

Playing a Supporting Role During a COVID-19 Jury Trial

By Michelle Christy



Now that we are over nine months into the COVID-19 pandemic, you likely have heard about the experimental jury trials that have taken place throughout the country. From jury trials held in school auditoriums to fully virtual jury trials, state courts have been exploring a variety of mediums to continue furthering justice while keeping everyone six feet apart. While there are myriad challenges for the first chair during a trial, COVID-19 jury trials also significantly affect the role of the second chair and those in other supporting roles.

I had the opportunity to participate in one of the first civil COVID-19 jury trials in Minneapolis. During trial preparation, I found that while there were articles and webinars out there discussing the logistics of trying a case during a global pandemic, there were also things that I learned along the way in my role supporting the lead attorney. Below are some suggestions to consider in your trial preparations to avoid some of the complications bound to arise during the course of a COVID-19 jury trial.

Make sure you have eyes on everyone in the courtroom. While there is a push to have as few people in the courtroom as possible, it is important to make sure that your trial team is able to see the entire courtroom. A socially distanced trial can create obstacles in the courtroom that block essential views. When planning for trial, consider the following: Are there screens to show exhibits in between the counsel tables and the jury box? Are some members of the jury seated in the gallery behind the lectern? These obstacles make it difficult to see jurors' critical reactions and body language. Seeing every juror is especially important because juries and jury pools are sometimes smaller than average in a COVID-19 trial. In our experience, the jury pool was significantly more educated, less racially diverse, and older than the typical jury pool in our county; this made it even more important to notice small differences between the potential jurors. Courtroom safety modifications can also hinder the lead

attorney's ability to get a read on the judge. Furthermore, it is important that the judge and all members of the jury can see the lead attorney. Look out for obstacles or glare that will obstruct the lead attorney's face from the jury. If you are able to, try to get access to the courtroom prior to trial. Sit in every seat and figure out which lines of sight are obstructed and determine how many trial team members you need to be able to see the whole courtroom and where they will need to sit.

Know your technology. As discussed in previous articles in *The Voice*, COVID-19 trials come with a variety of extra

technological challenges. One of the most important things someone in a supporting role can do is thoroughly understand the technology. There are several ways to learn about technology. Many computer programs have online guides or webinars. In my experience, at least some computer programs designed for trial attorneys also have great support helplines available to assist with any difficulties. If you are using a computer program during the trial, try to make sure that you don't need to use the internet to access your program if at all possible, because internet

service in a courthouse can sometimes be unreliable.

Bring extra materials. When preparing for trial, bring extras of everything, from technology, to documents, to office supplies. Your trial team may intend to use many different forms of technology during trial, including laptops, printers, TV screens, projectors, and document cameras. Have extra batteries for any remote controls that you may need. Bring an extra laptop in case you need an additional screen to Zoom in a remote witness. Bring extra cords that connect laptops to screens and projectors. Beyond technology, also consider bringing copies of documents, as some courtroom restrictions can limit the number of people who can touch the same sheet of paper or pen.

Identify a designated support person in the office. Many firms currently have fewer attorneys and staff in the office due to COVID-19 restrictions. Prepare in advance for those

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moments when you are unable to access your file server remotely or need additional logistical help from someone in the office. If you have the capacity, have someone on standby who can help at a moment's notice.

While this list is not exhaustive, it discusses a few things that second chair attorneys, paralegals, and other support staff should consider to ensure that trial goes as smoothly as possible. With proper preparation, you enable the lead attorney to focus on litigating the case. Finally, if you are interested in learning more about the challenges of trying a case during COVID-19, consider reading some of the recent

articles in *The Voice* on this topic, including "[The Virtual Trial: Is it Our New Normal?](#)" written by Ricky A. Raven and Austin K. Yanky or "[Trial in the Age of COVID-19](#)" written by Baxter D. Drennon.

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