

oneCourtMN Hearings Initiative Justice Partner Meeting Agenda

Family Case Type

May 16, 2022

11:00 am to 12:00 pm

Attendees

Justice Partner Attendees: Lindsay Forsgren (Krekelberg Law Firm), Susan Gallagher (Minnesota Women Lawyers), Kent Kodalen (Association of Family and Conciliation Courts), Shaina Praska (Hennepin Bar Association – Family Law Section), Lisa Spencer (Academy of Matrimonial Lawyers)

MJB Attendees: Chief Justice Lorie Gildea, Heather Kendall, Aaron Lauer, Kirsten Maiko, Kate Malmon, Judge Kathryn Messerich, Jenifer O’Leary, Heather Scheuerman, Jeff Shorba, Dawn Torgerson, Wally Wallestad-Dax

Welcome and Introductions

Chief Justice Lorie Gildea welcomed the justice partners and thanked them for attending the meeting focused on the oneCourtMN Hearings Initiative and the upcoming district hearing implementation plans. The oneCourtMN Hearings Initiative will provide strategic direction and help implement the Minnesota Judicial Branch’s strategy related to remote and in-person hearings. It will also help district courts resolve issues that might arise during this implementation. This effort continues the Branch’s commitment to innovation and transformation for the benefit of the people of our state.

Overview of oneCourtMN Hearings Initiative

oneCourtMN Hearings Initiative

Judge Kathryn Messerich and Heather Kendall, District Administrator for the Second Judicial District, serve as the oneCourtMN Hearings Initiative co-chairs and provided an overview of the initiative. The oneCourtMN Hearings Initiative’s work will take place over three phases: take action, evaluate, and recommend and implement. The Branch is currently in the Take Action phase. During this phase, the Branch is working to identify ways to continue to make remote and in-person hearings better. The key work efforts within this phase are:

- implementing criminal and non-criminal hearing plans,
- beginning a phased and continuous approach to improving remote hearings, and
- addressing challenges with in-person hearings.

Our next phase will focus on evaluating the improvements that we have made to court operations to advance continuous improvement within the Branch. Finally, the initiative will culminate in strategic and well-informed recommendations for Judicial Council’s consideration.

To create the oneCourtMN Hearings Initiative work plan, the Steering Committee compiled feedback from the Other Side Workgroup listening sessions, issues identified by District Administration, and work currently in progress that could impact hearings. Our work plan includes a wide array of projects that will impact many aspects of court operations going forward. Some of the initiatives include:

- **Solving legal issues.** Such as the service issues we encounter when we in a remote setting
- **Enhancements to our electronic tools.** For example, identifying ways to sign documents while in a remote hearing, implementing an eCheck-In tool, and exploring the possibility of adding remote hearing information to eReminders.
- **Finding solutions to a variety of issues related to remote appearance.** Such as addressing challenges with fingerprinting those in-custody and appearing remotely from another jurisdiction.
- **Addressing scheduling challenges,** like those we are experiencing with the Department of Corrections.

Hearing Implementation Plans

After June 6th, any new hearings scheduled will need to be scheduled according to the new framework. This framework includes a list of factors that can be considered for judicial officers to rule that exceptional circumstances exist for a hearing to be held in a different way.

For non-criminal cases, the [statewide case-by-case chart](#), found in the April [Judicial Council policy](#), states which hearing and case types will generally be held as remote hearings, and which will generally be held as in-person hearings.

Additionally, each district has been tasked with developing a local plan for when they will use remote and in-person hearings in criminal cases based on their own local needs and conditions. Each district may establish a single criminal hearings plan for all courthouses within the district, or may choose to establish individualized criminal hearings plans for each county within the district. The plans will also specify the factors district courts are to apply when considering requests to conduct a presumptively in-person hearing remotely, or to conduct a presumptively remote hearing in-person.

Justice Partner Engagement

Critical to the success of the oneCourtMN Hearings Initiative is the continued involvement of justice partners and court customers in its development. The oneCourtMN Hearings Initiative will provide opportunities for justice partner input through regular justice partner meetings, surveys, and public presentations. Additionally, the oneCourtMN Hearings Initiative will work with media outlets from across Minnesota to generate awareness, build support, and demonstrate outcomes about the initiative and its related projects.

Input from Justice Partners

Benefits of Remote Hearings

Justice partners were impressed with the ease of remote hearings. Although there were some bumps in implementation, judicial officers and staff have been incredibly patient and helpful in conducting remote hearings. They agreed that remote hearings have been great for simple hearings, like scheduling and child support, and are more efficient for these types of hearings. Remote hearings are helpful in allowing attorneys to have back-to-back hearings in different counties without wasting time traveling. These types of hearings are also more cost effective for court customers who do not have to pay for attorney travel.

Challenges of Remote Hearings

Justice partners raised the issue that remote hearings have made it harder to have informal conversations between opposing counsel, judicial officers, and staff. This has made it more difficult to build relationships and settle cases without a hearing. They agreed that pretrial hearings, when held in in-person, often used to be an opportunity to settle cases. Now, remote pretrial hearings are mainly used for scheduling. Additionally, they said that when moderated settlement conferences were held in-person that they were able to get support from the judicial officer if there was an issue. This does not occur in a remote setting. However, mediators like meeting remotely and do not want to return in-person.

They said that remote hearings are worse for trials, which are more effective in-person. By being in-person, the opposing counsel and judge can more easily read body language of the parties.

Further, justice partners raised the issue of client safety during remote hearings. For example, a justice partner had a client who was appearing remotely from one room while their spouse was in another room in the house. During the hearing, the spouses were talking with each other. This type of circumstance can cause a power imbalance that could influence the outcome of the hearing. Chief Justice Gildea said that there is a safety exception to the presumption of either remote or in-person hearings under the recently adopted framework.

Justice partners cautioned that people are starting to learn how to abuse remote hearings but going off screen so that you cannot see what they are doing. They also had a similar concern from people looking at documents or reading notes from the attorney while they are testifying during a remote hearing. Chief Justice Gildea responded that one of the strategies that the Branch is exploring is virtual bailiffs who have specialized training and skills to manage remote hearings. This role might be helpful in managing attorneys or court customers abusing remote hearings. Heather Kendall stated that generally court trials and evidentiary hearings are in-person under the framework, which would address the potential for abusing remote hearings.

Hearing Management

Justice partners stated that set times for hearings allow attorneys to do other work while waiting for their hearing. This allows them to make more effective use of their time and not charge their clients for the time they were previously waiting for their hearing. They echoed these comments and said that set times for hearings improves attorney schedules by allowing them more desk time which avoids working in the evening or weekends. They agreed and said that time certain appoints are much preferred. For litigants with mental health challenges, time certain hearings help alleviate their anxiety and give them time to prepare themselves for the hearing.

Additionally, justice partners were frustrated with the inconsistency of submitting exhibits across counties. Currently, attorneys need to call the courthouse to find out how exhibits are submitted. It would be better if there was a uniform system in place. Heather Kendall said that once [Minnesota Digital Exhibit System \(MNDES\)](#) is fully implemented it will help. Sometimes judicial officer's preferences can change procedures.

Communicating and Engaging with Justice Partners

Justice partners asked if there was more information about the oneCourtMN Hearings Initiative and the hearing implementation plans. Heather Kendall responded that there was more information about the initiative and the hearing implementation plan available on the [Branch's website](#).

Next Steps

Chief Justice Gildea thanked the justice partners for sharing their time and expertise during the meeting. Following the meeting we will be sharing a meeting summary which can help spark discussions with your organization and constituents. Justice Partners will also receive a short survey to provide additional feedback. The Branch hopes that justice partners will join us for future oneCourtMN Hearings Initiative justice partner meetings to discuss the initiative's work efforts and lessons learned from the remote and in-person hearing plans.