

Remote Civil Jury Trial Committee

In February 2021, the Vermont Supreme Court convened a committee to consider and make recommendations concerning the use of remote jury trials in the civil docket. At that time, the Court was aware that, due to social distancing requirements and inadequate air handling systems, a number of courthouses would likely not be approved for jury trials. Use of remote jury trials in the civil docket would allow jury trials to be held in those units that might not otherwise be approved for in-person jury trials.

The committee is chaired by Justice Karen Carroll and its members include attorneys, judges, court operation assistants, a docket clerk, and the Judiciary's Director of Planning and Court Services. The committee has been meeting weekly since the beginning of March and has developed a written draft of the recommended protocols for conducting a remote jury trial. These protocols will be tested on May 20 when the committee will conduct a "practice" remote jury trial. Volunteers will assume the roles of judge, jurors, attorneys and witnesses.¹ All participants will be participating remotely and it is likely that the only person who will be in the courthouse during the trial is the clerk. The practice trial will also be recorded for training purposes. The draft protocols will then be updated as necessary.

Some jurors who are summoned for a remote trial may not have access to laptops or other devices for use during the trial or a reliable connection to Wifi. Rather than automatically excusing these potential jurors, the Judiciary will provide either a laptop or tablet to jurors who need them. In addition, each unit will devise a plan for where these jurors will report in order to secure a Wifi connection. For instances, if space allows, jurors may take the court-issued devices into the courthouse for access to Wifi. Or a unit may work with a library, college, or private business to provide space and a Wifi connection for use by jurors during the trial.

Jurors will be summoned in the usual course, but the committee has developed a method by which jury questionnaires, specific to the case to be tried, can be filled out completely on-line. Typically, these questionnaires are sent and received through the mail. The process will be streamlined and will allow challenges for cause to be made by counsel prior to the actual voir dire of jurors, resulting in the excusal of jurors much sooner in the process.

The committee has created both written and video instructions for jurors and attorneys which will help them familiarize themselves with the remote trial process, including working with the WebEx platform. These will be available on the Judiciary webpage. Jurors will participate in an orientation which will include more specific information about maneuvering on WebEx prior to the jury draw date.

The committee has drafted documents for use by judges including jury instructions relating to expectations around remote participation and a pretrial order specific to a remote trial. Finally, the committee has developed systems by which exhibits will be shared with deliberating jurors through One Drive and which will allow the foreperson to return the verdict form to the judge electronically.

¹ A current judge and two attorneys will participate in their roles.