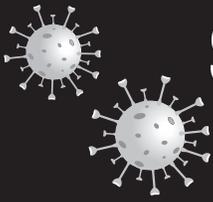


# ADVOCATE

ARIZONA ASSOCIATION FOR JUSTICE / ARIZONA TRIAL LAWYERS ASSOCIATION • JANUARY/FEBRUARY 2021



## Surviving and Thriving During the Pandemic



By *Frances Lynch, Esq.*

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I practice law in Tucson, Arizona. Prior to the COVID-19 pandemic, I lobbied AzAJ for online meetings and educational conferences. At that time, the word “Zoom” was not even part of my vocabulary. Remote anything seemed somewhat complicated. Not that I didn’t love a two hour drive to Phoenix as much as the next person, I just wanted more options. In March of 2020, I got options and also I lost other options, as our organization quickly moved into lockdown with the rest of the country. Out of necessity, lawyers nationwide began to take advantage of available technology solutions. Our courts have done the same, allowing attorneys and clients to appear by audio and video for many hearings. The United States Supreme Court has even allowed telephone audio appearances for the justices and lawyers to conduct oral arguments, proving that the legal profession can survive, and even thrive, despite the virus.

By now, we’ve all seen the video of the lawyer who emphatically maintains “I am not a cat,” whilst appearing as a cat on the court’s video screen. In addition to Zoom errors making us laugh, one of the benefits of the pandemic has been the ability to attend court hearings in a different way. Most courts offer some type of online or phone access to hearings. Typically, it’s easy to access this information through the court’s website. Among the solutions, our United States Supreme Court, and many State Courts, including our own here in Arizona, have provided live audio and sometimes video feed for the listening public.

Here in Pima County, audio hearings have become the normal, with the court giving litigants a phone number and code to call into the hearing. If all you want to do is listen to

the hearing, (as though you were sitting in the courtroom) direct access information can be found at <https://publichearings.sc.pima.gov/> where you will be directed to the court calendar to search by case number or party name. Click on the courtroom number to access the live audio for the scheduled hearing. For cases with “NAB” the hearing is “Not Available for Broadcast.” The site is maintained by Pima County Superior Court Case Management Services. If you have difficulty finding a hearing you can call them at (520)724-4200. Once you locate the hearing, click on the courtroom; that takes you to a YouTube/audio only channel. Each division has its own YouTube channel. The advantage of this method is that you can listen in without worrying about noises distracting the litigants. For Settlement Conferences and other pre-scheduled video matters, Pima County is using Microsoft Teams.

In Maricopa County, you can listen in to audio hearings by calling (602) 506-9695 and then punching in the access code which is listed on the court’s calendar, followed by the # sign. A more complete explanation appears at <https://superiorcourt.maricopa.gov/communications-office/covid-19-judicial-branch-operations-and-updates/> Maricopa has some video hearings and those are marked with a “watch hearing icon” which is a big eyeball in the column where you would expect to find the access code. Click the eyeball icon to access the livestream. This is useful if one of your colleagues has a case with a similar issue, or even if you want to get an idea of how a judge might address a motion with facts similar to yours. It’s the same idea as if you just dropped in to watch a court hearing, except you are listening on the phone in your

office or home. In Maricopa, you can call (602) 506-7032 with any problems.

The Arizona Supreme Court has a live video feed which is easy to find. The video is posted so you can watch later on if your schedule is busy. On the Arizona Supreme Court web site, you’ll go to the Oral Argument Calendar and click the view oral arguments link, or go directly to <https://www.azcourts.gov/AZ-Supreme-Court/Live-Archived-Video>. You’ll see a window that allows you to select the case (if the hearing is already in progress, that is noted and you’ll still be allowed to enter.) The recent arguments are saved below and can be viewed. Some of our members have given astonishing arguments as of late, so if you missed them, it is worth watching.

The Court of Appeals, Division 1, has conducted arguments via video. It has allowed observers to “sit in” with video and audio muted. The court of Appeals, Division 2, is doing both in-person and audio arguments. If you are requesting an audio argument, you’ll need to file a motion. If an argument is audio, observers can listen in with phone muted. The Division 2 clerks will provide call-in information upon request.

Before the pandemic, most attorneys I know believed that for depositions to be effective, they must take place in person. I often flew across the country to take depositions. Personally, I believed in-person depositions gave me a better chance to assess the deponent’s credibility. But the pandemic has left us with extremely limited options. Judges across the country have concluded that the pandemic is not “good cause” to delay discovery, and that parties must consider alternative means. Since court rules

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provide deposition can be taken by telephone or other remote means, judges may deny requests to stay discovery proceedings. The Zoom/video conference deposition has become standard. Video conferencing abounds with numerous programs, Zoom being one of the most popular. With two-way communication, best practices include muting your device when it is not your turn to speak and unmuting before you start talking. If you are merely an observer (as I was recently in a Court of Appeals argument) you can expect to mute and also keep your video off.

For all courts, and for depositions, certain preparations are important when you are the one appearing. For audio/ telephone, it is best to have a landline or Internet connected telephone, rather than a cell phone. To avoid interference and background noise, mute your phone unless you're speaking. Video technology will work better if you download the application for the platform beforehand. Make sure you have a camera on your computer or iPad, and consider an external microphone and speaker system. Practice using everything before the hearing. Depositions are often easier since most of the court reporters are proficient in the technology, and it has become commonplace for lawyers to conduct depositions and hearing from a home office.

For years I had a home office with a computer and would often work there in the evenings and on weekends. When the COVID shutdowns came, I already had a setup that I could expand. I had a computer which logged directly into my office server, which was and is hosted in the cloud. We use a cloud company called Uptime, which is designed for the legal services industry, but there are many cloud options for small and large firms. We used to have an actual physical server in our office, but we moved to the cloud a couple years before the pandemic. Our server can be securely accessed from any device – even a smartphone.

Our office phone system was already VOIP (Voice Over Internet Protocol.) This means the phone system runs through the Internet. Everyone in my firm has a normal looking black phone that plugs into a data port in our office. If I was on a trip pre-pandemic, I'd simply take along an extra phone and plug it into the modem at my Airbnb. I then could dial extensions or make calls just as if I were in my office. The caller ID to any number I dialed showed my firm's phone number automatically. This method eliminates problems with spotty cell tower reception, and having to block your cellphone number if you aren't comfortable with it being visible.

In 2020 when things began closing down, I duplicated my home office set up for my paralegal and other lawyers in the office with extra phones and computers. We are normally in a shared reception arrangement, and so all the reception desk staff needed to do was to transfer our incoming calls to the alternative extensions, which were now at our homes. They are also scanning our mail daily and emailing it. If something comes on a CD, such as police photos, they upload it for us into a file my paralegal has created. We have iPads and we use those on small moveable stands (I like the brand AboveTek for its durability) when we have case meetings or client meetings via Zoom. This way, the Zoom program runs on the iPad and our lawyers have access to their computer screens during the meeting. (This can also be accomplished with a two monitor computer screen.) We have done settlement conferences, arbitrations, depositions, and new client meetings via Zoom. While not the same as in person, it does work better than just using the phone. I've made it a practice to have an office Zoom meeting at least once a week with everyone in the office on the call. It's nice to see each other and to check in on a regular basis. We've had the occasional child or cat wander into

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the background, and we all survived it.

One of the important themes that I've noticed this past year has been a sense of connection. In Tucson, we have, for the last twenty some years, held an attorney Brown Bag meeting once a month. The format was for each person to bring their lunch and questions or case, and we would spend the lunch hour discussing the value and/or strategy of various cases. In April 2020, with most of our offices in lockdown, we decided to try the Brown Bag on Zoom. Initially, it was odd and awkward. Most of us were still learning the Zoom program and we had trouble with sound and video. But our friends were patient and understanding. The payoff in seeing our colleagues' faces, and in sharing experiences and advice again, was completely worth it. Learn at Lunch on Zoom has been a great success also, for the same reasons. We're in this situation together, and we can learn to manage this situation together. With patience, humor, and flexibility, we can continue helping clients and doing what we love.

Keep in mind that as attorneys, we have an ethical duty to our clients to become proficient in communications technology. It is worth your time and expense to learn these skills, the hardware is really not that costly, and chances are you are smarter than your computer. But obviously, regardless of how bad you think you may look on the Zoom call, avoid using cat filters. ■



# SEMINARS

Live Webinar Format Learn at Lunch



Monday, March 1, 2021 • 12:00 PM - 1:00 PM

## Reasonableness of Medical Records

*Presented by Richard Langerman*

Throughout his 36 year career, AzAJ Past President Richard Langerman has handled complex insurance bad faith claims on behalf of policy holders including life, health, disability, casualty and homeowners claims. In this 1 hour Webinar he will take you through the reasonableness and admissibility of medical records. ***This presentation qualifies for 1 hour of CLE.***

**HOW TO ATTEND:** Join this live ZOOM program from your office or home, using a computer with high speed internet. You may ask questions, and post comments from your computer during the program. Simple instructions with a link to the program will be emailed to registrants the day before the webinar. You will be emailed the materials on morning of the Webinar. If you do not receive the materials, or have issues logging in please contact Ben Goldstein at Ben@azaj.org.

**EVENT RATES:** FREE – AzAJ Life/Sustaining Member  
\$35 – AzAJ Regular Member; \$40 – Non-Member or Paralegal

***Even though we aren't learning at lunch we still want to feed you!***  
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