



MICHIGAN SUPREME COURT

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Testimony

U.S. House Committee on the Judiciary

Subcommittee on Courts, Intellectual Property, and the Internet

*“Federal Courts during the Covid-19 Pandemic: Best Practices, Opportunities for Innovation,
and Lessons for the Future”*

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Thank you for the invitation to testify and for the opportunity to talk about how Michigan’s judiciary has responded to the COVID-19 crisis.

Let me put our workload in context. Michigan has 242 trial courts throughout the state that adjudicate almost three million cases each year. That means, of course, that our courthouses are high density places, and also, unlike restaurants and salons, they are not places people generally have a choice about whether to visit. This means it was critical for us to figure out how to maintain access to justice and also keep the public and our court employees safe.

Public trust is the only currency courts have. The Rule of Law is, after all, just a set of ideas that are only as good as our collective faith in them. We work to build that trust in our courtrooms with our actions and with our words. That requires cooperation, coordination, and a commitment to treating everyone with dignity and respect. In this pandemic it has meant doing all of that while keeping the public safe and also keeping the doors of the justice system open to all.

I am very proud of how judges in Michigan and in other states have stepped up to the challenge, shared ideas, showed remarkable creativity, and shattered the notion that judges aren’t flexible, patient, or open to change. Because in three months, we have changed more than in the past three decades, and now that we know innovation is possible, we have a unique opportunity to create long-term and much-needed change for our justice system.

Ultimately, this pandemic was not the disruption we wanted, but it is the disruption we needed to transform our judiciary into a more accessible, more transparent, more efficient, more customer-friendly branch of government.

With unique and acute pressure to protect public health, judicial leaders are finding creative ways to adapt to COVID-19 – with technology and with simplifying processes. For example, jurisdictions across the country are: expediting the process of a first hearing after an arrest; making determinations immediately on detention or release, so as not to unnecessarily detain a person; and using technology to move processes forward (e.g., holding prompt hearings online or over the phone, communicating decisions more efficiently by e-mail and resolving issues with quick information sharing in protected digital formats).

When we take the hundreds, even thousands, of emergency responses we are seeing in courts across the country and put them together, a new portrait of our justice system emerges with updated technology, modernized rules, and automated processes that enhance the delivery of justice.

For example, switching to more automated processes results in a more efficient and resilient system for both the public and courts. Automation will yield significant savings by reducing burdensome workloads while centralized processes will build efficiency. Once we all see that documents can be electronically filed and transmitted instead of slowly and physically moving through every hand in the judicial process, large-scale change will become not just possible but inevitable.

Consider what we have accomplished in Michigan. Even before the pandemic, our team had invested in outfitting every courtroom with a videoconferencing system and every judge with a Zoom license. Like everyone else, on a dime our team at the Michigan Supreme Court moved our entire workforce to remote work. From home offices, kitchen tables, and basement rec rooms, our management analysts and information technology team have been working overtime to provide policy advice, practical guidelines, and technical support to help Michigan's third branch of government seamlessly make the transition to statewide virtual courtrooms.

We quickly partnered with our County Clerks (who keep our records) and county commissions (who fund our local courts) in a Virtual Courtroom Task Force that provided rapid response best practices for remote operations. By working together with partners at all levels of government, Michigan has become a national model for virtual justice.

And Michigan's court system is not like the federal judiciary– with one funding source, one case management system, and one key administrative decision-maker in Washington DC. Far from it. Our non-unified system of 242 courts has 160 funding units, nearly two dozen case management systems, and some 560 elected judges. And 83 independently elected County Clerks who keep circuit court records but don't work for the court system.

But despite this Byzantine system, since April 1, judges and other court officers have held well over 50,000 Zoom meetings and are approaching 350,000 hours of hearings held online. And to maintain public access to court proceedings, virtual hearings conducted by Zoom are being livestreamed to YouTube. To make public access to those livestreams easy, our tech team set up a [Virtual Courtroom Directory](#) with a clickable map so that users can click on their county, find their judge and watch. This directory has been used more than 25,000 times in the past month alone.

For the first time, the Michigan Supreme Court held oral argument by Zoom as have our Court of Appeals and Court of Claims. These hearings have hundreds and even thousands of viewers.

While court proceedings have moved online, we have also pioneered an online dispute resolution platform that allows residents to resolve disputes with or without a mediator on a phone, tablet, or laptop instead of going to court. By the end of June, our groundbreaking, the [MI-Resolve](#) service will be available to every resident and at no cost. You can see your doctor online, you can order groceries online, and now, in Michigan, you can resolve disputes online without hiring a lawyer, without the burden of taking off work or arranging child care but with a greater likelihood of achieving a satisfactory outcome.

Before the pandemic our online legal resource center, [Michigan Legal Help](#), was already helping more than 1.5 million visitors each year. Now, the service is helping 10,000 visitors each day and in addition to their regular tool kits, they have more than 30 COVID-19 related resources with the most popular providing information regarding unemployment insurance. And their statewide network of walk-in legal help centers provide access to computers, the internet, and “navigators” to help guide users in finding the right resources on issues ranging from divorce to landlord/tenant issues.

We are pilot testing the use of text messages to notify the public of hearing or other court events. Dentists and cable guys do it, why not courts?

To support these policy initiatives the Court has issued a series of emergency administrative orders to remove barriers to remote proceedings and protect public health during the pandemic. We have unanimously approved 18 administrative orders, which extended deadlines, expanded authority for remote work by judicial officers, delayed jury trials, extended PPOs, and required courts to follow specific guidelines in order to beginning the return to full capacity.

In one of these orders we dramatically transformed how courts will handle eviction proceedings as moratoria end. Since most all such actions were stayed during the pandemic, our court system is expecting a flood of more than 75,000 filings when various limits on evictions are lifted. Our order focuses on making sure that the health of all participants is protected, cases are filed and disposed of in a reasonable period of time, and defendants are made aware of their right to legal counsel and the availability of and connection to resources to help pay rent, including \$60 million from the CARES Act approved by Congress.

We have assembled a group to study lessons learned during the crisis but anecdotally, I have heard example after example of how virtual courtrooms have made our judiciary more accessible to the public. Lawyers can appear in courts in faraway parts of the state all in the same morning. Litigants can appear in court while they are on break from their job, never missing a day of work. Virtual proceedings are much easier for individuals with disabilities because they don't have to travel.

For all litigants, transportation, parking, child care and job responsibilities are not a barrier to participation in an online proceeding. And Zoom is less intimidating for parties who appear without a lawyer and represent themselves. There is something equalizing and less intimidating about the screens in Zoom all being the same size.

These innovations, required by our public health crisis, are making our entire judiciary more accessible, more efficient, and more transparent. Looking to the future, we cannot retool old ways to get people back into courthouses where all the old problems of lack of access persist. Instead, we must focus resources on bringing justice to people where they live and work. We have a chance to rebuild what we do from the ground up and create a 21st century justice system that is accessible, effective, transparent, efficient, and fair. By embracing innovation, collaboration, agility and user-centric design, we will do just that.