

Tips to Succeed at Motion Practice in the Law Division

By Sarah F. King

What is expected from practitioners appearing in the Division, especially during the Covid-19 pandemic?

At a CBA program on motion practice, Law Division Presiding Judge James P. Flannery, Jr. updated attendees on the state of the Law Division under Covid. He provided a comprehensive overview of General Administrative Order 20-9, which among other matters governs the process for emergency motions submitted to Courtroom 2005. Judge Flannery reminded practitioners that “emergency motions” are those in which irreparable harm will be caused if the issue is not addressed immediately. He also noted that discovery motions for cases assigned to other sections of the Law Division should not be presented in Courtroom 2005 but rather should be presented before the assigned judge or designated emergency judge.

Judge Flannery fielded questions about specific protocols set out in GAO 20-9 and the process for mandatory and agreed pre-trial conferences. Tips included:

- Every case that had a jury trial date on or after March 17, 2020 is subject to a mandatory pre-trial conference;
- Mediation of cases by agreement of the parties is an alternative to pre-trial of cases, as long as the mediation is completed prior to the discovery completion date; and
- For pending cases that have not been set for trial, the parties may agree to transfer the case for pre-trial to any Law Division Judge, provided the judge is willing to conduct the pre-trial. The transfer orders should be submitted to the Presiding Judge.

Judge Flannery assured participants that the Law Division is taking all steps necessary to prepare for a return to jury trials



when it is safe to do so. For now, §1.3 of GAO 20-9 applies to all cases set for trial. Jury trial dates, set from March 17, 2020 through June 30, 2021, will be converted to “Trial Setting” dates. When jury trial settings can safely be resumed, a minimum of 60 days’ notice will be sent to all parties and counsel of record, providing the date jury trials will resume, and the date, time and manner of the court call setting new jury trial dates.

Judge John H. Ehrlich spoke on the remote case management process and took questions about the process for submitting, objecting to and responding to discovery motions. Judge Christopher E. Lawler shared tips on remote pre-trials and his positive experience of resolving cases through the process. And Judge James E. Snyder presented news from the Commercial Litigation section, including pointers on how to make a compelling appearance during a Zoom hearing or bench trial.

The program concluded with a multimedia presentation by Judge Lorna E. Propes titled, “*Is Zoom Our Past... Or Can*

It Be Our Future Too?” Judge Propes, who presented during a recess from an on-going Zoom bench trial, shared video clips from a mock Zoom jury trial. The presentation included examples of remote voir dire, opening statement, cross-examination, closing argument, and presentation of demonstrative exhibits. Judge Propes encouraged lawyers to be open to the utility of Zoom to jump start the jury trial system and to handle routine matters in the future.

Practitioners who missed out on the expansive set of tips presented in the live version can access the on demand version of *Motion Practice in Cook County Circuit Court’s Law Division* at learn.chicagobar.org (IL PR-MCLE credit available). ■



Sarah F. King is a partner at Clifford Law Offices and handles complex medical malpractice cases, particularly cases involving birth injury and maternal morbidity. King co-moderated this program.