

Second Study Commission
Civil Law and Procedure
65th Annual Reunion of the IAJ – Tel Aviv, Israel
Questionnaire 2022

VIRTUAL TRIALS IN CIVIL PROCEEDINGS

The Second Study Commission will focus on how our jurisdictions used, and will use, virtual trials and hearings before, during and after the Pandemic. We have limited the questionnaire to six questions, and we expect to receive short and concise answers. The questions are as follows:

- 1. Did your jurisdiction offer complete or partial virtual civil trials or hearings before the Pandemic? If yes, please describe what was offered and how often the offer was exercised.**

No. There had been no virtual civil trials or hearings in the Philippines before the pandemic. Counsels, litigants and/or authorized representatives were required to appear in-court.

- 2. Did your jurisdiction offer civil virtual trials or hearings during the Pandemic? If yes, was there a change in how, what and when it was offered? Were protocols published? Also, if yes, when were the virtual trials/hearings offered and what was the uptake?**

Yes, the Supreme Court allowed civil and even criminal virtual trials or hearings during the pandemic. The Supreme Court issued and published several administrative circulars for the conduct of hearings through videoconferencing as an alternative mode to in-court proceedings. In January 2021, the Supreme Court issued the Guidelines on the Conduct of Videoconferencing to ensure that the dignity and solemnity required in an in-court hearing, as well as the rules and practices on proper court decorum, are strictly observed during videoconference hearings. Under the Guidelines, the Court may *motu proprio* order that proceedings the proceedings be conducted through videoconferencing in the following instances: (1) acts of God; (2) periods of public emergencies officially declared by the concerned agency of the government; (3) security risks on the part of the litigant, counsel, or witness; (4) a high-risk person deprived of liberty (PDL); or (5) when the litigant or witness is a PDL; (5) when the presence of a government witness or an expert is required but cannot attend in-court due to justifiable grounds; and (6) compelling reasons justify resort to videoconferencing. In all other instances, videoconferencing may be initiated by motion by any party.

For cases heard through videoconferencing, notices and link to the videoconferencing platform are sent through the emails and/or mobile numbers provided by the parties and counsels.

- 3. Presuming that civil virtual trials were offered, was there any improvements made in the technology/software that the government provided? How were documents and exhibits managed?**

The Supreme Court authorized the use of Microsoft Teams as the software program for videoconferencing. There had been a series of seminars conducted to

disseminate information on how to use the program. The seminars also helped in addressing issues and challenges in using Microsoft Teams. There were also sharing of best practices of various court to improve the conduct of hearings through the new technology.

Courts have devised different strategies in the management of documents and exhibits during virtual trials. In some courts, court personnel took it upon themselves to scan the records and make the electronic copies available during the hearing. Others, on the other hand, required counsels to be ready with electronic copies of their documents and exhibits during the trial.

4. What does the future hold in your jurisdiction with respect to the continuation of virtual trials? What are the issues and or benefits that have arisen?

The introduction of the new technology greatly helped the conduct of hearings during the pandemic where there had been restrictions to the mobility and access of people to courts. In a way, virtual hearings helped lessen delay in the resolution of cases. Courts are able to hear and dispose cases and act on urgent matters.

The issues which most courts encountered in the implementation of virtual hearings relate to poor internet connectivity, the inability of some parties to join or access Microsoft Teams, the lack of compatible devices such as smart phones or laptops, and the lack of know-how for some elderly people in using these means.

5. Has or is research being done in your jurisdiction to help ameliorate some of the concerns that have arisen with virtual trials?

The Supreme Court has continuously conducted seminars which reflect that research, or at least some data gathering, are being done to address concerns with the conduct of videoconference hearings. Courts were also given communication allowance for the procurement of internet service.

Recently, the Supreme Court also issued the Rules on Expedited Procedures in the First Level Courts. Under the said rules, for small claims cases, if any of the parties communicates his/her difficulty accessing the videoconferencing platform, the court may allow the use of alternate videoconferencing platforms or instant messaging (IM) applications with video call features, subject to some conditions. This will prevent resetting or postponement of cases which usually happens when any of the parties express their inability to join or access the Microsoft Teams.

6. How did the digitally excluded people in your jurisdictions have access to justice and specifically to virtual trials during the Pandemic?

The courts have given consideration to litigants who have limited resources in accessing virtual hearings by allowing them to make use of the available facilities in the court rooms when circumstances permit. Further, courts also do not strictly impose sanctions when justifiable circumstances prevented a party from appearing or participating in the videoconferencing hearing.