



ALFA International

The Global Legal Network
Local Relationships Worldwide



LIGHTS, CAMERA, “OBJECTION!”

April 28, 2021

PRESENTERS



David “DJ” Burrus
Lorance Thompson, P.C.
Houston, Texas, USA
E: djb@lorancethompson.com
T: 713.868.5560



Donna Simms
Albertson’s Companies
Boise, Idaho



Andre Webb
German, Gallagher & Murtagh, P.C.
Philadelphia, Pennsylvania, USA
E: webba@ggmfirm.com
T: 215.875.4014



PREPARING FOR TRIAL IN
THE WORLD OF COVID
“THE NEW NORMAL”



PREPARING FOR A TRIAL IN A POST-COVID WORLD

- The COVID-19 pandemic led to the shutdown of a large portion of our country. The psychological impact of quarantining is wide-ranging, substantial, and can be long-lasting.
- Research suggests impacts could last up to three years.

PREPARING FOR A TRIAL IN A POST-COVID WORLD

- Increase in Impatience
 - Less patience for what they perceive as wasted time
- Sympathy
 - Impact of COVID-19 on potential juror likely to have direct correlation to level of sympathy for plaintiff
- Effects of PTSD
 - Significant effect on the attitude of jurors



REMOTE PROCEEDINGS AND WHY THEY'RE FAVORED



SOUTH PARK VIDEO

POLL 1:

- Which of these apply to you when on a ZOOM or Remote Proceedings?
 - A. I'm not completely dressed for the occasion. possibly even in my pajama bottoms.
 - B. I mute my microphone out of enjoyment.
 - C. I have at least one non-work window, tab, program, or application running in the background.
 - D. There is typically someone else in the room with me, and they're more likely to be family or friends than fellow attorneys
 - E. All of the above

WHY ONLINE HEARINGS AND PROCEEDINGS ARE FAVORED

1. Convenience
2. Efficiency
3. Cost Effectiveness
4. Electronic Document Access
5. Lowers the potential spread of COVID-19

*Interestingly, early poll data suggest that If given a choice potential jurors prefer remote proceedings.



REMOTE PROCEEDINGS

THE PITFALLS & DRAWBACKS



NEWS SEGMENT VIDEO

TRIAL BY ZOOM VIDEO



THE NEW JURY POOL

WHO IS SHOWING UP TO JURY DUTY?



WHO WILL SHOW UP FOR JURY DUTY



Jury Pool Will Look Different

POLL 2:

- Which of these categories of potential jurors do you expect to be more prominent for in-person jury duty?
 - A. Young Adults (18-25)
 - B. Seniors (65+)

POST COVID-19

- In a national survey of over three hundred participants conducted by the team at Dispute Dynamics, Inc., found multiple significant differences in those who were and those who were not willing to serve on juries.
- The extent to which someone expressed concern about contracting COVID-19 and the level of precautions they take were significantly related to their ability to serve on a jury. Those not at all concerned or only somewhat concerned were more willing to serve on a jury. Whereas those who reported being very concerned were more likely to also say, they would not report to jury duty due to fears of being in a room with a large group of people.

POST COVID-19 DATA

- National Survey Analysis (National Center for State Courts):
 - 55% of potential jurors face at least one obstacle that makes it dangerous or logistically impossible for them to serve.
 - 47% of potential jurors have someone in their household that has an underlying medical condition making them more vulnerable.
 - 14% are primary caregiver for aging parent or elderly family member.
 - 19% are restricted due to inability to secure reliable child care.

- https://www.ncsc.org/__data/assets/pdf_file/0006/41001/NCSC-Juries-Post-Pandemic-World-Survey-Analysis.pdf

POST COVID-19

Activities in a 'Post' Pandemic World						
% Not Comfortable						
Please indicate how comfortable you would personally feel right now doing each of the following on a scale of 0 to 10, where 10 means extremely comfortable and 0 means extremely uncomfortable...						
	Total	Risk Obstacles	No Risk Obstacles	White	Latinx	AfAm
Visiting with a close friend or family member at their home	23%	30%	14%	20%	17%	40%
Going out to the grocery store	27%	34%	20%	27%	22%	34%
Going to a polling place to vote	36%	43%	28%	34%	34%	42%
Going to a government office or public building	44%	49%	37%	42%	33%	57%
Eating out in a restaurant	50%	57%	42%	47%	44%	67%
Reporting to your local courthouse for jury duty if you received a summons requiring you to appear	52%	57%	47%	50%	47%	65%
Reporting to your local courthouse for jury duty	52%	59%	48%	49%	50%	73%
Serving on a jury if selected	54%	59%	48%	51%	49%	66%



- https://www.ncsc.org/_data/assets/pdf_file/0006/41001/NCSC-Juries-Post-Pandemic-World-Survey-Analysis.pdf

POST COVID-19

Greatest Likelihood of Reporting (80%+)	Younger white men
	Conservative white men
	Non-college educated white men
Medium Likelihood of Reporting (65-75%)	Younger Hispanic men
	Younger white women
	College-educated white men
	Older white men
	Older Hispanic men
	African American men
Least Likelihood of Reporting (45-60%)	Younger Hispanic women
	Younger African American women
	Older white women
	Older Hispanic women
	Older African American women

- https://www.ncsc.org/_data/assets/pdf_file/0006/41001/NCSC-Juries-Post-Pandemic-World-Survey-Analysis.pdf

POP UP QUESTION

- According to a survey by the National Center of State Courts, what percentage of potential jurors face at least one obstacle that makes it dangerous or logistically impossible for them to serve?
 - A. 55%
 - B. 12%
 - C. 93%
 - D. 8%



JURY ATTITUDES

HOW PEOPLE VIEW PERSONAL INJURY CLAIMS
DURING A PANDEMIC



JURY ATTITUDES IN THE WAKE OF COVID-19



- “A jury consists of twelve persons chosen to decide who has the better lawyer.”

JURY ATTITUDES IN THE WAKE OF COVID-19

- The data suggests that those who are willing and able to appear for jury duty tend to hold more pro-defenses, pro-corporate attitudes.
- Prior Examples
 - Uptick in hostility towards large corporate defendants after Enron.
 - The Great Recession of 2008-2009 was followed by a dramatic shift in pro plaintiff, high-award verdicts.
- Concern of Infection & Life Disruption
 - Potential jurors who expressed significant concern of COVID-19 infection for themselves or a loved one were generally pro-plaintiff and awarded higher damages.
 - Life disruption also related to damages. The more people felt their lives were personally disrupted, the higher the damages they would award.



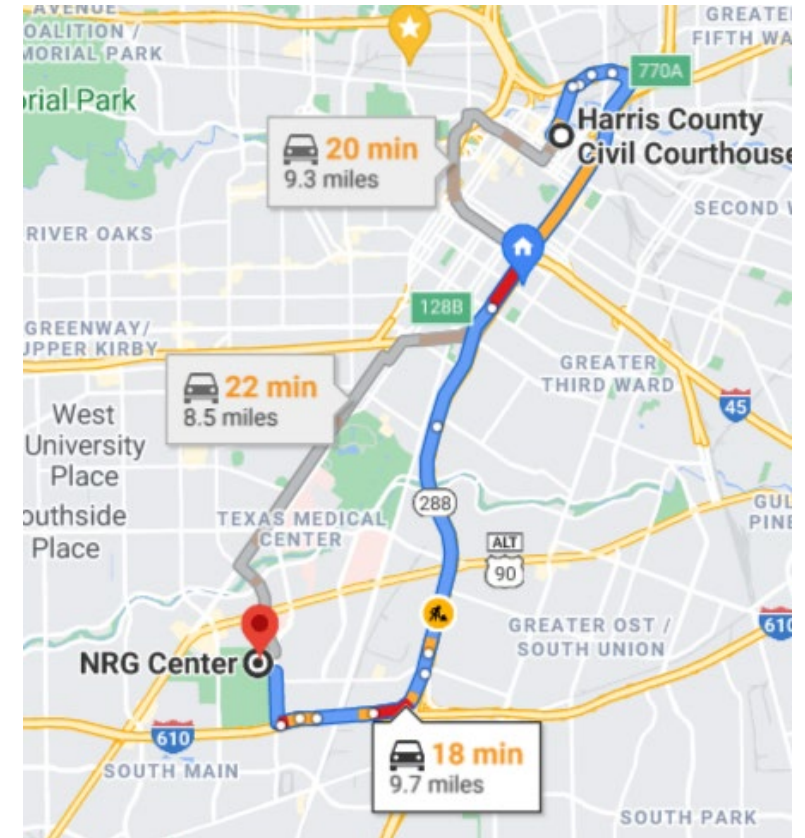
JURY SELECTION PROCESS



OFF-SITE JURY SELECTION

In Harris County, Jurors no longer assemble downtown at the Courthouse.

Instead, jurors meet in a building on the NRG Football Stadium campus.



JURY SELECTION ROOMS

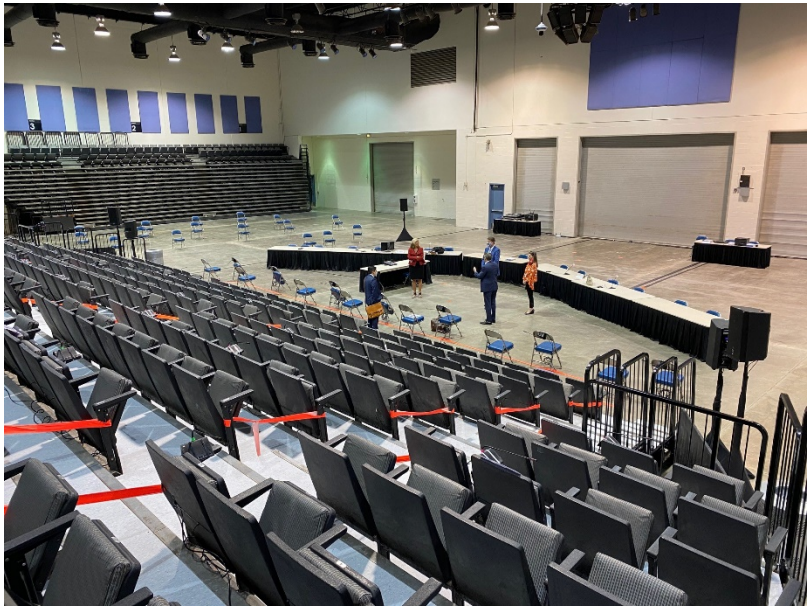
Jurors were assembled in an auditorium, and then filtered into two types of rooms:



DIFFERENCES

1. Social Distancing requirements
2. Voice-activated Microphones
3. Handheld microphone for attorneys
4. Facemasks and shields

JURY SELECTION PROCESS



ISSUES

1. Cell Phone usage
2. Reading Materials
3. Headphones
4. Not Paying attention



CHANGES TO THE
COURTROOM LAYOUT

BROADCASTED ONLINE AND FILMED
BEFORE A LIVE STUDIO AUDIENCE



MUSICAL CHAIRS OR COURTROOM MUSICAL?

1. Counsel Table Conundrum
2. The Jury Box Witness Stand



MUSICAL CHAIRS OR COURTROOM MUSICAL?

1. Smile! You're on Candid Camera
2. Mic'd Up and Masked Out

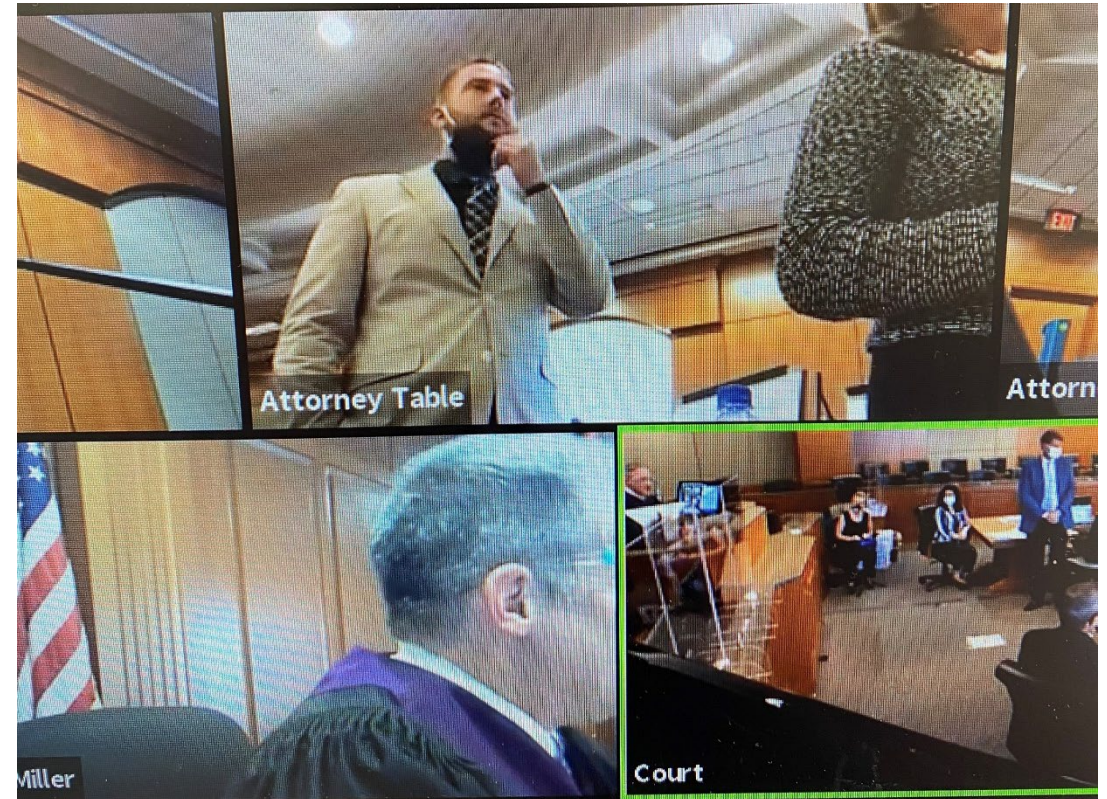




PRESENTING WITNESSES
AND EVIDENCE
ONLINE AND IN THE COURTROOM



1. Effectiveness of Witness testimony
2. Leading Questions and Demonstrative Exhibits: “What’s (s)he to do Your Honor, point?”
3. Juror visibility
4. Objection = Time Out!
5. Speaking up and Projecting



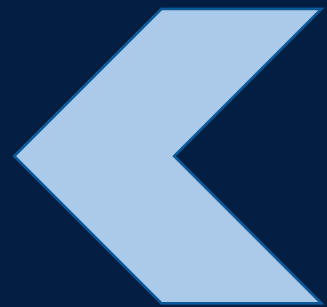


A CLIENT'S PERSPECTIVE

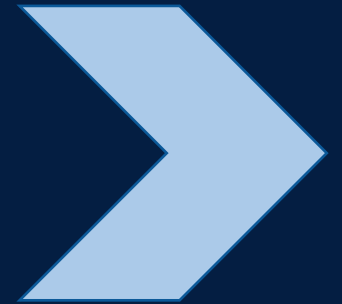
DONNA SIMMS, SENIOR CORPORATION
OVERSIGHT MANAGER,
ALBERTSON'S COMPANIES



1. COVID Trials
2. COVID Settlement Days
3. Learning Curve
4. Final Thoughts: The Good, The Bad, The Ugly



FUTURE THOUGHTS, TIPS, AND TRICKS



1. Facemasks over face shields
2. Slow down and speak up
3. Assume they aren't paying attention
4. Be cautious about attire

THANK YOU! IF YOU HAVE ANY QUESTIONS,
PLEASE CONTACT ONE OF THE PRESENTERS



David "DJ" Burrus
Lorance Thompson, P.C.
Houston, Texas, USA
E: djb@lorancethompson.com
T: 713.868.5560



Donna Simms
Albertson's Companies
Boise, Idaho



Andre Webb
German, Gallagher & Murtagh, P.C.
Philadelphia, Pennsylvania, USA
E: webba@ggmfirm.com
T: 215.875.4014

CLE & POST-WEBINAR SURVEY

- CLE:
 - ALFA INTERNATIONAL IS AN APPROVED PROVIDER OF CLE IN CALIFORNIA AND ILLINOIS. If you need credit in another state, you should consult with that state's CLE board for details on how to apply for approval. ALFAI provides a CLE package that answers questions you will likely be asked when applying and also gives direction as to what we believe is needed to apply in each state.
 - **NEW SERVICE:** Some state CLE boards require verification of participation in webinars. To satisfy that requirement, ALFAI will now prompt participants to answer questions and/or provide a verification code, as we did in this webinar. **If this is required in your state:**
 - Please note these items on the Certificate of Completion you will receive after the webinar.
 - Keep a copy of the certificate for auditing purposes.
 - If you encounter any difficulties in obtaining CLE credit in your state, please contact:
 - **Taylor Doherty**
tdoherty@alfainternational.com
- POST-WEBINAR SURVEY
 - You will be prompted to complete a **Post-Webinar Survey** after exiting this webinar. Your feedback will help ALFA International continue to provide quality programming to our members and clients.