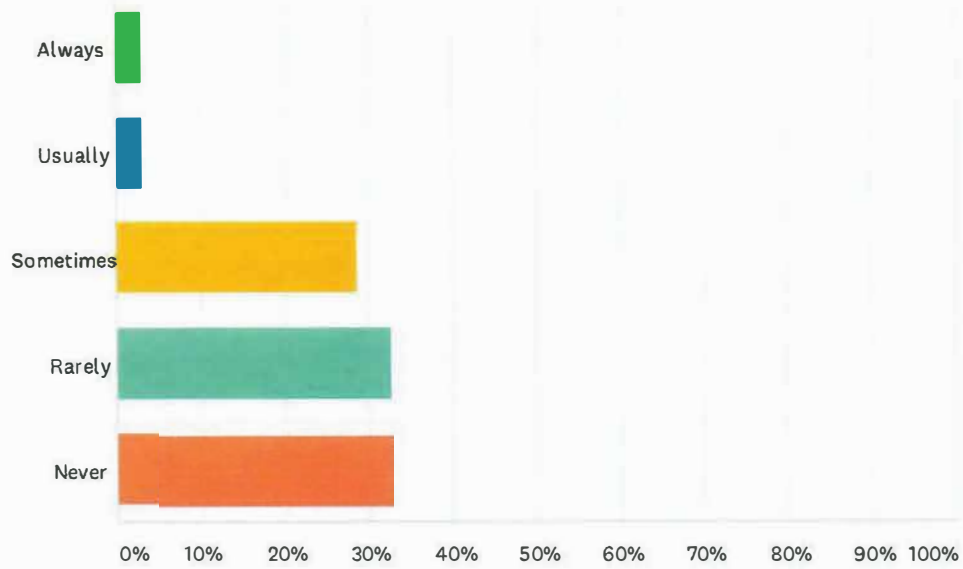
66	Motion, temp guardianship, status conferences, initial appearance on civil commitment matter	8/20/2020 5:17 PM
67	Argument of motion.	8/20/2020 5:15 PM
68	I've conducted status conferences, depositions, and mediations virtually.	8/20/2020 5:15 PM
69	Pre- trial conferences, first appearances and hearings	8/20/2020 5:14 PM
70	Family Court, all aspects of every case, because they were all considered "essential matters"	8/20/2020 8:34 AM
71	settlement conferences and motion arguments	8/19/2020 10:21 PM
72	Both cases were conferences in pending cases.	8/19/2020 5:10 PM
73	N/A	8/19/2020 3:16 PM
74	Conference with Court Attorney.	8/19/2020 2:57 PM
75	Federal arraignment, plea in criminal case motion oral argument.. State arraignment , further proceedings, pre trial cival cases	8/19/2020 2:52 PM
76	1. settling a divorce case 2. Sentencing a defendant	8/19/2020 2:28 PM
77	Conference	8/19/2020 2:27 PM
78	skype for hearing, skype for conf, phone for conf	8/19/2020 1:50 PM
79	pretrial	8/19/2020 1:49 PM
80	Arraignments, pre-trial conferences, motion arguments, pleas & bail hearings.	8/19/2020 12:35 PM
81	PRE-TRIAL CONFERENCE, SETTLEMENT NEGOTIATIONS, MOTIONS	8/19/2020 12:08 PM
82	Conferences only.	8/19/2020 11:55 AM
83	I have appeared for status conferences and oral argument.	8/19/2020 11:34 AM
84	Settlement Conference	8/19/2020 11:29 AM
85	motions, conferences,	8/19/2020 11:26 AM
86	Compliance conference, Deposition	8/19/2020 11:25 AM
87	discovery, and settlement conference	8/19/2020 11:24 AM
88	All of the above plus a virtual trial.	8/19/2020 11:23 AM
89	discovery , prelim coference	8/19/2020 11:16 AM
90	I've appeared for virtual conferences in every stage of a civil proceedings except for trial. This includes preliminary conferences, compliance conferences, pre-trial conferences, and motion return dates.	8/19/2020 9:16 AM
91	preliminary conferences and pre-trial conferences as well as motion return date	8/19/2020 7:42 AM
92	Motion return date and pre-trial conferences	8/18/2020 10:03 PM
93	Preliminary conference	8/18/2020 8:17 PM
94	Motion return date	8/18/2020 8:04 PM
95	Ongoing administrative proceedings	8/18/2020 6:38 PM
96	motion return dates	8/18/2020 5:55 PM
97	Motions and first time on as well as status conference and preliminary conference.	8/18/2020 5:55 PM
98	Return dates of motions, conferences.	8/18/2020 5:48 PM
99	Arraignment on new arrest. Preliminary hearing. Felony sentence. Violation plea. Status conference	8/18/2020 5:48 PM
100	motions and conferences	8/18/2020 5:47 PM
101	Pre-trial conference Settlement conference Motion return date	8/18/2020 5:38 PM

## Court Reopenings and Virtual Appearances

102	pre-trial conference and pre-trial motion	8/18/2020 5:32 PM
103	Pre-trial conference both times.	8/18/2020 5:28 PM
104	Oral argument on motion.	8/18/2020 5:28 PM

### Q3 Did you have any problems connecting virtually?

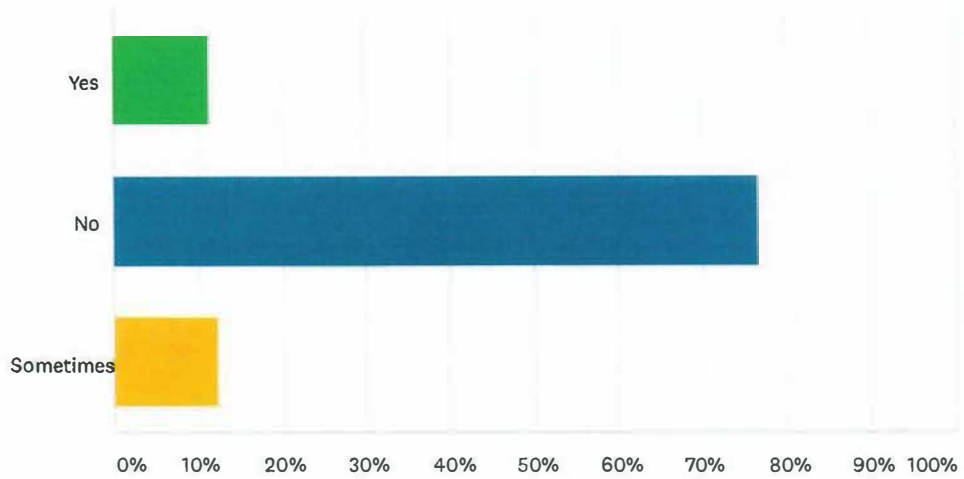
Answered: 98 Skipped: 8



ANSWER CHOICES	RESPONSES	
Always	3.06%	3
Usually	3.06%	3
Sometimes	28.57%	28
Rarely	32.65%	32
Never	32.65%	32
<b>TOTAL</b>		<b>98</b>

### Q4 Do you believe the virtual appearance compromised your client's position at all?

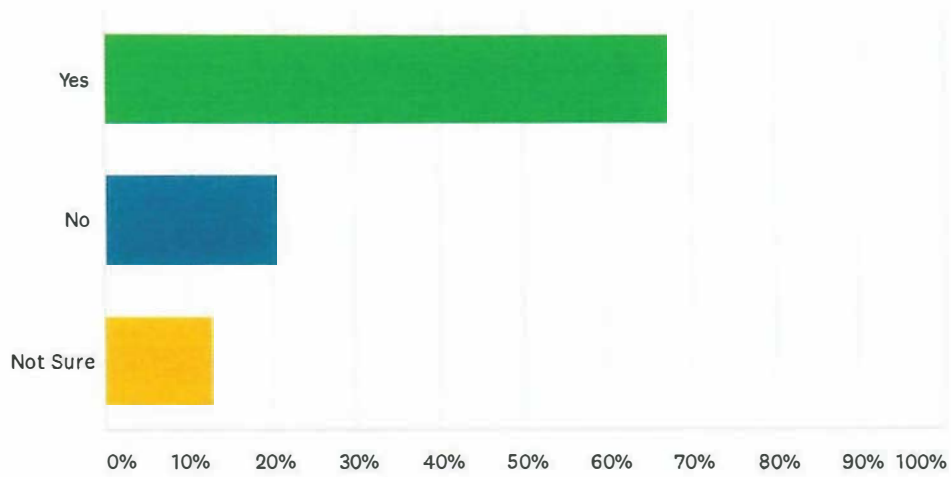
Answered: 98 Skipped: 8



ANSWER CHOICES	RESPONSES	
Yes	11.22%	11
No	76.53%	75
Sometimes	12.24%	12
<b>TOTAL</b>		<b>98</b>

### Q5 Would you consider participating in virtual appearances indefinitely?

Answered: 103 Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	66.99%	69
No	20.39%	21
Not Sure	12.62%	13
<b>TOTAL</b>		<b>103</b>



Q6 Have you conducted a virtual trial or hearing? And if so, what was your impression of how the trial or hearing was conducted?

Answered: 102 Skipped: 4

## Q6 Have you conducted a virtual trial or hearing? And if so, what was your impression of how the trial or hearing was conducted?

Answered: 103 Skipped: 4

#	RESPONSES	DATE
1	Yes. Although the matter was resolved, the only issue I foresaw was that the Court and court reporter were unclear on how we would submit, use, and enter exhibits.	9/9/2020 9:54 AM
2	No I actual had an in person trial	8/28/2020 5:02 PM
3	As best as could be done under the circumstances	8/27/2020 10:48 AM
4	No.	8/27/2020 9:42 AM
5	I have not conducted a virtual matter which was contested. I believe that contested trials should be held in-person.	8/27/2020 9:17 AM
6	Yes, no issues	8/27/2020 8:58 AM
7	No	8/27/2020 8:41 AM
8	Yes I have. I have participated in a virtual arbitrations. I have lost visual on the platform that the State was using. It was a 2 day hearing.	8/27/2020 8:32 AM
9	Hearing- after the initial issues, it went well.	8/27/2020 6:48 AM
10	Yes but then the case settled So the hearing was not determinative	8/26/2020 9:39 PM
11	No	8/26/2020 9:20 PM
12	no	8/26/2020 5:56 PM
13	no.	8/26/2020 5:11 PM
14	No	8/26/2020 4:52 PM
15	No	8/26/2020 4:50 PM
16	no and I don't look forward to it. The rules and procedures as they now exist, e.g., marking exhibits, can make a virtual civil trial a nightmare.	8/26/2020 4:49 PM
17	No	8/26/2020 4:42 PM
18	no	8/26/2020 4:41 PM
19	No	8/25/2020 9:35 PM
20	No	8/25/2020 2:37 PM
21	No and am trying not to!	8/25/2020 2:09 PM
22	I have not appeared in a Virtual trial or hearing.	8/25/2020 11:13 AM
23	No	8/25/2020 10:39 AM
24	No	8/25/2020 9:45 AM
25	I did a support hearing by telephone. It is very difficult because you have to submit all exhibits in advance and if anything comes up at trial you can't submit more exhibits.	8/25/2020 9:38 AM
26	Virtual Arbitration. It was okay; I would have preferred it being in person.	8/25/2020 9:03 AM
27	NO	8/24/2020 9:39 PM
28	Suppression hearing-very difficult to observe demeanor of police witness	8/24/2020 9:18 PM
29	No	8/24/2020 7:48 PM

## Court Reopenings and Virtual Appearances

30	No	8/24/2020 6:07 PM
31	No. I would oppose a virtual trial.	8/24/2020 6:03 PM
32	not yet	8/24/2020 5:50 PM
33	I have not done a virtual trial or hearing yet.	8/24/2020 5:38 PM
34	No.	8/24/2020 5:38 PM
35	No	8/24/2020 5:09 PM
36	No. I have not conducted a virtual trial or hearing.	8/24/2020 5:08 PM
37	No	8/24/2020 5:06 PM
38	I have a virtual trial scheduled but have not participated in one. I am willing to do so though.	8/24/2020 5:02 PM
39	no	8/24/2020 4:57 PM
40	No	8/24/2020 4:54 PM
41	No	8/24/2020 2:56 PM
42	None yet.	8/24/2020 2:12 PM
43	No	8/24/2020 6:30 AM
44	no	8/23/2020 9:01 PM
45	no - and I prefer not to do so	8/23/2020 7:53 PM
46	Several bond hearings--bond granted. Trials/final hearings were in person.	8/23/2020 5:16 AM
47	hearing. It depends on the judge.	8/22/2020 9:43 PM
48	no	8/22/2020 4:14 PM
49	No.	8/21/2020 4:54 PM
50	No	8/21/2020 4:28 PM
51	Yes. It was fine; no issue except for a few times unable to hear person, but Judge allowed a repeat of what was said.	8/21/2020 1:41 PM
52	no	8/21/2020 10:39 AM
53	No	8/21/2020 10:13 AM
54	No	8/21/2020 10:06 AM
55	As a trustee in bankruptcy, I have been conducting phone hearings since March 2020. By and large it has gone well.	8/21/2020 9:42 AM
56	Not yet but have one scheduled	8/21/2020 8:57 AM
57	No	8/20/2020 10:04 PM
58	No.	8/20/2020 9:34 PM
59	It went fine, but the other side didn't show and had no lawyer. (However, workers compensation hearings have been virtual for years if you choose to (now mandatory) and generally it goes ok).	8/20/2020 8:52 PM
60	Very professional and well-managed.	8/20/2020 7:45 PM
61	No.	8/20/2020 7:16 PM
62	I have participated in a successful federal zoom mediation. It was awesome! Several years ago I represented a client who I never met at a DOL UIB telephone hearing. He lied under oath and when I successfully rehabilitated his testimony without leading him (DOL audited that proceeding) I realized we don't have to meet even litigation clients in person. Opened my eyes.	8/20/2020 5:58 PM
63	no	8/20/2020 5:38 PM

## Court Reopenings and Virtual Appearances

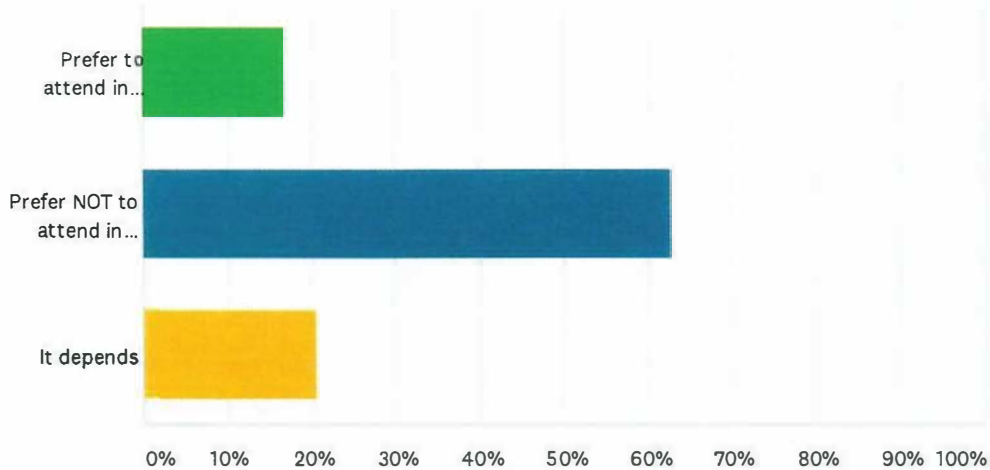
64	Yes - a hearing on a child support case, an exclusion hearing for an order of protection, and a hearing on issues of custody and visitation as part of a divorce in Supreme Court. So far I think the Supreme Court proceedings worked best due to how it was run. Half of the case could be disposed of by submitting written affidavits by all the witnesses and submitting all evidence in advance, so the only testimony elicited was cross examination of the witness and then any redirect. The witnesses were also instructed that they had to be available by video to testify.	8/20/2020 5:33 PM
65	no	8/20/2020 5:26 PM
66	Client also appeared via Skype. It went very smoothly. One difficulty is speaking with client confidentially during the proceeding.	8/20/2020 5:17 PM
67	no	8/20/2020 5:15 PM
68	Hearing - I do not feel it's as effective as in person. You can't judge their body language as well, you run into tech issues and I feel it's too easy for someone to be coached	8/20/2020 5:14 PM
69	It was weird; it was, in my opinion, only really possible because the Family Court judges were excellent in keeping things moving forward in a fair fashion.	8/20/2020 8:34 AM
70	No, I have not	8/19/2020 10:21 PM
71	No.	8/19/2020 5:10 PM
72	No	8/19/2020 3:27 PM
73	No.	8/19/2020 3:16 PM
74	No, I have not done a virtual trial or hearing.	8/19/2020 2:57 PM
75	yes administrative. it went ok but much chaos with technical problems with webex. it saved travel to Schenectady for witnesses the race driver who appealed sanction and the State Veterinarian. If they used zoom it would have been flawless exhibits easy to share	8/19/2020 2:52 PM
76	No	8/19/2020 2:27 PM
77	As noted above, it was awkward and felt like a third-rate circus, not a court of justice.	8/19/2020 1:50 PM
78	yes, went great, mostly because Support Magistrate managed it very patiently and skillfully for both parties	8/19/2020 1:49 PM
79	I have conducted virtual hearings. For some purposes - bail, motions, competency, as examples, virtual is preferable. However, in person is still preferable for testimonial types of proceedings.	8/19/2020 12:35 PM
80	NO	8/19/2020 12:08 PM
81	Not yet.	8/19/2020 11:55 AM
82	I have not.	8/19/2020 11:34 AM
83	No.	8/19/2020 11:29 AM
84	I was part of conference that ended up being a hearing with a proposed order filed based upon the judge's ruling which I understood was only a conference. There must be a clear understanding of conference vs. hearing.	8/19/2020 11:26 AM
85	Not yet	8/19/2020 11:25 AM
86	no	8/19/2020 11:24 AM
87	Yes. It was ok. Not perfect. Connectivity issues with the court reporter. Evidence issues.	8/19/2020 11:23 AM
88	No	8/19/2020 11:16 AM
89	N/A	8/19/2020 9:16 AM
90	no	8/19/2020 7:42 AM
91	Three times the judge did not have motions submitted by EDDS. So our conference was submitting the docs or tracking info and holding a later conference. Initial hearing was a waste of time.	8/18/2020 10:03 PM

## Court Reopenings and Virtual Appearances

92	No	8/18/2020 8:17 PM
93	No	8/18/2020 8:04 PM
94	Yes. It is horrible. The transcript when listened to (WCB has a digital recording system) sometimes does not catch everyone and sometimes it's blank this calling for a do-over in the event of an appeal or issue.	8/18/2020 6:38 PM
95	yes. it was not as effective as in person.	8/18/2020 5:55 PM
96	No.	8/18/2020 5:55 PM
97	No, the one trial I did would not have been effective virtually. Elderly clients are not adaptable and are easily confused by the remote process.	8/18/2020 5:48 PM
98	Preliminary hearing. There was break up of sound intermittently	8/18/2020 5:48 PM
99	no	8/18/2020 5:47 PM
100	No I have not	8/18/2020 5:38 PM
101	I have not done a virtual trial or hearing. I feel these MUST be in person. Often I defend high-exposure cases. My answer might be different if I had a high-volume practice of 25 / 50K and/or threshold cases that are good for summary jury or virtual trials.	8/18/2020 5:32 PM
102	n/A	8/18/2020 5:28 PM
103	No	8/18/2020 5:28 PM

Q7 Do you prefer to attend appearances in person during the pandemic or prefer NOT to attend appearances in person during the pandemic?

Answered: 102 Skipped: 4



ANSWER CHOICES	RESPONSES	
Prefer to attend in person	16.67%	17
Prefer NOT to attend in person	62.75%	64
It depends	20.59%	21
<b>TOTAL</b>		<b>102</b>

Q8 Have you encountered technological problems during a virtual court appearance? And if so, were you able to overcome any such technological problems?

Answered: 95 Skipped: 11

## Q8 Have you encountered technological problems during a virtual court appearance? And if so, were you able to overcome any such technological problems?

Answered: 96 Skipped: 11

#	RESPONSES	DATE
1	see above re skype not working with audio and video from my computer (mac device) even with the skype business app downloaded. I was able to overcome the technological difficulty but others may not be as tech savvy. Also, the court system should demand that skype fix the problem or move over to Microsoft Teams which is a much better platform.	9/9/2020 9:54 AM
2	Not at all.	8/28/2020 5:02 PM
3	Problems generally were resolved	8/27/2020 10:48 AM
4	Yes I have encountered them but was able to correct the problem once I talked with the OCA technical team.	8/27/2020 9:42 AM
5	Clients sometimes have difficulty in entering a virtual appearance. The courts have been patient in those instances (in one uncontested adoption finalization case, the judge gave the clients his cell phone number so that they could connect via Facetime!)	8/27/2020 9:17 AM
6	No	8/27/2020 8:58 AM
7	As stated in #6 I had lost visual contact.	8/27/2020 8:32 AM
8	Able to overcome.	8/27/2020 6:48 AM
9	Yes In one instance I hung up and just participated over the phone	8/26/2020 9:39 PM
10	Yes for the most part as long as no one becomes petty or pretentious	8/26/2020 9:20 PM
11	Yes. And no as I was unable to fix it.	8/26/2020 4:52 PM
12	Yes, I overcame the issue by using the Skype for Business app instead of the desktop.	8/26/2020 4:50 PM
13	no problems; it actually works well, congrats to whoever put this in place on about a minutes worth of notice.	8/26/2020 4:49 PM
14	As previously stated, my single appearance was by ordinary telephone without any problem. In my opinion, video is not really necessary in most preliminary matters.	8/26/2020 4:42 PM
15	n/a	8/26/2020 4:41 PM
16	N/A	8/25/2020 9:35 PM
17	Yes. Difficulties with virtual appearances became telephone conferences.	8/25/2020 2:09 PM
18	Yes, at times the screen froze and participants either had difficulty logging on or were knocked off and had to log in again	8/25/2020 10:39 AM
19	There have been a few problems, but everyone has been cooperative and understanding and in most cases we were able to continue. There is nothing in these glitches that would or should limit future use.	8/25/2020 9:38 AM
20	Yes; but generally speaking, you log back into the meeting and it is not a problem. Depositions have been somewhat more challenging, but the hearings/conferences generally do not experience problems, and if so, they are easily corrected.	8/25/2020 9:03 AM
21	NO	8/24/2020 9:39 PM
22	No	8/24/2020 9:18 PM
23	NoProblems. But concerned with upcoming switch from Skype to Teams.	8/24/2020 7:48 PM



## Court Reopenings and Virtual Appearances

24	No	8/24/2020 6:07 PM
25	Some connection problems were not resolved.	8/24/2020 6:03 PM
26	no, I am lucky to have good internet connection	8/24/2020 5:50 PM
27	None	8/24/2020 5:38 PM
28	Yes, and we were able to overcome them.	8/24/2020 5:38 PM
29	I have. I have been able to get through although it is not perfect	8/24/2020 5:09 PM
30	Fortunately, I have not encountered any technological problems during my virtual court appearances.	8/24/2020 5:08 PM
31	As stated above the court reporter froze. Also when I click accept the skype link disappears (i think this is the nature of my calendar program) so if I don't send it to my self before accepting I would have no link.	8/24/2020 5:06 PM
32	Yes and yes	8/24/2020 5:02 PM
33	yes. parties disappear and have to sign back in or call in.	8/24/2020 4:57 PM
34	No	8/24/2020 4:54 PM
35	No	8/24/2020 2:56 PM
36	None.	8/24/2020 2:12 PM
37	No, it has been seamless and wonderful	8/24/2020 6:30 AM
38	No	8/23/2020 9:01 PM
39	No - but I have seen others with problems	8/23/2020 7:53 PM
40	No.	8/23/2020 5:16 AM
41	No	8/22/2020 9:43 PM
42	no problem	8/22/2020 4:14 PM
43	No.	8/21/2020 4:54 PM
44	Yes, Had to rely on a phone call .	8/21/2020 4:28 PM
45	On 2 appearances, my computer would not connect to the Skype meeting; I tried a different computer, without success. The skype.com gentlemen suggested I reboot my computer just prior to the Skype, which I have done and no problems since.	8/21/2020 1:41 PM
46	no. still can't joint skype meetings with video from my I phone	8/21/2020 10:39 AM
47	no problems	8/21/2020 10:13 AM
48	Yes and Yes	8/21/2020 10:06 AM
49	No, just the learning curve.	8/21/2020 9:42 AM
50	Yes. Not everyone can get on so it forces the meeting to a different format.	8/21/2020 8:57 AM
51	Yes	8/20/2020 10:04 PM
52	Yes, but they were overcome quickly.	8/20/2020 9:34 PM
53	Yes	8/20/2020 8:52 PM
54	Very few and they were easily overcome.	8/20/2020 7:45 PM
55	No, not with a court appearance. I did, however, have a deposition that had to be rescheduled because technical difficulties.	8/20/2020 7:16 PM
56	occasional signal loss. But do in person appearances occur without hitches. Anyone ever travel 2 hours and be informed the hearing is off?	8/20/2020 5:58 PM
57	i have always been able to overcome. the court has been very accepting of lateness due to	8/20/2020 5:38 PM

## Court Reopenings and Virtual Appearances

	problems with technology	
58	Yes - for a period of time my mic was not being picked up. I restarted my computer and it was all fixed.	8/20/2020 5:33 PM
59	no	8/20/2020 5:26 PM
60	Yes and yes	8/20/2020 5:17 PM
61	I have had some minor problems that I was able to either fix or find a work-around for with relative ease.	8/20/2020 5:15 PM
62	Yes - and yes very quickly. It has rarely been an issue	8/20/2020 5:14 PM
63	No problems; however, my home points directly to a Verizon Wireless tower. Many of my attorney colleagues had to do virtual appearances on their cell phones. Not ideal.	8/20/2020 8:34 AM
64	no technological problems	8/19/2020 10:21 PM
65	No	8/19/2020 5:10 PM
66	Minor glitches; all overcome quickly and easily.	8/19/2020 2:57 PM
67	yes with webex and skype very volatile platforms	8/19/2020 2:52 PM
68	no	8/19/2020 2:28 PM
69	Yes	8/19/2020 2:27 PM
70	YES. see answers above.	8/19/2020 1:50 PM
71	no	8/19/2020 1:49 PM
72	A few, but mostly the technology works very well.	8/19/2020 12:35 PM
73	YES. ON ONE OCCASION, AFTER ABOUT 45 MINUTES, I LOST THE CONNECTION AND COULD NOT RECONNECT. I BELIEVE SKYPE ONLY ALLOWS A PERSON A SET AMOUNT OF TIME.	8/19/2020 12:08 PM
74	Yes we have - our audio going across as "chipmunk-ish" . Restarting the program to join the meeting resolved issue. Using a different machine also resolved the issue. Problem was on our side.	8/19/2020 11:55 AM
75	As stated above, yes, several phone calls were required to address the virtual problems in one instance. For virtual oral argument, a planning session before the argument was required to make sure everyone could connect and I believe that that required some fixes to allow the oral argument to work.	8/19/2020 11:34 AM
76	I have not.	8/19/2020 11:29 AM
77	Not during, but yes, in signing in I have had problems and that is stressful.	8/19/2020 11:26 AM
78	No problems	8/19/2020 11:25 AM
79	no	8/19/2020 11:24 AM
80	Yes. But I've called into the Skype and it was doable.	8/19/2020 11:23 AM
81	yes	8/19/2020 11:16 AM
82	No technical issues yet.	8/19/2020 9:16 AM
83	yes and yes	8/19/2020 7:42 AM
84	No	8/18/2020 10:03 PM
85	Yes and yes	8/18/2020 8:17 PM
86	No	8/18/2020 8:04 PM
87	Yes and sometimes no. Sometimes attorneys had to be called on their personal cell phones.	8/18/2020 6:38 PM
88	no	8/18/2020 5:55 PM

## Court Reopenings and Virtual Appearances

89	Yes, I have had trouble logging on at times. However, that problem has been resolved by hard wiring at the office and buying a new computer all-in-one with hard wiring at home. Many times, I have not been able to see all the participants on the Skype but rather see only a few. I can't tell if the participant is still there or has lost the connection. I have been able to overcome the technological problems but I have had adversaries have trouble logging on. Wireless is a problem in my opinion since when I used wireless I got disconnected, the screen froze, I couldn't hear participants and the visual was bad. The court's Skype test is excellent and very helpful.	8/18/2020 5:55 PM
90	Almost all of my appearances have involved technical difficulties. I have used Zoom and several other comparable technologies without problem, but Skype disappoints every time.	8/18/2020 5:48 PM
91	Yes and no	8/18/2020 5:48 PM
92	yes. Breaking up	8/18/2020 5:47 PM
93	The judge in one appearance was not competent in Office Zoom which was his choice. He repeatedly told the parties to press a prompt that would disconnect us. We had to repeatedly sign in and he was getting annoyed. No one wanted to tell the judge it was his own doing. All parties have to be proficient in the technology including the judge.	8/18/2020 5:38 PM
94	One time my camera would not face the correct way. I ended up winning the motion, so no big deal I guess.	8/18/2020 5:32 PM
95	n/a	8/18/2020 5:28 PM
96	Have not yet appeared	8/18/2020 5:28 PM

Q9 Have you returned to your local courthouse for court appearances? If not, would you feel comfortable returning to your local courthouse?

Answered: 104 Skipped: 2

## Court Reopenings and Virtual Appearances

#	RESPONSES	DATE
1	I have and it was ok	8/28/2020 5:04 PM
2	Yes	8/27/2020 10:50 AM
3	I have not returned to the courthouse yet, but am scheduled to do an in-person divorce trial at the end of September. I am not looking forward to that.	8/27/2020 9:43 AM
4	I am not very comfortable with in-person appearances, but I have done several.	8/27/2020 9:18 AM
5	No...undecided	8/27/2020 8:59 AM
6	No and no	8/27/2020 8:42 AM
7	Yes. I have appeared in Watertown City Court for a trial.	8/27/2020 8:34 AM
8	I have not returned. I would rather not return because of the concern of the court building and the MTA.	8/27/2020 6:49 AM
9	Not yet Yes, I would I will be going next week	8/26/2020 9:40 PM
10	Maybe if I don't need to ride in a packed elevator, wait on long lines or appear at several different times during one day	8/26/2020 9:23 PM
11	no	8/26/2020 5:35 PM
12	yes and yes	8/26/2020 5:12 PM
13	No but I would like to return.	8/26/2020 4:54 PM
14	I do not fell comfortable returning to in person court at this time in light of the conditions I stated in an earlier response.	8/26/2020 4:53 PM
15	no and right now I would not be comfortable	8/26/2020 4:50 PM
16	No, but I would be OK with it.	8/26/2020 4:43 PM
17	no	8/26/2020 4:41 PM
18	No, no	8/25/2020 9:35 PM
19	Yes	8/25/2020 2:38 PM
20	No I have not and NO I do not feel comfortable. I have heard from others that many court rooms have not been cleaned!	8/25/2020 2:10 PM
21	I was comfortable insofar as the courthouse and staff were well prepared. I was comfortable.	8/25/2020 11:17 AM
22	I have not returned to our courthouses other than to tour 2 buildings to observe COVID-19 procedures. I do not feel comfortable returning without more plexiglass installed to protect lawyers and litigants, more safety precautions with ventilation, more signs directing people to hand sanitizing stations, and more intense cleaning	8/25/2020 10:53 AM
23	No have not and would not want to at this time.	8/25/2020 9:46 AM
24	Yes.	8/25/2020 9:40 AM
25	No; I am scheduled to in October. I am not entirely comfortable with the idea, but I am curious to see how things will be.	8/25/2020 9:04 AM
26	Yes but I'm not uncomfortable doing so	8/24/2020 9:40 PM
27	Been there; it's ok	8/24/2020 9:21 PM
28	Town Court yes; Supreme & Family Court no. If the mall could not open until MERV-13 filtration Proven, then how could 100+ year old courthouses open with their ventilation being an open window? It was/is a mistake to open courthouses without proof of high level air filtration in place.	8/24/2020 7:53 PM
29	No. Yes.	8/24/2020 6:07 PM
30	Yes. Twice so far. Another personal appearance is scheduled tomorrow. I am not completely comfortable.	8/24/2020 6:07 PM

## Court Reopenings and Virtual Appearances

31	Yes,	8/24/2020 5:51 PM
32	There is always worry. I believe OCA should get rid of the insignificant appearances. All pretrial, bail review, motions and preliminary hearings and conferences should be done via Skype. I believe it is sound from a cost-benefit analysis.	8/24/2020 5:41 PM
33	Not just yet -- but coming soon.	8/24/2020 5:38 PM
34	I have not yet returned to my local courthouse. I'm not sure I would feel uncomfortable perhaps uneasy is a better word to describe my feelings.	8/24/2020 5:15 PM
35	No. Not at this time	8/24/2020 5:09 PM
36	have not returned and would not feel comfortable doing so.	8/24/2020 5:07 PM
37	I went to the ctchse during the shutdown so i am unafraid to return. I have made no appearances.	8/24/2020 5:04 PM
38	yes	8/24/2020 4:58 PM
39	No	8/24/2020 4:55 PM
40	No.....Yes	8/24/2020 2:57 PM
41	No return yet. Yes, would be comfortable.	8/24/2020 2:12 PM
42	I have not. My first in person appearance is scheduled for September 11 and I am a little nervous and find myself wondering why we are doing it	8/24/2020 6:31 AM
43	Yes. And I wasn't happy about it.	8/23/2020 9:02 PM
44	I have not returned, but would feel comfortable	8/23/2020 7:53 PM
45	We had individual/final hearing(s) in person.	8/23/2020 5:17 AM
46	no	8/22/2020 9:44 PM
47	no an do not feel comfortable	8/22/2020 4:14 PM
48	No. Would feel comfortable returning.	8/21/2020 4:54 PM
49	No but I would go and will be going next week	8/21/2020 4:29 PM
50	No and no.	8/21/2020 1:42 PM
51	no	8/21/2020 10:40 AM
52	Twice and yes, I found the precautions to be sufficient. I would prefer not to be there every day as I often was in the before times.	8/21/2020 10:16 AM
53	No Not Yet	8/21/2020 10:06 AM
54	NO and yes.	8/21/2020 9:44 AM
55	I have not had anything in person, but went to drop off a file for a paper case. I would be worried about getting to the court house and how crowded the court will be	8/21/2020 8:59 AM
56	Yes	8/20/2020 10:06 PM
57	No. Would prefer not to appear in person.	8/20/2020 9:35 PM
58	I have and it is uncomfortable	8/20/2020 8:55 PM
59	No. I would only attend if absolutely necessary.	8/20/2020 7:45 PM
60	No. It depends.	8/20/2020 7:16 PM
61	no and no	8/20/2020 6:00 PM
62	not yet, i would on a v limited basis	8/20/2020 5:39 PM
63	I have not - I only appear in NYC and I do not feel comfortable returning to my local courthouses right now.	8/20/2020 5:33 PM

## Court Reopenings and Virtual Appearances

64	Yes	8/20/2020 5:28 PM
65	no and no	8/20/2020 5:27 PM
66	No and no	8/20/2020 5:18 PM
67	No.	8/20/2020 5:16 PM
68	Yes - for some	8/20/2020 5:15 PM
69	I have made one appearance at a courthouse for a child custody matter and that's it. I would not mind a personal appearance at a courthouse for a conference or motion argument, but only if I am not in an enclosed area with numerous other people.	8/20/2020 5:15 PM
70	No; see above.	8/20/2020 8:36 AM
71	Only once due to miscommunication	8/19/2020 10:22 PM
72	Not yet	8/19/2020 5:11 PM
73	No	8/19/2020 3:28 PM
74	No. Yes.	8/19/2020 3:16 PM
75	I have not returned to the Courthouse. In a low person occupancy setting, I think I would be comfortable. In a Courtroom with 75 to 100 people present and waiting, I would not be comfortable.	8/19/2020 3:02 PM
76	yes	8/19/2020 2:59 PM
77	no	8/19/2020 2:28 PM
78	Not yet	8/19/2020 2:28 PM
79	I go grocery shopping. Yes, I would feel comfortable being in court.	8/19/2020 1:51 PM
80	yes, not pleasant or very productive	8/19/2020 1:50 PM
81	Yes. I have made a number of in person appearances, but not without discomfort.	8/19/2020 12:40 PM
82	NOT YET, EXCEPT FOR ONE VISIT TO NY COUNTY SUPREME COURT. IT DEPENDS ON THE SOCIAL DISTANCING IMPLEMENTED BY THE COURT HOUSE.	8/19/2020 12:11 PM
83	I have - No issues with comfort.	8/19/2020 11:56 AM
84	I felt comfortable three months ago, and continue to feel comfortable. Frankly, even if I had been required to go during the shut down, I would have gone. The needs of my client to access the justice system are greater than my fears. None of my appearances to date have been scheduled for in person.	8/19/2020 11:36 AM
85	No.	8/19/2020 11:30 AM
86	I wouldn't feel comfortable returning to the court houses	8/19/2020 11:26 AM
87	NOT YET...	8/19/2020 11:26 AM
88	no, not until there is a vaccine	8/19/2020 11:25 AM
89	No and no!	8/19/2020 11:24 AM
90	no	8/19/2020 11:17 AM
91	No, I have not returned to a courthouse. Yes, I would feel comfortable doing so.	8/19/2020 9:17 AM
92	Town Court - yes	8/19/2020 7:47 AM
93	No	8/18/2020 10:03 PM
94	Yes	8/18/2020 8:18 PM
95	No	8/18/2020 8:04 PM
96	No. And yes I would.	8/18/2020 6:39 PM
97	yes	8/18/2020 5:56 PM

## Court Reopenings and Virtual Appearances

98	No and I wouldn't feel comfortable returning.	8/18/2020 5:55 PM
99	I have, and I would be very comfortable doing so again. Upstate courthouses are not known for crowding even in good times.	8/18/2020 5:51 PM
100	Once not comfortable as the air circulation is onafaquete	8/18/2020 5:49 PM
101	Yes	8/18/2020 5:48 PM
102	I have not returned and I will not feel comfortable at all.	8/18/2020 5:39 PM
103	No, I have not returned in person. I would feel comfortable if it was "in and out" and there were not many people around.	8/18/2020 5:34 PM
104	Have not yet appeared	8/18/2020 5:28 PM



Q10 If you have returned to the courthouse, did you observe any COVID-19- related procedures in effect? If Yes, please describe.

Answered: 78 Skipped: 28

## Court Reopenings and Virtual Appearances

#	RESPONSES	DATE
1	I observed all protective measures in place no issues there.	8/28/2020 5:04 PM
2	Social distancing and masks. Was told courtrooms were wiped down following prior appearance.	8/27/2020 10:50 AM
3	temperature checks upon entering were about the only measures I observed.	8/27/2020 9:18 AM
4	Yes	8/27/2020 8:59 AM
5	Yes. Temperature check, questions, masks, separation of litigants	8/27/2020 8:34 AM
6	N/A	8/27/2020 6:49 AM
7	yes. temperature taking before going thru security. called into court room one case at a time.	8/26/2020 5:12 PM
8	NA	8/26/2020 4:54 PM
9	There's a temperature scanner. There are partitions in the courtroom but they are not high enough between attorney and client if the parties are standing.	8/26/2020 4:53 PM
10	no	8/26/2020 4:50 PM
11	N/A	8/26/2020 4:43 PM
12	N/A	8/25/2020 9:35 PM
13	Temperature Check, limitations for elevators, mandatory hand sanitizer, spots to stand in the court room.	8/25/2020 2:38 PM
14	No	8/25/2020 2:10 PM
15	I was questioned by the UCO at the door and reminded to wear a mask.	8/25/2020 11:17 AM
16	Yes. I observed floor markings, plexiglass partitions, and hand sanitizing stations. The floor markings were too small. The hand sanitizing stations were not near the entrance to the buildings but instead well inside and easily overlooked or next to the elevators. The plexiglass installed in the courtrooms protected court personnel on more than one side, but the plexiglass at counsel table only provided protection at the front of the table. There was no plexiglass in between attorney and client We were informed DCAS would replace central A/C filters monthly. When asked about in-window A/C units in the courtroom, we were informed that neither DCAS nor the janitor handles those because NYC contracts with one company that is responsible for changing filters in the all city buildings. No one was able to provide answers as to how often in-window unit filters would be changed.	8/25/2020 10:53 AM
17	N/A	8/25/2020 9:46 AM
18	Yes. I was tested at the door and asked several questions. Had to wear a mask the entire time in the courthouse and conduct social distancing.	8/25/2020 9:40 AM
19	N/A	8/25/2020 9:04 AM
20	yes...masks required	8/24/2020 9:40 PM
21	Temperature, hand sanitizers available; NO MASKS AVAILABLE	8/24/2020 9:21 PM
22	Yes. Temp taken, questionnaire, chairs spread out & lower capacity in courtrooms.	8/24/2020 7:53 PM
23	N/a	8/24/2020 6:07 PM
24	Yes. Temperature taken. Questionnaire re covid contact, travel, etc upon entry to the building. Masks. Shields. Some sanitizer. But no sanitizer or wipes in the courtrooms. We are told it's too expensive.	8/24/2020 6:07 PM
25	yes, wearing mask, had temperature taken, answered questions	8/24/2020 5:51 PM
26	I have returned to night court and mask requirements are being followed. Doesn't mean I may not contract COVID...flu season is coming.	8/24/2020 5:41 PM
27	I appeared in Suffolk County District Court and observed safe distancing, sanitizing stations, plexiglass, and mask requirement protocols in effect. However, I was surprised at the amount of persons in the courthouse.	8/24/2020 5:15 PM

## Court Reopenings and Virtual Appearances

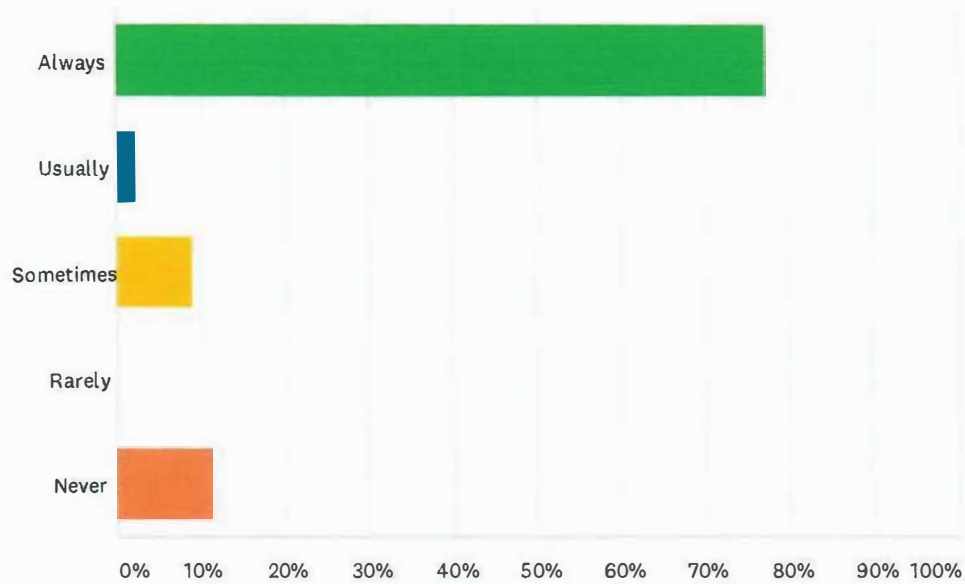
28	N/A	8/24/2020 5:09 PM
29	I have not been to the ctse for appearances.	8/24/2020 5:04 PM
30	yes. in Supreme Court screened at door, temp taken, masks on, clean up when done, limited use of conference areas.	8/24/2020 4:58 PM
31	N/Z	8/24/2020 2:12 PM
32	I haven't returned	8/24/2020 6:31 AM
33	Yes. Masks.	8/23/2020 9:02 PM
34	not applicable	8/23/2020 7:53 PM
35	Masks were mandatory and made communications more difficult.	8/23/2020 5:17 AM
36	NA	8/22/2020 9:44 PM
37	N/A	8/21/2020 4:29 PM
38	N/A	8/21/2020 1:42 PM
39	Plexiglass barriers; temperature checks; questioning about travel and symptoms; physically being distanced in the courtroom	8/21/2020 10:16 AM
40	Social distancing and security	8/21/2020 9:44 AM
41	Yes. Was screened before entering and had my temperature checked. There were signs on the floor about which way to walk and signs that limited elevator capacity	8/21/2020 8:59 AM
42	Courts are closed due to CoVId. Just like everything else, seems to be closed.	8/20/2020 10:06 PM
43	Not applicable.	8/20/2020 9:35 PM
44	Yes. Bailiffs taking names and temperatures, X's on the floor that are "6" feet apart, everyone in masks	8/20/2020 8:55 PM
45	N/A	8/20/2020 7:16 PM
46	I have yet to return to federal court. Or to a state administrative hearing.	8/20/2020 6:00 PM
47	n/a	8/20/2020 5:39 PM
48	N.A.	8/20/2020 5:33 PM
49	Yes. Temperature taking	8/20/2020 5:28 PM
50	Temps at door, plexiglass screens, masks	8/20/2020 5:18 PM
51	Cleaning.	8/20/2020 5:16 PM
52	Yes - wearing masks, staying 8 feet apart as well as the different position of chairs	8/20/2020 5:15 PM
53	Yes, I was required to wear a mask.	8/20/2020 5:15 PM
54	Security personnel screen and temperature check everyone entering the building; without an appointment or a scheduled court appearance, you don't get in.	8/20/2020 8:36 AM
55	Yes, temperature taking and questions about exposure	8/19/2020 10:22 PM
56	I was in the Courthouse one time to obtain a copy of letters testamentary from Surrogate's Court. The only change I observed was that my temperature was taken at the entrance to the Courthouse.	8/19/2020 3:02 PM
57	yes great social distancing	8/19/2020 2:59 PM
58	n/a	8/19/2020 1:51 PM
59	yes, cursory screening at entrance - but inside people were disregarding the 2 to an elevator rule and other procedures	8/19/2020 1:50 PM
60	Yes. Masks, questionnaires and temperature checks. Physical distancing is hit or miss. Masks are helpful, but far from foolproof.	8/19/2020 12:40 PM

## Court Reopenings and Virtual Appearances

61	THE COURT HOUSE WAS PRACTICALLY EMPTY OF NON COURT PERSONNEL. THERE WAS THE TEMPERATURE CHECK BY THE COURT OFFICER BEFORE ENTERING. THERE WERE SOCIAL DISTANCING SIGNS	8/19/2020 12:11 PM
62	Yes - screening on entrance. Distancing on the waiting areas as well as in court. Sanitizers available in court.	8/19/2020 11:56 AM
63	n/a	8/19/2020 11:36 AM
64	N/a	8/19/2020 11:30 AM
65	N/A	8/19/2020 11:26 AM
66	n/a	8/19/2020 11:25 AM
67	N/A	8/19/2020 11:24 AM
68	N/A	8/19/2020 9:17 AM
69	yes Court officers screening clients and going thru COVUD questions and limiting number of people in the court room and making sure everyone had a mask on.	8/19/2020 7:47 AM
70	Yes, temperatures and face masks. Social distancing	8/18/2020 8:18 PM
71	N/A	8/18/2020 6:39 PM
72	yes.	8/18/2020 5:56 PM
73	N/A	8/18/2020 5:55 PM
74	Masks are required, hand sanitizer is available and use encouraged, and everyone has cooperated with social distancing.	8/18/2020 5:51 PM
75	Temperature checks , masks minimal dividers in courtroom	8/18/2020 5:49 PM
76	no havent returned	8/18/2020 5:48 PM
77	N/A	8/18/2020 5:34 PM
78	Have not yet appeared	8/18/2020 5:28 PM

### Q11 When you entered the courthouse, was your temperature taken?

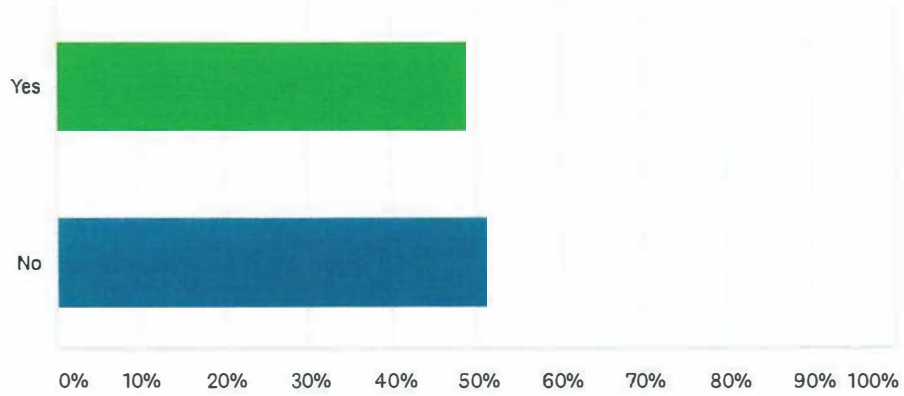
Answered: 44 Skipped: 62



ANSWER CHOICES	RESPONSES	
Always	77.27%	34
Usually	2.27%	1
Sometimes	9.09%	4
Rarely	0.00%	0
Never	11.36%	5
<b>TOTAL</b>		<b>44</b>

### Q12 When you entered the courtroom did you observe any disinfecting practices?

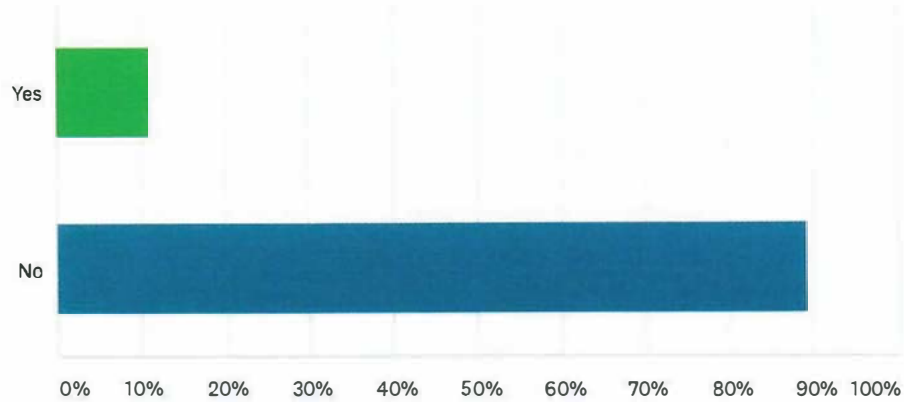
Answered: 41 Skipped: 65



ANSWER CHOICES	RESPONSES	
Yes	48.78%	20
No	51.22%	21
TOTAL		41

### Q13 Were you asked to disinfect any surfaces or items that you came into contact with inside the courtroom or courthouse?

Answered: 46 Skipped: 60



ANSWER CHOICES	RESPONSES	
Yes	10.87%	5
No	89.13%	41
TOTAL		46

Q14 What county or counties do you practice in? (Please list all)

Answered: 101 Skipped: 5



## Court Reopenings and Virtual Appearances

#	RESPONSES	DATE
1	All 5 counties of NYC	8/28/2020 5:05 PM
2	Rockland, Orange, Westchester, Bronx	8/27/2020 10:51 AM
3	Monroe, Ontario, Livingston	8/27/2020 9:44 AM
4	Monroe, Ontario, Wayne, Orleans, Livingston, Yates, Seneca	8/27/2020 9:20 AM
5	Jefferson, St. Lawrence, Erie, Essex	8/27/2020 8:43 AM
6	NY and Kings	8/27/2020 8:42 AM
7	Kings and New York	8/27/2020 6:50 AM
8	Monroe Wayne Ontario Livingston Or leans	8/26/2020 9:42 PM
9	9th district bronx and Ulster	8/26/2020 9:25 PM
10	Niagara	8/26/2020 5:57 PM
11	Monroe, Clinton, Wayne, Onondaga, Cortland, Onondaga, Chautauqua, Steuben, Ontario, Wyoming.	8/26/2020 5:14 PM
12	NY, Kings, Bronx, Queens, Westchester, Nassau and Suffolk.	8/26/2020 4:56 PM
13	Queens	8/26/2020 4:55 PM
14	orange, Rockland, ulster, Sullivan, Westchester, putnam	8/26/2020 4:50 PM
15	Oneida, Madison, Herkimer, Oswego	8/26/2020 4:46 PM
16	Tompkins	8/26/2020 4:42 PM
17	Albany, Schenectady, Saratoga, Ulster	8/25/2020 9:36 PM
18	Albany, Schenectady, Rensselaer, Saratoga, Schoharie.	8/25/2020 2:38 PM
19	NYC	8/25/2020 2:12 PM
20	New York, Queens, Nassau and Suffolk	8/25/2020 11:19 AM
21	Richmond	8/25/2020 11:01 AM
22	Erie, Monroe, Onondaga, Niagara, Albany, Genesee, Chautauqua	8/25/2020 9:47 AM
23	Monroe, Wayne, Ontario, Llivingston and Genesee	8/25/2020 9:42 AM
24	Suffolk, Nassau, Queens, Kings, New York, Bronx, Westchester (rarely).	8/25/2020 9:05 AM
25	Nassau Suffolk	8/24/2020 9:40 PM
26	Monroe County	8/24/2020 9:21 PM
27	Dutchess, Putnam, Orange, Columbia, Sullivan, Ulster & Westchester	8/24/2020 7:56 PM
28	Onondaga, usually. Cayuga, Oswego, Cortland on limited occasions but not during the pandemic	8/24/2020 6:09 PM
29	Kings, New York, Queens	8/24/2020 6:08 PM
30	Saratoga, Albany, Rensselaer, Schenectady, Washington Warren	8/24/2020 5:51 PM
31	Cortland, onondaga, Oswego, madison, wayne, seneca, and Cayuga.	8/24/2020 5:42 PM
32	New York, Kings, Westchester, Nassau	8/24/2020 5:39 PM
33	Primarily in Queens County but I have cases in most of the other boroughs.	8/24/2020 5:18 PM
34	Richmond and Kings	8/24/2020 5:12 PM
35	Westchester	8/24/2020 5:09 PM
36	New York, Kings, Bronx, Queens, Richmond, Nassau, Westchester, Suffolk	8/24/2020 5:07 PM

## Court Reopenings and Virtual Appearances

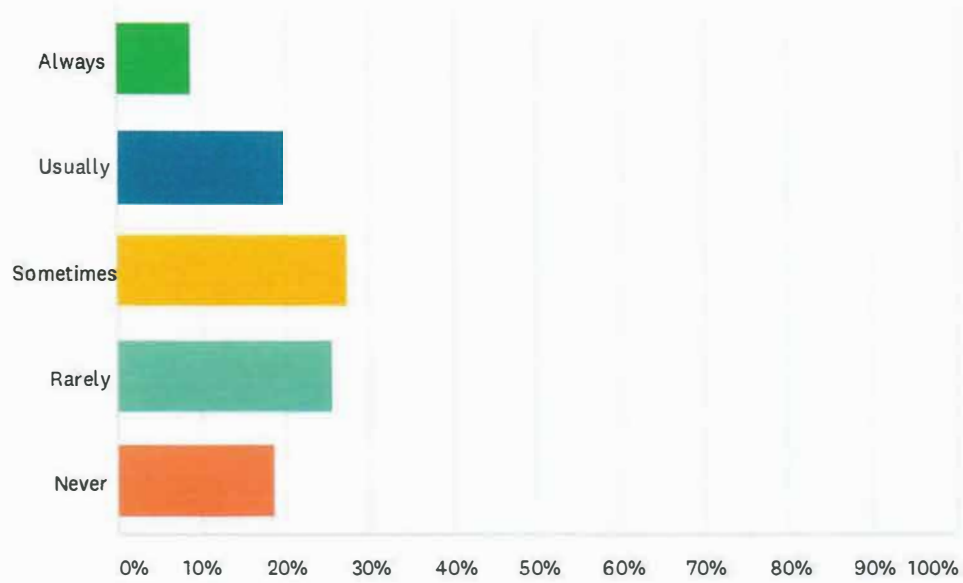
37	oswego, cayuga, jefferson, onondaga	8/24/2020 4:58 PM
38	Kings	8/24/2020 4:55 PM
39	Chemung; Steuben	8/24/2020 2:58 PM
40	New York, Westchester, Suffolk, Kings, Queens, Bronx, Rockland, ...	8/24/2020 2:13 PM
41	Otsego, Delaware, Chenango, Schoharie	8/24/2020 6:32 AM
42	All NYC; Westchester, Rockland, Nassau, Suffolk	8/23/2020 9:03 PM
43	Tompkins, Seneca, Cayuga, Cortland	8/23/2020 7:54 PM
44	US	8/23/2020 5:18 AM
45	New York, Queens, Kings	8/22/2020 9:44 PM
46	NY, Kings, Queens	8/22/2020 4:15 PM
47	New York, Kings, Queens, Bronx.	8/21/2020 4:55 PM
48	Ulster, Orange & Dutchess	8/21/2020 4:29 PM
49	Westchester	8/21/2020 1:43 PM
50	Allegany and Cattaraugus	8/21/2020 10:41 AM
51	Onondaga, Oswego	8/21/2020 10:17 AM
52	Oneida, Onondaga, NDNY 2d Cir. WDNY Albany Jefferson Lewis etc.	8/21/2020 10:07 AM
53	Niagara and Erie	8/21/2020 9:45 AM
54	New York, Kings, Queens	8/21/2020 9:01 AM
55	New York, Westchester	8/20/2020 10:06 PM
56	Broome, Tioga, Tompkins	8/20/2020 9:35 PM
57	Oswego, Onondaga, Jefferson	8/20/2020 8:58 PM
58	All over the state of NY.	8/20/2020 7:46 PM
59	New York	8/20/2020 7:18 PM
60	statewide	8/20/2020 6:06 PM
61	nassau, suffolk, queens, kings, bronx, new york, westchester, albany, monroe, erie, duchess, orange,	8/20/2020 5:42 PM
62	New York County, Bronx County, Kings County, Queens County, Westchester County.	8/20/2020 5:34 PM
63	Delaware	8/20/2020 5:28 PM
64	Jefferson and Lewis	8/20/2020 5:28 PM
65	Dutchess	8/20/2020 5:18 PM
66	NYC Counties and Nassau.	8/20/2020 5:16 PM
67	Lewis	8/20/2020 5:16 PM
68	Onondaga, Madison, Oswego, Oneida, Cayuga, Erie, Monroe, Cortland, Wayne, Lewis	8/20/2020 5:16 PM
69	Otsego	8/20/2020 8:38 AM
70	New York County, Kings County, Queens County, and Bronx	8/19/2020 10:23 PM
71	NY, Kings, Nassau	8/19/2020 5:11 PM
72	Kings, Queens, Bronx, NY and SI	8/19/2020 3:29 PM
73	Oneida	8/19/2020 3:17 PM
74	Westchester primarily. Occasionally in surrounding Counties, particularly New York.	8/19/2020 3:04 PM

## Court Reopenings and Virtual Appearances

75	NYC	8/19/2020 2:29 PM
76	Nassau	8/19/2020 2:29 PM
77	all five boroughs of NYC	8/19/2020 1:53 PM
78	Monroe	8/19/2020 1:51 PM
79	Onondaga primarily. Also Oneida, St. Lawrence, Madison, Cortland, Cayuga and Oswego on occasion.	8/19/2020 12:42 PM
80	QUEENS, KINGS, NASSAU	8/19/2020 12:12 PM
81	Monroe	8/19/2020 11:59 AM
82	Albany, Rensselaer, Saratoga, Greene, Columbia, Putnam, Orange, Herkimer, Onondaga, and any others as needed for clients.	8/19/2020 11:39 AM
83	Kings, New York, Bronx, Queens, Nassau, Westchester, Rockland, Suffolk and Monroe.	8/19/2020 11:31 AM
84	Westchester, NYC counties, Long Island	8/19/2020 11:27 AM
85	From Dutchess to Suffolk	8/19/2020 11:26 AM
86	Most Courts in NYC and Nassau and Westchester	8/19/2020 11:25 AM
87	most downstate counties	8/19/2020 11:18 AM
88	Albany, Ulster, Orange, Dutchess, Fulton, Montgomery, Warren, Saratoga, Westchester	8/19/2020 9:18 AM
89	Ulster, Orange and Dutchess	8/19/2020 7:51 AM
90	New York, Kings, Queens	8/18/2020 10:05 PM
91	Chemung, Steuben, and Schuyler	8/18/2020 8:19 PM
92	NY Queens Kings	8/18/2020 8:04 PM
93	Orange, Westchester, Rockland, Dutchess, Albany	8/18/2020 6:40 PM
94	New York, Kings, Queens, Westchester, Rockland, Richmond and the Bronx.	8/18/2020 5:57 PM
95	nassau, suffolk, queens, new york	8/18/2020 5:56 PM
96	Albany, Schenectady, Schoharie, Saratoga, Rensselaer, Columbia, Greene.	8/18/2020 5:54 PM
97	NYC except Staten Island	8/18/2020 5:50 PM
98	Kings Richmond Queens	8/18/2020 5:49 PM
99	Nassau and Suffolk Rarely in Queens	8/18/2020 5:39 PM
100	Kings, New York, and sometimes Richmond.	8/18/2020 5:35 PM
101	Oneida, Herkimer, Onondaga, Monroe	8/18/2020 5:29 PM

### Q15 Do you see clients in your office?

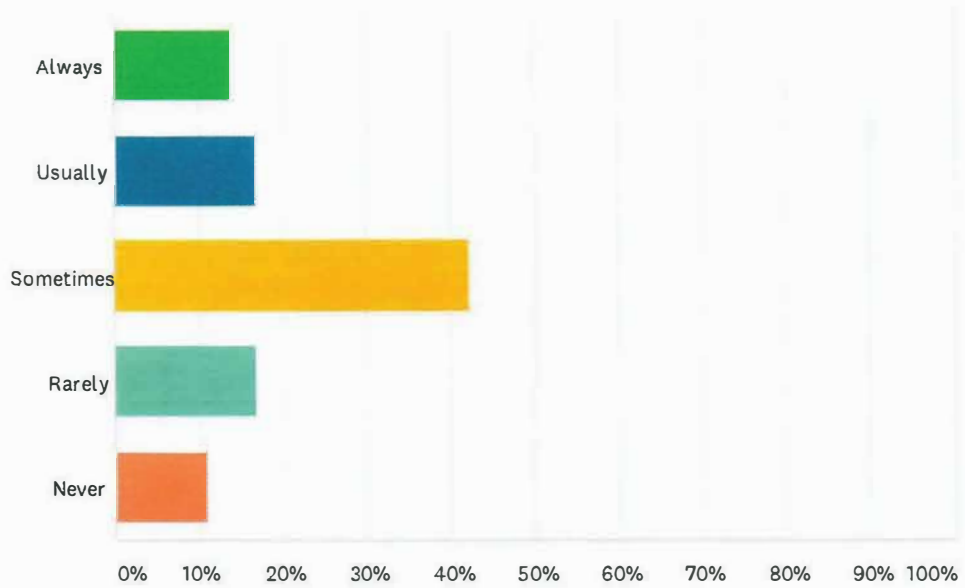
Answered: 102 Skipped: 4



ANSWER CHOICES	RESPONSES	
Always	8.82%	9
Usually	19.61%	20
Sometimes	27.45%	28
Rarely	25.49%	26
Never	18.63%	19
<b>TOTAL</b>		<b>102</b>

### Q16 Do you see clients virtually?

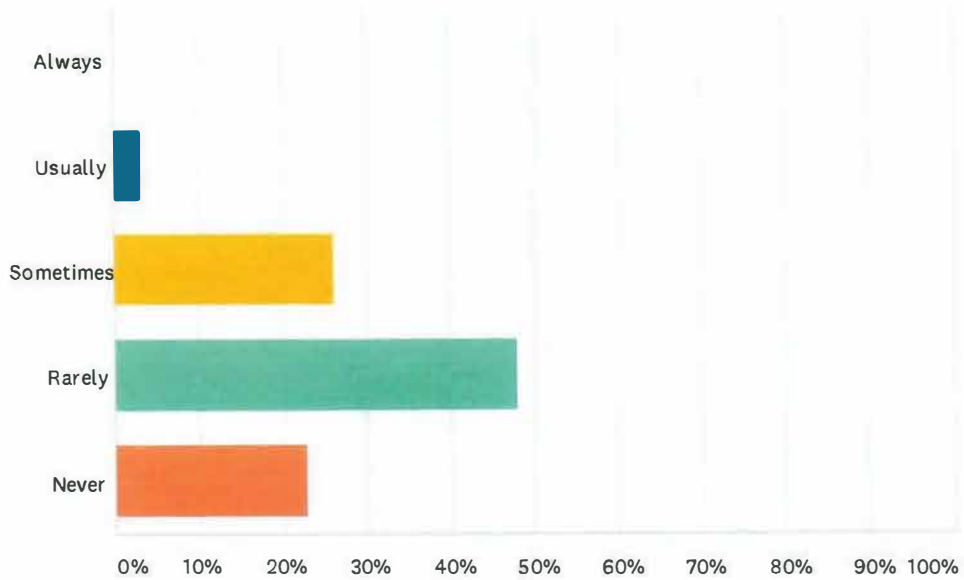
Answered: 102 Skipped: 4



ANSWER CHOICES	RESPONSES	
Always	13.73%	14
Usually	16.67%	17
Sometimes	42.16%	43
Rarely	16.67%	17
Never	10.78%	11
<b>TOTAL</b>		<b>102</b>

### Q17 Have you encountered technological problems when meeting clients virtually?

Answered: 92 Skipped: 14



ANSWER CHOICES	RESPONSES	
Always	0.00%	0
Usually	3.26%	3
Sometimes	26.09%	24
Rarely	47.83%	44
Never	22.83%	21
<b>TOTAL</b>		<b>92</b>

**APPENDIX B**  
**A SUMMARY OF SELECTED GOVERNOR'S EXECUTIVE ORDERS**

**Criminal Law Procedure**

**March 2020**

No. 202.1 - March 12, 2020

Suspensions of law relating to appearances by defendants:

Notwithstanding any other provision of law and except as provided in section 182.30 of Article 182 of the Criminal Procedure Law, the court, in its discretion, may dispense with the personal appearance of the defendant, except an appearance at a hearing or trial, and conduct an electronic appearance in connection with a criminal action pending in any county in New York State, provided that the chief administrator of the courts has authorized the use of electronic appearance due to the outbreak of COVID-19, and the defendant, after consultation with counsel, consents on the record. Such consent shall be required at the commencement of each electronic appearance to such electronic appearance.

**Notary Publics**

**March 2020**

No. 202.7 - March 19, 2020

Any notarial act that is required under New York State law is authorized to be performed utilizing audio-video technology provided that the following conditions are met:

- The person seeking the Notary's services, if not personally known to the Notary, must present valid photo ID to the Notary during the video conference, not merely transmit it prior to or after;
- The video conference must allow for direct interaction between the person and the Notary (e.g., no pre-recorded videos of the person signing);  
The person must affirmatively represent that he or she is physically situated in the State of New York;
- The person must transmit by fax or electronic means a legible copy of the signed document directly to the Notary on the same date it was signed;

The Notary may notarize the transmitted copy of the document and transmit the same back to the person;

- The Notary may repeat the notarization of the original signed document as of the date of execution provided the Notary receives such original signed document together with the electronically notarized copy within thirty days after the date of execution.

## **Tolling Matters**

### **April 2020**

No. 202.17 - April 15, 2020

The directive contained in Executive Order 202.16 related to issuance of no-action or no-filing letters is modified to require such letters be issued by the Attorney General.

No. 202.18 - April 16, 2020

Section 352-e (7)(a) of the General Business law, and any order, rule, or regulation in furtherance of the requirements thereof, to the extent it requires certain filing fees be made at the time of submission and filing of each offering statement or prospectus, shall be exempted during the duration of this executive order, it being understood that such filing fees shall be remitted in full to the department of law within 90 days from the expiration of this executive order.

### **October 2020**

No. 202.67- October 4, 2020

The suspension in Executive Order 202.8, as modified and extended in subsequent Executive Orders, that tolled any specific time limit for the commencement, filing, or service of any legal action, notice, motion, or other process or proceeding as prescribed by the procedural laws of the state, including but not limited to the criminal procedure law, the family court act, the civil practice law and rules, the court of claims act, the surrogate's court procedure act, and the uniform court acts, or by any statute, local law, ordinance, order, rule, or regulation, or part thereof, is hereby continued, as modified by prior executive orders, provided however, for any civil case, such suspension is only effective



until November 3, 2020, and after such date any such time limit will no longer be tolled, and provided further.

## **Real Property Tax Matters**

### **April 2020**

No. 202.22 - April 20, 2020

Article 5 of the Real Property Tax Law, and analogous provisions of any other general or special laws that require a tentative assessment roll to be filed on or before June 1, 2020, to allow the tentative and final assessment rolls to be filed, at local option, up to 30 days later than otherwise allowable, to allow an assessing unit to set a date for hearing assessment complaints that is at least 21 days after the filing of the tentative roll, to allow notice of the filing of the tentative roll to be published solely online so long as the date for hearing complaints is prominently displayed, to suspend in-person inspection of the tentative roll, and to allow local Boards of Assessment Review to hear complaints remotely by conference call or similar service, provided that complainants can present their complaints through such service and the public has the ability to view or listen to such proceeding.

Section 1212 of the Real Property Tax Law, to the extent necessary to allow the commissioner of taxation and finance to certify final state equalization rate, class ratios, and class equalization rates, if required, no later than ten days prior to the last date set by law for levy of taxes of any municipal corporation to which such equalization rate, class ratios, and class equalization rates are applicable.

Section 1512(1) of the Real Property Tax Law and Sections 283.291 and 283.221 of the Laws of Westchester County, are suspended to allow the County Executive to negotiate with any town supervisor or mayor of any city, to accept a lesser percentage of taxes, special ad valorem levies or special assessments which are otherwise due on May 25, provided that in no event shall any town or city be required to pay more than sixty percent. The County Executive is empowered to determine whether or not penalties for late payment or interest are able to be waived dependent on whether or not such town or city applies the County Executive's criteria for determining hardship due to COVID-19.

Section 283.221 of the Laws of Westchester County is further suspended to the extent necessary to require the supervisor of a town, to waive payment of penalties for late payment of county and county district taxes under section 283.221 up to July 15, 2020, and waive payment of penalties for late payment of town and town district taxes and assessments in the same manner, provided such town applies the County Executive's criteria for the determination of hardship due to COVID-19.

Section 1512(1) of the Real Property Tax Law and any penalty provision of the tax code of a city within Westchester County is further suspended to the extent necessary to allow the mayor of that City to waive the payment of penalties for late payment of county and county district taxes and to further waive payment of penalties for late payment of city and city district taxes and assessments in the same manner, provided such city applies the County Executive's criteria for the determination of hardship due to COVID-19.

Section 5-18.0(2) of the Nassau County Administrative Code, to the extent necessary to allow the Nassau County Executive to extend until June 1, 2020, the deadline to pay without interest or penalty the final one-half of school taxes upon real estate in such county.

Subdivision 2 of section 238-a of the Real Property Law to provide that no landlord, lessor, sub-lessor, or grantor shall demand or be entitled to any payment, fee, or charge for late payment of rent occurring during the time period from March 20, 2020, through August 20, 2020.

## **May 2020**

No. 202.31 - May 14, 2020

The directive contained in Executive Order 202.15 authorizing the Department of Taxation and Finance to accept digital signatures in lieu of handwritten signatures on documents related to the determination or collection of tax liability, is hereby modified to authorize such acceptance for the duration of the disaster emergency.

No. 202.32 - May 21, 2020

Retroactively extends by twenty-one days the period for paying without interest or penalty the property taxes that were due by April 1, 2020, in the Village of Head of the Harbor, Suffolk County, and the Village of Russell Gardens, Nassau County.

## **June 2020**

No. 202.45- June 26, 2020

Extends during a State disaster emergency the period for paying property taxes without interest or penalties upon request of the chief executive officer of an affected county, city, town, village or school district, I do hereby extend by twenty-one days the period for paying, without interest or penalty, property taxes that are due in the following localities that have requested such an extension: Village of Ossining, Westchester County; Village of Pomona, Rockland County.

No. 202.43- June 18, 2020

Extends during a State disaster emergency the period for paying property taxes without interest or penalties upon request of the chief executive officer of an affected county, city, town, village or school district, I do hereby extend by twenty-one days the period for paying, without interest or penalty, property taxes that are due in the following localities that have requested such an extension: Village of Alfred, Allegany County; Village of Cambridge, Washington County; Village of Greenwood Lake, Orange County; Village of Honeoye Falls, Monroe County; Village of Lake George, Warren County; Village of Manorhaven, Nassau County; Village of New Square, Rockland County; Village of Old, Field Suffolk County; Village of Palmyra, Wayne County; Village of Piermont, Rockland County; Village of Schaghticoke, Rensselaer County; Village of South Nyack, Rockland County; and the Village of Tupper Lake, Franklin County.

No. 202.44 - June 21, 2020

Real Property Tax Law Article 5, to allow tentative and final real property tax assessment rolls to be filed up to 30 days late; allows hearing assessment complaints for tax assessing units to be at a date 21 days after the filing of the tentative roll; allows notice

of the tentative roll filing to be published online and to suspend in-person inspection of tentative rolls; and to allow Boards of Assessment Review to hear complaints remotely.

Real Property Tax Law § 1212, to allow the commissioner of Dept. of Tax and Finance to certify final state equalization rates, class ratios, and class equalization rates no later than 10 days before the last date sent by law.

The authority of the Commissioner of Taxation and Finance to abate late filing and payment penalties pursuant to section 1145 of the Tax Law is hereby expanded to authorize abatement of interest and penalties for a period of up to 100 days for taxpayers who were required to file returns and remit sales and use taxes by March 20, 2020, for the sales tax quarterly period that ended February 29, 2020.

### **July 2020**

No. 202.54 - July 13, 2020

Any extension of the period for paying property taxes without interest or penalties pursuant to Real Property Tax Law Section 925-a is no longer in effect.

Retroactively extends by twenty-one days the period for paying without interest or penalty the property taxes that were due by July 1, 2020, in the Village of Atlantic Beach, Nassau County.

### **August 2020**

No. 202.59- August 28, 2020

Any extension of the period for paying property taxes without interest or penalties pursuant to Real Property Tax Law Section 925-a is no longer in effect.

No. 202.55 - August 5, 2020

Section 730(3) of the Real Property Tax Law, to the extent necessary to extend the deadline for filing a 2020 small claims assessment review petition in relation to property located in Nassau County to September 4, 2020; provided that such deadline shall not be further extended unless expressly provided otherwise by an Executive Order issued hereafter.

Section 711 of the Real Property and Proceedings Law, Section 232-a of the Real Property Law, and subdivisions 8 and 9 of section 4 of the Multiple Dwelling Law, and any other law or regulation are suspended and modified to the extent that such laws would otherwise create a landlord tenant relationship between any individual assisting with the response to COVID-19 or any individual that has been displaced due to COVID-19, and any individual or entity, including but not limited to any hotel owner, hospital, not-for-profit housing provider, hospital, or any other temporary housing provider who provides temporary housing for a period of thirty days or more solely for purposes of assisting in the response to COVID-19.

### **September 2020**

No. 202.60 - September 4, 2020

Title 5 of Article 11 of the Real Property Tax Law is suspended with respect to the ability of a municipality to sell liens.

### **December 2020**

No. 202.83 - December 18, 2020

Subdivisions 7, 7-a and 8 of section 459-c of the Real Property Tax Law, and subdivisions 5, 5-a, 5-b, 5-c and 6 of section 467 of the Real Property Tax Law, to the extent necessary to permit the governing body of an assessing unit to adopt a resolution directing the assessor to grant exemptions pursuant to such section on the 2021 assessment roll to all property owners who received that exemption on the 2020 assessment roll, thereby dispensing with the need for renewal applications from such persons, and further dispensing with the requirement for assessors to mail renewal applications to such persons. Provided however, that the governing body may, at its option, include in such resolution procedures by which the assessor may require a renewal application to be filed when he or she has reason to believe that an owner who qualified for the exemption on the 2020 assessment roll may have since changed his or her primary residence, added another owner to the deed, transferred the property to a new owner, or died.

Chapter 125 of 2020 enacting the COVID - 19 Rent Relief Act to the extent necessary to authorize the payment of rent relief as otherwise provided in such Act, without requiring that a tenant provide proof that they were paying more than 30 percent of gross monthly income towards rent prior to March 2020.

## **Landlord & Tenant Matters**

### **March 2020**

No. 202.8- March 20, 2020

There shall be no enforcement of either an eviction of any tenant residential or commercial, or a foreclosure of any residential or commercial property for a period of ninety days.

### **May 2020**

No. 202.28 - May 7, 2020

Modified Sections 7-103, 7-107 and 7-108 of the General Obligations Law to the extent necessary to provide that:

- Landlords and tenants or licensees of residential properties may, upon the consent of the tenant or licensee, enter into a written agreement by which the security deposit and any interest accrued thereof, shall be used to pay rent that is in arrears or will become due. If the amount of the deposit represents less than a full month rent payment, this consent does not constitute a waiver of the remaining rent due and owing for that month. Execution in counterpart by email will constitute sufficient execution for consent.
- Landlords shall provide such relief to tenants or licensees who so request it that are eligible for unemployment insurance or benefits under state or federal law or are otherwise facing financial hardship due to the COVID-19 pandemic.
- It shall be at the tenant or licensee's option to enter into such an agreement and landlords shall not harass, threaten, or engage in any harmful act to compel such agreement.

- Any security deposit used as a payment of rent shall be replenished by the tenant or licensee, to be paid at the rate of 1/12 the amount used as rent per month. The payments to replenish the security deposit shall become due and owing no less than 90 days from the date of the usage of the security deposit as rent. The tenant or licensee may, at their sole option, retain insurance that provides relief for the landlord in lieu of the monthly security deposit replenishment, which the landlord, must accept such insurance as replenishment.

### **November 2020**

No. 202.72 - November 3, 2020

Sections 732 and 743 of the Real Property Actions and Proceedings Law are modified to the extent necessary to provide that the time to answer in any summary eviction proceeding for nonpayment of rent that is pending on the date of the issuance of this Executive Order will be sixty days.

### **September 2020**

No. 202.66 - September 29, 2020

Chapter 127 of the laws of 2020 is modified to the extent necessary to prevent, for any residential tenant suffering financial hardship during the COVID-19 state disaster emergency declared by Executive Order 202, the execution or enforcement of such judgment or warrant, including those cases where a judgment or warrant of eviction for a residential property was granted prior to March 7, 2020, through January 1, 2021.

Mortgage

### **July 2020**

No. 202.48 - July 6, 2020

The directive contained in Executive Order 202.28, as extended, that prohibited initiation of a proceeding or enforcement of either an eviction of any residential or commercial tenant, for nonpayment of rent or a foreclosure of any residential or commercial mortgage, for nonpayment of such mortgage, is continued only insofar as it

applies to a commercial tenant or commercial mortgagor, as it has been superseded by legislation for a residential tenant, and residential mortgagor, in Chapters 112, 126, and 127 of the Laws of 2020.

### **September 2020**

No. 202.64- September 18, 2020

The directive contained in Executive Order 202.48, which modified the directive in Executive Order in 202.28 that prohibited the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment of such mortgage is continued through October 20, 2020.

### **October 2020**

No. 202.70 - October 20, 2020

The directive contained in Executive Order 202.64, which modified the directive in Executive Order om 202.28 that relates to eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment of such mortgage is continued through January 1, 2021.

December 2020

No. 202.81 - December 11, 2020

The directive contained in Executive Order 202.48, which modified the directive in Executive Order in 202.28, as continued by Executive Oder 202.75 that prohibited the initiation of a proceeding or enforcement of an eviction of any commercial tenant for nonpayment of rent or a foreclosure of any commercial mortgage for nonpayment is hereby continued until January 31, 2021.



## **Banking Matters**

### **March 2020**

No. 202.9 - March 21,2020

Subdivision two of Section 39 of the Banking Law is hereby modified to provide that it shall be deemed an unsafe and unsound business practice if, in response to the COVID-19 pandemic, any bank which is subject to the jurisdiction of the Department shall not grant a forbearance to any person or business who has a financial hardship as a result of the COVID-19 pandemic for a period of ninety days.

## APPENDIX C

### NYSBA RESOLUTION

WHEREAS, we have learned from the experience of the early months of this global pandemic that it is important to designate the practice of law as “essential.” The absence of such a designation, beyond the limited areas delineated as emergencies by the New York State Office of Court Administration, has caused practitioners great concern, and has harmed the public.

WHEREAS, in an orderly and just society, the practice of law is both necessary and essential. Under the emergency orders issued by the Governor at the outset of the pandemic, lawyers were subject to financial sanctions for the operation of a law practice while trying to serve the public who sought legal assistance and advice. The exceptions that were carved out were inconsistent and confusing. Accountants were deemed essential, despite tax deadlines being extended. Financial institutions and insurance companies were exempted and found essential. However, the practice of law, one of the hallmarks of the society we live in and the pillar of the advocacy system that ensures access to justice, was inexplicably excluded.

WHEREAS, the edict was unduly burdensome for health care workers and other essential workers who, faced with life and death situations every day, sought to execute wills, powers of attorney, health-care proxies, or other advanced directives, in an informed and proper manner. Parents and children involved in Family Court or matrimonial proceedings, in particular clients navigating custody and visitation issues brought about by the pandemic restrictions, and issues involving domestic violence, needed immediate counsel and support. Business owners who faced a myriad of employment, leasing and contractual issues, as well as issues related to COVID relief programs needed advice. Clients needed to meet with their lawyers to prepare for hearings that affected their benefits in areas such as worker’s compensation and social security. Personal injury claimants and defendants were deprived of access to counsel. Sellers and buyers needed to complete closings on residential and commercial property. This list is by no means exhaustive and illustrates just some of the many critical issues facing the public.

WHEREAS, lawyers are responsible members of society. We are licensed and regulated. We do not desire to place the public, clients, staff or ourselves at any risk. However, the members of the Task Force for Solo and Small Firm Practitioners believe that the practice of law is essential and can be accomplished using social distance guidelines and safe practices. The only result of not

designating the practice of law as “essential” is to harm the very people we are sworn to protect. As a profession, lawyers play an integral role in guiding the public we serve through these most difficult and unprecedented times. While we recognize that there may be certain aspects of law, e.g., attorneys engaged in academia, that may not be considered “essential” during extraordinary times, without question, those of us representing the public in critical legal situations that impact on our clients’ day-to-day lives should be permitted to provide advice and counsel in a safe and supportive manner so as to ensure the public has access to our justice system.

THEREFORE, BE IT RESOLVED that in the event that New York State finds it necessary to restrict business activities in the future due to this or any other public health crisis, we believe that the historical need for lawyers to assist the public to access justice should be recognized and that the practice of law should not be restricted, and that the New York State Bar Association should take all reasonable steps to urge this position be adopted by state leaders

# APPENDIX D

## AMEND FAQ SHEET



### Frequently Asked Questions about the COVID-19 Vaccines: Information for Residents of Correctional Facilities

Leah Rorvig, MD, MS, Director of Health Education, AMEND at UCSF  
David Sears, MD, Director of Healthcare Quality, AMEND at UCSF  
Zoe Kopp, MD, Internal Medicine Resident Physician, UCSF  
Ilana Garcia-Grossman, MD, Internal Medicine Resident Physician, UCSF  
Brie Williams, MD, MS, Founder and Director, AMEND at UCSF

*AMEND at the University of California, San Francisco, draws on the principles of public health and human rights to bring transformative change to incarceration in the U.S. Our mission is to create stronger communities by transforming prisons and jails into places of humanity, dignity, and health.*

**\*See page 4 for the list of our partners on this FAQ!**

### COVID-19 VACCINES: THE BASICS

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- Vaccines teach the immune system how to recognize and fight off the virus that causes COVID-19. This can prevent vaccinated people from getting sick.
- When you get the vaccine you also protect other people around you by making it less likely for them to get COVID-19. Vaccines are not used to treat people who currently have COVID-19.
- There are currently three vaccines available in the United States, made by the drug companies Pfizer, Moderna, and Johnson & Johnson.
- The Pfizer and Moderna vaccines both have two shots that are given three weeks apart (Pfizer) or four weeks apart (Moderna). The Johnson & Johnson vaccine is one shot.
- All three vaccines are **SAFE** and **HIGHLY EFFECTIVE** at **preventing serious illness from COVID-19**.
- The vaccines have been given to tens of millions of people and have a strong record of safety.
- While it may seem like the vaccines were developed in record time, the science has been in development for many years and they have gone through all of the steps required for any vaccine to be approved.

### SAFETY & EFFICACY

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#### How effective are each of the three vaccines at preventing COVID-19?

- All three vaccines are **highly effective at preventing serious illness** due to COVID-19. Nearly 60,000 people were fully vaccinated in studies of the three vaccines and only one fully vaccinated person was hospitalized with COVID-19.
- So far, research shows that the Moderna and Pfizer vaccines were more than 90% effective in preventing mild COVID-19 illness, while Johnson & Johnson was 66% effective. The Johnson & Johnson vaccine was studied in locations where more contagious COVID-19 variants (“strains”) were circulating, so right now it is not possible to directly compare the effectiveness of the vaccines.
- Because all three vaccines are effective and limited in supply, **doctors and public health experts recommend taking whichever vaccine is offered to you first.**

#### Are the Pfizer and Moderna COVID-19 vaccines safe? Should I worry that they were developed so quickly?

- Both vaccines were found to be safe and effective in tens of thousands of adults (including Black and Latinx people) who participated in high quality research – the same research that any new vaccine or medicine must undergo before it is approved.
- Both vaccines were reviewed faster than normal. This is because so many people are getting sick and dying of COVID-19 that it is considered a national emergency.

### What about the Johnson & Johnson vaccine's safety?

- Out of nearly 8 million people who have received that vaccine so far, fifteen people have been found to develop unusual blood clots within 5 to 24 days after getting the vaccine. These blood clots are very serious and have happened mostly in women between 18 and 50 years old.
- Because these unusual blood clots are extremely rare, and because COVID-19 is very dangerous, medical experts recommend continuing to give the Johnson & Johnson COVID-19 vaccine.
- For more information, please read our FAQ specifically about the Johnson & Johnson vaccine.

### Did AMEND staff get the COVID-19 vaccine?

Yes. All AMEND team members received the COVID-19 vaccine as soon as it was offered to them.

## SIDE EFFECTS & MEDICAL QUESTIONS

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### What are the possible side effects of the vaccines?

- The most common vaccine side effects are arm soreness, tiredness, headache, muscle pain, chills, joint pain, and fever. These side effects are more common after the second dose of the vaccine (for the Pfizer and Moderna vaccines) and – if they occur – should stop within 2 days.
- These symptoms are **normal** and they are a sign that your body is building protection against the virus that causes COVID-19.
- Among the millions of people who have received COVID-19 vaccines, a very small number of people have experienced severe allergic reactions. If you have ever had a severe allergic reaction to a vaccine or other substance, you should tell the health care professionals giving the vaccine so they can make sure that giving you the vaccine is safe.

### Can I get COVID-19 from the vaccines?

- No. Because of how the vaccines work, **it is impossible to get COVID-19 from the vaccines.** The vaccines also cannot make you test positive for COVID-19.
- Even if you have been vaccinated, if you have a cough, fever, or other symptoms, then there is a chance you could have COVID-19, and you should ask to speak to medical staff right away.

### I have diabetes, high blood pressure, hepatitis C, and/or HIV. Is it safe to get the COVID-19 vaccine?

- Yes. It is safe for people with diabetes and high blood pressure to receive the COVID-19 vaccine. It is also safe for people with hepatitis C and HIV to receive the COVID-19 vaccine.
- Only people who have had allergies to ingredients of the COVID-19 vaccine in the past should potentially not receive the vaccine – if this is the case for you, ask your doctor!
- None of the vaccines contain eggs, gelatin, latex or any preservatives.

### If I already had COVID-19, do I need to get the COVID-19 vaccine?

- COVID-19 vaccination should be offered to you even if you already had COVID-19.
- Research shows that COVID-19 vaccination is safe for people who have already had COVID-19.
- Right now, research shows that reinfection with the virus that causes COVID-19 is very rare in the first few months after you first get sick with COVID-19. This is why some health systems are first giving the vaccine to people who have not had COVID-19 until the vaccine supply is better.
- You should not get the vaccine if you are currently sick with COVID-19.

## AFTER VACCINATION

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### Do I need to keep wearing a mask after I receive the COVID-19 vaccine?

Yes. Unfortunately, even people who have had the COVID-19 vaccine may be able to get infected, and although the vaccine protects them from getting seriously sick, they may spread COVID-19 to others. (We do

not think this is common but we need more information about this.) Until the majority of all people have been vaccinated against COVID-19, everyone needs to continue wearing masks, practicing physical distancing, and frequently washing their hands.

**I got the Johnson & Johnson vaccine. How do I know if I have one of these unusual blood clots related to the vaccine?**

If you received the Johnson & Johnson vaccine within the last 28 days and have a bad headache, difficulty breathing, leg swelling, or abdominal pain, you could have an unusual blood clot related to the vaccine, and should contact a health care provider immediately. Keep in mind that these blood clots are extremely rare. Experts estimate there is about 1 case of unusual blood clots for every 500,000 people who get the vaccine.

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**COMMON MISUNDERSTANDINGS ABOUT THE COVID-19 VACCINES**

**I heard that some of the officers, health care staff, or the warden at my facility are refusing to get the vaccine. If they aren't getting it, why should I?**

There are many reasons that people don't get the vaccine. These include a lack of knowledge about the safety and effectiveness of the vaccines, a lack of understanding about COVID-19 itself, mistrust of the medical system, and more. We encourage you to empower yourself by learning as much as you can about the COVID-19 vaccine, and make your own decision about getting the vaccine based on facts, and regardless of what other people are doing.

**Should I even bother getting this vaccine given all the mutant "variant forms" of COVID-19?**

**Yes.** So far, research suggests that all three vaccines in the US continue to provide protection against the most common COVID-19 variants. The vaccines are **very good at preventing people from getting seriously sick** (meaning so sick that they have to be hospitalized) from COVID-19. Scientists are still studying the effect that COVID-19 variants have on how well the vaccines work.

**Will the COVID-19 vaccine harm my fertility?**

No. There is no evidence that the vaccine affects the fertility of men or women. There is also no evidence of infertility caused by the COVID-19 virus among the many millions of men and women who have recovered from COVID-19.

**The Pfizer and Moderna COVID-19 vaccines are mRNA vaccines. Does that mean they change your DNA (also called your genetic code)?**

- The Pfizer and Moderna vaccines both use "messenger RNA" (also called mRNA) to teach the cells in your body to recognize the outside part of the virus that causes COVID-19. That way, if you are exposed to the virus, your immune system will stop it from making you sick.
- The COVID-19 vaccine **does not change your DNA**. mRNA cannot combine with your DNA.

**The AMEND team and our partners on this FAQ all support vaccination.** See page 4 for our partner list.

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**MORE RESOURCES**

Ask your friends or family to get more information about COVID-19 vaccines at these trusted sites:

<https://covid19.ca.gov/vaccines/>

<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html>

<https://www.youtube.com/watch?v=zvncqnojjDU>

If you or your loved ones have more questions we should answer on the next version of this FAQ, email us at [info@amend.us](mailto:info@amend.us) or write to AMEND, 490 Illinois St, Floor 8, UCSF Box 1265, San Francisco, CA 94143.

**References**

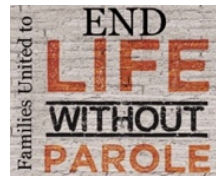
Centers for Disease Control and Prevention <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html>

State of California COVID-19 Vaccine Information Center <https://covid19.ca.gov/vaccines/>

UCSF COVID-19 Vaccine Information Hub <https://coronavirus.ucsf.edu/vaccines>



Frequently Asked Questions about the COVID-19 Vaccines:  
Information for Residents of Correctional Facilities



Prisonerreentrynetwork.org



## Preguntas Frecuentes Sobre las Vacunas Contra el COVID-19: Información para los Residentes de Instituciones Correccionales

Leah Rorvig, MD, MS, directora de educación sobre la salud, AMEND en la UCSF  
David Sears, MD, director de calidad de los servicios médicos, AMEND en la UCSF  
Zoe Kopp, MD, médica residente (medicina interna), UCSF  
Ilana García-Grossman, MD, médica residente (medicina interna), UCSF  
Brie Williams, MD, MS, fundadora y directora, AMEND en la UCSF

*El programa AMEND de la University of California, San Francisco se inspira en los principios de la salud pública y los derechos humanos para traer cambios transformadores a la encarcelación en los EE. UU. Nuestra misión consiste en crear comunidades más robustas al transformar las prisiones y cárceles en lugares con humanidad, dignidad y salud.*

**\*Consulte la página 4 en estas preguntas frecuentes para ver la lista de nuestros socios.**

### LAS VACUNAS CONTRA EL COVID-19: NOCIONES FUNDAMENTALES

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- Las vacunas enseñan al sistema inmunitario a reconocer y combatir el virus que causa el COVID-19. Esto puede evitar que las personas vacunadas se enfermen.
- Cuando usted recibe la vacuna también está protegiendo a otras personas de su entorno porque ayuda a reducir las probabilidades de que se enfermen de COVID-19. Las vacunas no se usan para dar tratamiento a las personas que padecen actualmente del COVID-19.
- Actualmente hay tres vacunas disponibles en los Estados Unidos, producidas por las compañías farmacéuticas Pfizer, Moderna y Johnson & Johnson.
- Las vacunas de Pfizer y Moderna consisten de dos dosis que se inyectan con tres semanas de diferencia (Pfizer) o cuatro semanas de diferencia (Moderna). La vacuna de Johnson & Johnson es de una sola dosis.
- Las tres vacunas son **SEGURAS** y **MUY EFICACES** para **prevenir la grave enfermedad causada por el COVID-19**.
- Las vacunas han sido administradas a decenas de millones de personas y tienen un buen historial de seguridad.
- Aunque puede parecer que las vacunas se desarrollaron en muy poco tiempo, estos descubrimientos científicos han estado en desarrollo por muchos años, y las empresas farmacéuticas han cumplido con todas las exigencias para que una vacuna sea aprobada para uso.

### SEGURIDAD Y EFICACIA

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#### ¿Cuán eficaces son las tres vacunas para prevenir el COVID-19?

- Las tres vacunas son **muy eficaces para prevenir la enfermedad grave causada por el COVID-19**. Casi 60 000 personas fueron completamente vacunadas durante la investigación de las tres vacunas y solo una de ellas fue hospitalizada con el COVID-19.
- Hasta ahora las investigaciones muestran que las vacunas de Moderna y Pfizer tuvieron una eficacia de más del 90% para prevenir síntomas leves causados por el COVID-19, mientras que la vacuna de Johnson & Johnson tuvo una eficacia del 66%. La investigación para la vacuna de Johnson & Johnson se realizó en lugares donde se estaban propagando variantes (cepas) más contagiosas del COVID-19, por lo que al momento no es posible comparar directamente la eficacia de las vacunas.
- Debido a que las tres vacunas son eficaces y por su disponibilidad limitada, **los médicos y los expertos en salud pública recomiendan ponerse la vacuna que le ofrezcan primero**.



### ¿Son seguras las vacunas de Pfizer y Moderna contra el COVID-19? ¿Debo sentir preocupación por el hecho de que fueron desarrolladas tan rápidamente?

- Las dos vacunas resultaron ser seguras y eficaces en decenas de miles de adultos (incluyendo a personas afroamericanas y latinas) que participaron en una investigación de alta calidad (la misma investigación que se hace para la aprobación de cualquier medicamento o vacuna nuevos).
- La revisión de ambas vacunas se hizo más rápidamente que lo usual. Esto se debe a que tantas personas se fueron enfermando y murieron por el COVID-19, que se considera una emergencia nacional.

### ¿Qué sucede con la seguridad de la vacuna de Johnson & Johnson?

- De casi 8 millones de personas que han recibido esa vacuna hasta el momento, se ha descubierto que quince personas desarrollaron coágulos de sangre inusuales dentro de los 5 a 24 días posteriores a la vacunación. Estos coágulos de sangre son muy graves y se han presentado principalmente en mujeres de entre 18 y 50 años.
- Debido a que estos coágulos de sangre inusuales son extremadamente raros y debido a que el COVID-19 es muy peligroso, los expertos médicos recomiendan continuar administrando la vacuna contra el COVID-19 de Johnson & Johnson.
- Para obtener más información, lea nuestras preguntas frecuentes específicas sobre la vacuna Johnson & Johnson.

### ¿Los empleados de AMEND han recibido la vacuna contra el COVID-19?

Ciertamente. Todos los miembros del equipo de AMEND recibieron la vacuna contra el COVID-19 tan pronto como estuvo disponible.

## EFFECTOS SECUNDARIOS Y PREGUNTAS MÉDICAS

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### ¿Cuáles son los posibles efectos secundarios de las vacunas?

- Los efectos secundarios más comunes son: dolor en el brazo, cansancio, dolor de cabeza, dolor muscular, escalofríos, dolor en las articulaciones y fiebre. Estos efectos secundarios son más frecuentes tras la segunda dosis de la vacuna (en el caso de las vacunas de Pfizer y Moderna) y — si los hay— suelen desaparecer en 2 días.
- Estos síntomas son **normales** y son una señal de que su cuerpo está desarrollando protección contra el virus que causa el COVID-19.
- De las millones de personas que han recibido las vacunas contra el COVID-19, un pequeño número de personas ha experimentado reacciones alérgicas severas. Si una vacuna u otra sustancia le han causado alguna vez una reacción alérgica severa, debe decírselo a los profesionales de la salud que estén administrando la vacuna, para que puedan asegurarse de que su vacunación sea segura.

### ¿Me puedo contagiar de COVID-19 por ponerme la vacuna?

- De ninguna manera. Debido al funcionamiento de las vacunas **es imposible que las vacunas le den el COVID-19.** Las vacunas tampoco pueden hacer que su prueba del COVID-19 de resultado positivo.
- Aunque usted se haya vacunado, si tiene un resaca, fiebre u otros síntomas, hay posibilidades de que tenga el COVID-19 debe ponerse en contacto con el personal médico de inmediato.

### Padezco de diabetes, hipertensión, hepatitis C y/o VIH. ¿Es seguro vacunarme contra el COVID-19?

- Ciertamente. Es seguro para las personas con diabetes e hipertensión recibir la vacuna contra el COVID-19. Lo mismo aplica a las personas con hepatitis C y el VIH.
- Las únicas personas que no deben vacunarse son aquellas que hayan tenido reacciones alérgicas a los componentes de la vacuna contra el COVID-19. Si este es su caso, ¡hable con su médico!
- Las vacunas no contienen huevos, gelatina, látex, ni ningún tipo de conservante.

### **Si ya tuve el COVID-19, ¿debo ponerme la vacuna?**

- La vacuna debe estar a su disponibilidad, aunque ya haya tenido el COVID-19.
- Los estudios muestran que la vacuna contra el COVID-19 es segura para las personas que ya han tenido el COVID-19.
- En este momento los estudios muestran que la reinfección es poco común durante los primeros meses tras haberse enfermado de COVID-19. Por esta razón algunos sistemas de salud están vacunando primero a las personas que no han tenido el COVID-19, hasta que mejore la oferta de vacunas.
- Usted no debe ponerse la vacuna si está enfermo(a) actualmente de COVID-19.

### **DESPUÉS DE LA VACUNA**

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#### **¿Tengo que seguir usando la mascarilla tras recibir la vacuna contra el COVID-19?**

Sí, debe hacerlo. Desafortunadamente, aun quienes han recibido la vacuna contra el COVID-19 pueden contagiarse; y aunque la vacuna los protege de enfermarse gravemente, pueden contagiar a otros. (En nuestra opinión esto no es común, pero nos hace falta más información al respecto). Hasta que la mayoría de las personas haya sido vacunada contra el COVID-19, todos tienen que seguir usando las mascarillas, mantener el distanciamiento físico y lavarse las manos con frecuencia.

#### **Recibí la vacuna de Johnson & Johnson. ¿Cómo sé si tengo uno de estos coágulos de sangre inusuales relacionados con la vacuna?**

Si recibió la vacuna de Johnson & Johnson en los últimos 28 días y tiene un fuerte dolor de cabeza, dificultad para respirar, hinchazón en las piernas o dolor abdominal, podría tener un coágulo de sangre inusual relacionado con la vacuna y debe comunicarse con un proveedor de atención médica de inmediato. Tenga en cuenta que estos coágulos de sangre son extremadamente raros. Los expertos estiman que hay aproximadamente 1 caso de coágulos de sangre inusuales por cada 500,000 personas que reciben la vacuna.

### **ERRORES FRECUENTES SOBRE LAS VACUNAS CONTRA EL COVID-19**

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#### **He oído que algunos empleados del personal de salud o el alcaide de mi institución correccional se rehúsan a ponerse la vacuna. Si ellos no se la ponen, ¿por qué debo hacerlo yo?**

Hay muchas razones por las cuales algunas personas no quieren vacunarse. Estas incluyen el desconocimiento de la seguridad y eficacia de las vacunas, el desconocimiento del virus del COVID-19, la falta de confianza en el sistema de salud y otras. Recomendamos que se informe todo lo que pueda sobre la vacuna contra el COVID-19 para tomar una decisión sobre su vacunación basándose en datos, independientemente de lo que otras personas estén haciendo.

#### **¿Debería vacunarme aun teniendo en cuenta la cantidad de “mutaciones” (variantes) del COVID-19 que existen actualmente?**

Sí. Hasta ahora los estudios indican que las tres vacunas en los EE. UU. son efectivas contra las variantes más comunes del COVID-19. Las vacunas son **muy eficaces para prevenir que las personas se enfermen gravemente** por el COVID-19 (aquellos casos tan graves que requieren hospitalización). Los científicos todavía están estudiando la eficacia de las vacunas sobre las nuevas variantes del COVID-19.

### ¿La vacuna contra el COVID-19 podría afectar mi fertilidad?

No hay pruebas de que la vacuna afecte la fertilidad del hombre o de la mujer. Tampoco hay pruebas de que el virus del COVID-19 haya causado infertilidad entre los millones de hombres y mujeres que se han recuperado de un contagio del COVID-19.

### Las vacunas de Pfizer y Moderna contra el COVID-19 son vacunas de ARNm. ¿Significa eso que podrían alterar mi ADN (el código genético)?

- Las vacunas de Pfizer y Moderna emplean el «ARN mensajero» (también llamado «ARNm») para enseñar a las células de su cuerpo a reconocer la parte externa del virus que causa el COVID-19. De esta manera, si se expone al virus el sistema inmunitario impedirá que el virus le cause una enfermedad.
- La vacuna contra el COVID-19 **no altera su ADN**. El ARNm no puede combinarse con su ADN.

**El equipo de AMEND y los patrocinadores de esta hoja informativa están a favor de la vacunación.** Para ver la lista de nuestros socios, consulte la página 4.

## RECURSOS ADICIONALES

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### Todavía tengo preguntas ¿Qué debo hacer?

Puede recomendar a sus amigos o familiares que obtengan más información sobre el COVID-19 en los siguientes sitios de confianza:

<https://covid19.ca.gov/vaccines/>

<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html>

<https://www.youtube.com/watch?v=zvncqnojjDU>

- Si usted o sus seres queridos tienen más preguntas que deberíamos contestar en la próxima versión de estas preguntas frecuentes, envíenos un correo electrónico a [info@amend.us](mailto:info@amend.us) o escriba a AMEND, 490 Illinois St, Floor 8, UCSF Box 1265, San Francisco, CA 94143.
- Si se encuentra en California, también puede llamar al **Transitions Clinic Network Reentry Healthcare Hotline** para hablar con un profesional de la salud en la comunidad el cual tenga un historial de encarcelamiento. Esta línea directa acepta llamadas a cobro revertido desde las prisiones estatales de California y desde las cárceles de los condados que emplean el GTL. La línea directa está disponible de lunes a viernes de 9:00 AM-5:00 PM. Llame al: 510-606-6400. También puede contactarlos mediante el JPAY en [tcninfo@ucsf.edu](mailto:tcninfo@ucsf.edu), en caso de estar disponible.

### Referencias

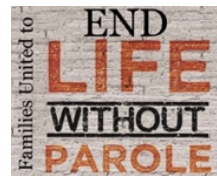
Centros para el Control y Prevención de Enfermedades <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html>

Centro de Información sobre el COVID-19 del Estado de California <https://covid19.ca.gov/vaccines/>

Centro de Información sobre las Vacunas contra el COVID-19 de la UCSF <https://coronavirus.ucsf.edu/vaccines>



**Preguntas frecuentes sobre las vacunas contra el COVID-19:  
Información para residentes de instituciones correccionales**



PrisonerReentryNetwork.org



03.02.2021  
NEWS INSIDE

# **What People in Prison Need to Know About the COVID-19 Vaccine**

Over 100 incarcerated people around the country told us their questions about the vaccine. Here's information about whether it's safe, when it could be available and more.



By ARIEL GOODMAN

*Mail this story to your loved one in prison by downloading Amealio ([App Store](#) or [Google Play Store](#)) and going to the Information & Resources section within the Gift Shop. The Marshall Project will cover the cost of postage.*

Incarcerated people have been among the hardest hit by the coronavirus in the United States. At least one in every five people in state and federal prisons have caught the virus since the pandemic began, and over 2,000 have died.

Since COVID-19 vaccines became available, incarcerated people and their families have been telling The Marshall Project that they're not getting key information. So we surveyed 136 imprisoned people to collect the most common questions. Then we got answers from vaccine experts, Centers for Disease Control and Prevention (CDC) fact sheets and other reliable sources.

**How does the vaccine work?**

There are two COVID-19 vaccine brands widely distributed in the U.S.: Pfizer-BioNTech, which requires two shots 21 days apart, and Moderna, which requires two shots 28 days apart.

Both work by injecting a small piece of genetic material called “messenger RNA” into your body. Messenger RNA teaches the body to make a harmless “spike protein” like the one found on the coronavirus. Your body learns to recognize the spike protein as something foreign and produces virus-fighting antibodies to protect you against it.

The Federal Drug Administration (FDA) authorized a Johnson & Johnson vaccine on February 27, and distribution will ramp up in March. Unlike the other two vaccines, it only requires one shot. It works by injecting an inactive version of a common virus called an adenovirus into your body. The adenovirus carries instructions to your cells to create the spike protein, which sparks an immune response.

All three vaccines are highly effective in preventing hospitalization and death from COVID-19. Because the vaccine supply is so scarce, most people in or outside of prisons can’t choose which brand they get.

### **What are the most common side effects of the vaccine?**

All three vaccines can cause mild side effects one to three days after receiving a shot. Some common side effects are irritation, swelling, tenderness and muscle pain in the area of your arm where you got the shot. Some people have reported fever, chills, headache and tiredness, especially after the second dose. Experts suggest you plan for a day of rest and take a pain reliever.

### **Are there any serious side effects?**

A tiny percentage of people who received the Pfizer-BioNTech and Moderna vaccines had a severe allergic reaction called anaphylaxis. Most of these reactions occurred shortly after the shot, which is why you should wait about 15 minutes before you leave the place where you were vaccinated. Be sure to tell the person giving you the shot if you have a history of severe allergic reactions or if you’ve ever had to use an EpiPen.

While no one who participated in the Johnson & Johnson clinical trial had an anaphylactic reaction after receiving the vaccine, a small percentage of people experienced blood clotting. Experts are still studying whether this was related to the vaccine.

### **How do I know the vaccine is safe?**

Health officials have not reported any deaths caused by the COVID-19 vaccines. Compare this with over 500,000 people who have died of coronavirus in this country. “COVID is a very severe disease,” said Larry Corey, a virus expert who leads the COVID-19 Prevention Network. “The vaccines are effective in preventing death, hospitalization and being on a ventilator.”

Some people who took our survey said they feared companies were using prisoners as guinea pigs. More than 100,000 people participated in clinical trials for the Moderna, Pfizer-BioNTech or Johnson & Johnson vaccines before they were released to the public. The overwhelming majority of those participants were in the free world. The clinical trials for all the vaccines showed that they have an equal effect on people from different racial and ethnic groups.

At publication time, more than 75 million people—roughly 15 percent of the U.S. population—have received at least one dose.

### **How are prisons distributing the COVID-19 vaccine?**

The first thing to note is that it’s up to states to decide when their residents get the vaccine. Most states are distributing the shots in three phases. The phases are based on whom the state government determines is most at risk of contracting COVID-19.

Medical experts have argued that incarcerated people should be in the first phase because they are at such high risk. But so far, only nine states have explicitly included imprisoned people in Phase 1. Eighteen states have placed them in Phase 2. Many of the remaining states have vaguely-worded plans that may include incarcerated people. To find out where incarcerated people fall in your state’s vaccination plan, search this list compiled by the Prison Policy Initiative.

### **Who gets the vaccine first in prison?**

There are no universal distribution guidelines for state prisons, local jails and detention centers. According to the CDC, jurisdictions will make their own plans.

The Federal Bureau of Prisons does have clinical guidelines that they’ve made public. According to those guidelines, federal prisons will distribute the shots to people based on four “priority levels.” People who work in “health service unit jobs” or live in nursing care centers are the first priority. Second priority are people 65 and older, and those with health conditions that put them at a high risk of being hospitalized or dying from COVID-19, such as cancer, heart disease, sickle cell anemia or type 2 diabetes. On the third priority level are people ages 50 through 64, and those with medical conditions that may put them at risk of severe COVID-19 infection such as asthma, high blood



pressure and liver disease. After these three groups get their shots, prison officials are instructed to give them to anyone else who wants to take it.

### **Should I take the vaccine if I've already had COVID-19?**

When you recover from COVID-19, your body begins to produce protective antibodies. If you are exposed to it again, these antibodies can identify and, in most cases, defeat the virus. This is called “natural immunity.”

But the amount of natural immunity that people build up varies, and experts are still studying how effective it is in preventing future COVID-19 infections. That’s why the CDC advises that people wait to take the vaccine at least 90 days after recovering from the virus.

“We don't know how long [natural] immunity is going to last,” said Monica Gandhi, a professor of Medicine at the University of San Francisco. “It could be really long, but the current recommendations are still to get the vaccine. That’s not because we don't think you're immune after you've gotten COVID, but because it could just boost your response so that you have lifelong immunity.”

### **Does the vaccine prevent me from contracting the new strains of the coronavirus?**

Experts are still researching how well each vaccine protects against the new coronavirus strains that have emerged in different parts of the world. Though every strain is different, early studies have shown all three vaccines to be effective in preventing severe infection. “The only real tool we have to combat the virus, besides not acquiring COVID, is vaccination,” said Corey, of the COVID-19 Prevention Network.

### **So if I get the vaccine can I still spread the coronavirus?**

Maybe. Experts are still studying whether vaccinated people can carry and transmit the coronavirus to others. For that reason, the CDC still recommends using precautions such as masks, social distancing and frequent hand-washing even if you are vaccinated. III

**APPENDIX E**  
**NYSBA RESOLUTION**

**RESOLUTION FOR THE IMMEDIATE VACCINATION OF CRIMINAL DEFENSE ATTORNEYS, CIVIL LEGAL SERVICES ATTORNEYS, MANDATED FAMILY COURT ATTORNEYS, ATTORNEYS FOR THE CHILDREN (AFC), PROSECUTORS, AND FAMILY AND CRIMINAL COURT JUDICIARY**

**WHEREAS** As known and widely reported, COVID-19 is a pandemic the likes of which has not been seen in over a century since the influenza pandemic of 1918.

**WHEREAS** On November 7, 2020 The New York State Bar Association passed a resolution regarding the COVID-19 pandemic stating that “Once available, a vaccine should first be equitably allocated and distributed based upon widely accepted ethical principles including maximizing benefit to the society as a whole through reducing transmission and morbidity and mortality; recognizing the equal value, worth and dignity of all human persons and human lives; mitigating suffering, health inequities and disparities; and ensuring fairness and transparency in decision making. Health care workers and other essential workers most endangered by COVID-19 and populations at highest risk must be afforded priority access to a vaccine.”

**WHEREAS** Public defenders, civil legal services attorneys (employed by civil legal services law firms under Judiciary Law Section 495(7)), assigned counsel, attorneys for the children (AFCs), retained criminal defense counsel, and their support staff who see clients in person across the country are arguing that they should be among priority groups to receive the COVID-19 vaccine.

**WHEREAS** These lawyers provide services that are essential to ensuring access to justice for some of the most at-risk members of our communities.

**WHEREAS** Public defenders, civil legal services attorneys (employed by civil legal services law firms under Judiciary Law Section 495(7)), assigned counsel, attorneys for the children (AFCs), and retained criminal defense counsel must often provide space within their offices for clients to appear in virtual court and must appear in person in court with clients because it is often difficult to communicate with their clients virtually and virtual communications can raise privacy concerns.

**WHEREAS** Often the courtrooms do not adequately allow for social distancing between attorneys and their clients when appearing in person in court.

**WHEREAS** Criminal defense attorneys also must represent incarcerated clients accused of the most serious crimes and should be vaccinated in short order so that they can visit clients as there are serious privacy issues with virtual or telephonic communications in these instances.

**WHEREAS** Prosecutors must be available to appear in court on a daily basis and they must meet with witnesses and law enforcement regularly.

**WHEREAS** People who are incarcerated should be afforded the same protections as all other personages in criminal proceedings. These individuals are unable to sufficiently engage in social distancing and other protective techniques available to the public at large and therefore are at a heightened risk of COVID-19 infection.

**WHEREAS** In Family Court, indigent parents and their children have a right to counsel in child neglect proceedings, Article 10 & 6, which are urgent proceedings dealing with the removal of a child from a parent and home. These attorneys must meet with their clients.

**WHEREAS** Civil legal services attorneys and support staff interact with and represent indigent clients in urgent civil proceedings such as domestic violence and housing matters, at times in person.

**WHEREAS** Members of the judiciary are required to be in court in these proceedings and these judges preside over numerous cases in a day and are in contact with all the parties to each action.

**THEREFORE, IT IS RESOLVED THAT:**

For all the reasons stated herein, public defenders, assigned counsel attorneys, attorneys for the children (AFCs), client-facing civil legal services attorneys, mandated family court attorneys, retained criminal defense attorneys, prosecutors, incarcerated people including pre-trial detainees, criminal court judges and magistrates, and family court judges and the client-facing staff of these attorneys and judges as well as all lawyers who are by Court order or otherwise obligated to make an in-person appearance, either in a legal proceeding or elsewhere if related to an existing or contemplated court proceeding or process, should be prioritized for the vaccine as essential workers and individuals at high risk and that they immediately be moved into the New York State 1(b) vaccine category.