

## oneCourtMN Hearings Initiative Justice Partner Meeting Agenda

### Civil Case Type

May 12, 2022

12:00 pm to 1:00 pm

### Attendees

**Justice Partner Attendees:** Uzodima Frank Aba-Onu (Minnesota Association of Black Lawyers), Stephanie Ball (American Board of Trial Advocates), Mike Dittberner (Minnesota Lavender Bar Association), Joan Eichorst (Office of the Minnesota Attorney General), Carla Ferrucci (Minnesota Association for Justice), Portia Hampton-Flowers (Saint Paul City Attorney's Office), Liz Kramer (Office of the Minnesota Attorney General), Mayura Noordyke (Minnesota Asian Pacific American Bar Association), Anthony Novak (Minnesota Defense Lawyers Association), Robert Small (Minnesota County Attorneys Association), Stacy Deery Stennes (Minnesota Association for Justice), Jennifer Thompson (Minnesota State Bar Association), Ryan Zipf (League of Minnesota Cities)

**MJB Attendees:** Chief Justice Lorie Gildea, Heather Kendall, Aaron Lauer, Rhoda Mackereth, Kirsten Maiko, Kate Malmon, Suzanne Mateffy, Judge Kathryn Messerich, Jennifer O'Leary, 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. OHI 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**

### Hearing Management

Justice partners wondered how the Branch addresses judges who are not in compliance with hearing standards set out by the Branch. Chief Justice Gildea requested that when justice partners encounter issues with hearings, they need to bring them to the attention of Branch leadership so that they can be addressed. Once these issues are known about Branch leadership can work with Chief Judges in the districts to address them.

Justice partners asked what the Branch's plans are for ensuring an adequate hearing record. They also raised the related issue of masking and technology issues interfering with court reporters being able to capture the record correctly. Heather Kendall stated that the Branch will continue to capture the record as it has traditionally done and run a backup to make sure that hearings are captured correctly. Additionally, the Branch is working on training for judicial officers and court reporters on capturing the record during remote hearings. Judge Messerich added that it is important that the judicial officer establishes before the hearing that everyone can be clearly heard. It is also important for court reporters to be assertive when they cannot hear parties during a hearing.

Justice partners raised an additional issue around opposing counsel not having the same opportunities to discuss and negotiate cases outside of remote hearings as they would in the hallway outside of an in-person hearing. Jeff Shorba said that this issue has been raised for criminal hearings as well where the public defender is not getting time to meet with their client or negotiate with the prosecutor. He expressed that the Branch needs to determine a structured process for allowing informal interactions between attorneys to take place. This could potentially occur by opening the remote hearing early to allow attorneys to go to a breakout room and talk. A justice partner noted that the court in Apple Valley requires attorneys to appear 30 minutes before a hearing. That time could be used to hold informal discussions between attorneys.

Justice partners also said that there is a potential issue of litigants using the excuse of technology issues to not show up to their hearing. Although they had not experienced an issue with it, one justice partner did have an experience that was close.

### Access to Justice

Justice partners asked about addressing access to justice for people that lack access to or are uncomfortable with technology. Jeff Shorba said that the Branch is very aware of the digital divide that exists across Minnesota and the Branch has taken steps to address it. The Branch has partnered to install 260 remote hearing kiosks across the state in publicly accessible locations. Additionally, all courthouses have remote hearing rooms that allow court customers to participate in their hearings regardless of where the hearing is being held in the state. Chief Justice Gildea added that there are also options in the recent Judicial Council policy to allow courts to hold a presumptively remote hearing in an in-person setting if technological barriers exist.

Additionally, they inquired if the Branch has seen improvements in failure to appear rates as a result of remote hearings. Chief Justice Gildea said that appearance rates have increased significantly with the use of remote hearings.

## Decorum

Justice partners asked if the Branch was planning on establishing remote hearing decorum rules or guidance for attorneys and litigants. Jeff Shorba stated that the Branch is working to address remote hearing decorum issues. There is current a pilot in the Sixth District that provides practice sessions, especially for self-represented litigants, to familiarize themselves with the remote hearing environment and discuss decorum issues like appropriate clothing and call-in locations. The Branch is also looking at better ways to notice litigants, such as providing an eCheck-In process five days before a hearing that includes a decorum guide. Additionally, the Branch is working to provide techniques for judges to manage decorum and identify the appropriate structures and staffing to better operate in a remote environment.

## Professional Development and Experience for New Lawyers

Further, they raised the issue of how we provide opportunities for new attorneys to have court experience with the continued use of remote hearings. Judge Messerich said that as we make remote hearings more structured and formal that the skills and experiences in remote hearings will be more similar to in-person hearing experiences. Chief Justice Gildea expressed that remote hearings are official court proceedings and provide an opportunity to interact with judges and opposing counsel. Remote hearings provide an opportunity to build courtroom skills and gain experience.

## Justice Partner Engagement Opportunities

Justice partners inquired if there will be opportunities for additional input about the oneCourtMN Hearings Initiative and the remote and in-person hearing plans for the broader justice partner community and/or public. Heather Kendall said that we plan to provide a lot of opportunities for additional input through future justice partner meetings, focus groups, and surveys as the initiative progresses.

Attendees expressed their appreciation for the opportunity to learn more about the oneCourtMN Hearings Initiative and hearing implementation plans. They also were grateful of the opportunity to share their feedback on improving remote hearings and court operations.

## 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 OHI justice partner meetings to discuss OHI work efforts and lessons learned from the remote and in-person hearing plans.