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PERSPECTIVE

What a 100% remote trial is really like: A court reporter's view

By Early Langley

The COVID-19 pandemic of 2020 that spilled into 2021 caused the Alameda County Superior Court to have trials totally remote. My trial was assigned out on April 26, 2021. .

Before the jury was impaneled, court staff sent out a Zoom invitation to Counsel and me. The clerk assigned breakout rooms to us. Different breakout rooms were created for private communications for all parties and their witnesses.

A Tech Questionnaire and Chromebooks

Each prospective juror was sent a special technology questionnaire targeted to find out if they had Wi-Fi and a laptop. Only a couple didn't. Court and counsel agreed that purchasing Wi-Fi-equipped and "sanitized" Chromebooks for each impaneled juror solved connectivity problems and unequal access to seeing exhibits and witnesses.

Voir Dire

Prospective jurors assembled in the "virtual main room" after the court attendant and clerk took roll call. Fifty-plus jurors took up several "Zoom pages." They monitored each juror's "square." Once a juror was not paying attention, they notified the judge via the "chat" function. Only the judge and staff were physically present. With 50+ jurors waiting to get questioned on a screen showing 20 at a time, the "view" setting on Zoom became key to getting a good view of each juror. You can go with "gallery" or "speaker." "Speaker" automatically highlights the speaker on the screen.

Tweaks, Exhibits, Views and Breakout Rooms

Low internet strength caused most of the "Your connection is unstable" problems. "You're on mute" improved. Tweaking mic settings and stronger Internet location helped. Echoing

got solved by keeping everyone mute except me, the judge and speaking counsel. Staff took training on how to operate Zoom and monitor the jurors.

Having a screen right in front of each individual juror gave jurors easy access to graphs, videos, and PowerPoints. Every juror could see the witness testify face-on, along with the attorneys and the court. The judge preferred it to only seeing a normal side view of the witness.

Exhibits were shared through a Veritext Exhibit Share program. Each party had its own private "folder." Attorneys uploaded and opened an exhibit for identification. I produced a more accurate Real Time transcript due to access to Exhibit Share.

Going in and out of breakout rooms proved much more efficient and less time-consuming than the time it took for the Judge to announce the break, and for me to pick up and reset my equipment in chambers.

Trial Began

On day 20 the trial began. Trial hours were 8:30 to 1:30, Monday through Thursday, with some exceptions. Due to COVID, budget cuts, and increased staff per trial, only two civil trials at a time went out.

12 jurors and four alternates were impaneled. The Zoom invitation changed to prevent any prior Zoom invitees from accessing the trial. Sixteen Chromebooks were delivered to each juror via an anonymous courier. Addresses were kept confidential.

The judge kept a vigilant eye on every juror, checking at each break to ensure that every juror was accounted for. Any time a juror's face did not appear, or a juror sent a "Chat," or counsel did not appear, proceedings stopped.

We lost one juror due to a COVID infection. In a private breakout room, and barely able to speak, the juror said they could not continue. The remote Zoom trial prevented a mistrial.

The Importance of a Real Time Tech Court Reporter

From gavel to gavel, my Real Time link launched every day. It became a vital connection to court and counsel, from California to New York. The judge did not start any proceeding without seeing me on the screen and the Real Time feed. Any time a juror had a connectivity issue, the juror sent a chat, isolating the time that they stopped hearing. After agreement on read-back, I read back the testimony from my Real Time screen.

Deliberations and Verdict

Jury deliberations took place in a private virtual breakout room. Exhibits were delivered anonymously on a thumb drive and readbacks were requested. The jury deliberated for about two days. On day 64, they reached a verdict.

Firsthand Observations and Tips

The best visual image was achieved when a speaker looked directly into the camera's eye instead of looking down at the screen. That way the juror felt like you were connecting with them. I suggest practicing by having someone check out what you look like on a screen. If possible, create a studio-like setting with lights. Check out your backdrop. What do you want to look like to your jury? Are your graphics and PowerPoints easily seen?

Conclusion

From gavel to gavel, this trial worked. Remote trials carry similar issues as in-person ones — except for COVID exposure and its variants: occasional juror inattentiveness; inability to see exhibits or videos on a large or small in-court TV/monitor; and connectivity of remote live witnesses broadcast over the same in-court TV/monitors.

Remote trials benefit and protect everyone. Everyone has equal access to witnesses and exhibits in

the same eye-to-eye view. Audibility is much better than getting lost in a large courtroom.

Remote trials beat having masked jurors scattered all over the courtroom, behind counsel at the table, surrounded by masked people separated by Plexiglas, where you cannot hear, see, and judge the demeanor or expression of a witness or juror.

Ask yourself: Which would you prefer?

I think it goes without saying that the money saved by having witnesses and counsel appear remotely is enormous. Cancelled flights, hotel reservations, and time and money spent on out-of-town experts waiting around to be called is costly. Lastly, jurors are more willing to sit as jurors because they do not have long commutes to a courthouse in sometimes not-so-nice areas and risk infection. ■

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