

Introduction

No one in the federal judicial system could have predicted the disruption that would descend in early 2020, shuttering virtually every docket in the country by the end of March. The COVID-19 pandemic was, to be sure, a game-changing event that forced courts to rethink every aspect of their operations, and bankruptcy courts — the focus of this book — were by no means immune.



“I’m here live; I’m not a cat,” insisted attorney Rod Ponton, in a hearing before Judge Roy Ferguson in the 394th Judicial District Court in Texas in February 2021.

“Court Orders and Updates During COVID-19 Pandemic”¹ — a listing of official pronouncements on court orders dealing with operations, § 341 hearings, entrance protocols, electronic signatures and the like on the federal court website — tracks the progress of the pandemic’s effects. Bankruptcy courts were forced to alter their procedures to eliminate all face-to-face

contact between participants in their cases, and almost immediately, every communication between parties shifted either to telephonic or Zoom-style computer conferencing.²

As this book arrives, the perspective of a year under this “new normal” is instructive. Indeed, as will become clear from the chapters contributed by sitting bankruptcy judges, business and consumer bankruptcy practitioners, and the chief clerk of one of the busiest bankruptcy courts in the country, the outcomes forced by COVID-19, although challenging to all involved, were not universally negative.

1 <https://www.uscourts.gov/about-federal-courts/court-website-links/court-orders-and-updates-during-covid19-pandemic#bankruptcy>.

2 Zoom is communications technology that provides videotelephony and online chat services through a cloud-based peer-to-peer software platform. It is used for teleconferencing, telecommuting, distance education and social relations.

Many courts have actually become more efficient by eliminating scheduling complications such as travel from the equation — so much so that many predict that some form of remote hearings will remain in place (or at least as an option), even after the hoped-for day when the current pandemic is just a memory.

Other aspects of remote hearings, though, remain all too vulnerable to human or technical error. Pity attorney Rod Ponton, who achieved internet immortality when his Zoom video presented him with a “cat filter” applied. Even without such foibles, the technology raises other concerns. Are computer-based technologies susceptible to hacking or interference, raising privacy and security issues? Are they too unstable or unreliable? Are they readily available to all participants, such as *pro se* petitioners? Courts across all circuits continue to wrestle with these and other questions, and as can be surmised from the listing of court orders currently in place across the country (Exhibit F), there is not always agreement about the answers.

We hope that this brief guide will provide a useful overview to judges, court personnel and legal practitioners as they navigate the unpredictable landscape of remote court hearings.