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## Access to justice must happen now by getting trials up and running

The pandemic certainly has not made it possible for trials — civil or criminal — to take place as we once knew them. To accommodate CDC guidelines of social distancing, larger areas have been created to ease the fears of those who are unvaccinated or may be exposed to those who are unvaccinated like small children.

Across the country, one sees the judicial systems opening up in unique ways — utilizing high school gymnasiums, local athletic stadiums and even hotel ballrooms that are being turned into makeshift courtrooms to accommodate social distancing and offer a greater sense of trust in the health and safety of jury trials. This type of creative thinking has been necessary for the justice system to try to continue to afford parties on both sides of the aisle some semblance of cases moving forward.

The question remains, though, where does the largest judicial circuit in Illinois and one of the largest unified court systems in the world — Cook County Circuit Court — sit amid this chaos? It was reported in January that more than 9,000 criminal defendants await trial. As a personal injury attorney, I have dozens and dozens of clients with civil matters patiently waiting for their day in court as well.

Although neighboring counties may not have the caseload of Cook County, there have been some such as the \$1.1 million verdict handed down

in Winnebago County on June 4 in a medical malpractice case that partners at my firm obtained in a safely conducted jury trial. Cook County held a live trial this May that resulted in a \$43 million verdict.

But think of all of the severely injured people — those in wheelchairs or debilitated by the negligence of wrongdoers who are waiting for much-needed medical care they can't afford. Many of these cases are very complex cases involving several defendants, numerous experts along with lawyers and insurance representatives, not to mention court personnel and, of course, a 12-person jury, who need to be present. The current courtrooms simply don't accommodate this type of crowding, but what has been done to try to allow justice to move forward?

Cook County officials conducted an intensive study last year that included interested stakeholders. The leaders from the office of the Cook County Board, Cook County Sheriff, Clerk of the Circuit Court, Public Defender, State's Attorney and, of course, the Chief Judge of the Cook County Circuit Court met for hours and developed an extensive report. A year ago, they published protocols that would accommodate jury trials at the various courthouses in Cook County that included safety measures — from increased ventilation and sanitizing to plastic barriers and capacity limits — precautions

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that may soon disappear as Gov. J.B. Pritzker has opened the state effective June 11.

So what is holding up putting these measures into place or creating a tentative schedule for those awaiting trial? Holding hearings on Zoom and other virtual platforms has been a help to keep cases moving forward, but the number of backlogged civil trials is uncertain, and clients are left wondering when will their day come to be heard in court with no answers in sight. Many people aren't even familiar with online contact as the legal and other professions have been forced to embrace technology in order to perform essential tasks.

Certainly, in-person trials are necessary and the experiment of non-binding online trials in Texas cannot take the place of judging the credibility of witnesses in person, seeing how a trial progresses in real time before your eyes, interacting with one another that the country realized everyone so desperately needs because there is no substitution for seeing and hearing and understanding what goes on if

instead one is distracted watching from home in a setting that may not be conducive to making important, life-changing decisions. It is a system based on transparency and trust, and this is difficult to achieve through a computer screen.

It will take a monumental, organized effort to get everyone together — including leaders of the various bar associations and litigators throughout the legal community — to make this happen now. The Illinois Supreme Court created a COVID-19 Task Force and entered an order (ISCR 45) in May 2020 that outlined guidelines and protocols to help courts adapt to the pandemic's challenges, elements that may prove useful as the state turns to live trials once again.

Access to justice must happen now with support from all stakeholders, including jurors who are anxious to conduct their civic duties. One thing that has been learned from the pandemic is that, in the long run, technology may actually cut costs and speed up the trial process, but these lessons must be incorporated now.

If baseball stadiums can open to crowds of 40,000 and the Indianapolis 500 race can be conducted with 135,000 present, the great legal minds in this state should be able to figure out how to free the logjam of cases in a safe setting and get trials moving again.