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Remote dispute resolution is here to stay as work life changes

The COVID-19 pandemic has been a watershed for attorneys, spilling over every aspect of how and where law is practiced. Videoconferencing platforms like Zoom have made it possible for attorneys to still meet with colleagues, dialogue with clients, conduct depositions and settle disputes through alternative means.

There are those who have hesitated to use technology in law, either because of initial security concerns (namely with Zoom, although those issues have been [remedied](#)) or lack of experience. But now that four months have passed since stay-at-home orders began, it is becoming clear that how attorneys practice law will change in the long term and that remote dispute resolution is here to stay.

Caution will remain

As states re-open, COVID-19 cases are [rising throughout the United States](#), and in its southern states particularly. Concerns about a [second wave in the fall](#) persist as well as accompanying anxieties about additional [economic downturns](#). The timetable for a safe, certifiable vaccine that can be widely administered is unclear, and accumulating evidence shows that [asymptomatic spread](#) is a definitive enabler of the pandemic. More research, also, is revealing that COVID-19 can bring with it [lasting health challenges](#) for certain individuals.

These national trends have drastically influenced local court access. For example, the Cook County Circuit Court will likely not commence jury trials until [next year](#) at the earliest. While the court's Law Division has [resumed business](#) with limited in-person sessions requiring [protective face masks and wellness checks](#), the court's operations will be greatly affected by the rise or fall of COVID-19 cases in the state. As for the federal courts, although jury trials could [resume in](#)



REMOTE ADR

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[August in Los Angeles and Chicago](#), rising case counts throughout the country could cause another delay, especially given that [47.2%](#) of all active federal district judges in the United States are between the ages of 60 and 69, a high-risk demographic for COVID-19.

Considering all this, remote lawyering is poised to continue for safety's sake, including remote dispute resolution. Although attorneys may not be able to access court any time soon, they can access mediation and arbitration services now. In a videoconferencing session, parties have an excellent chance of safely resolving their dispute outside of court. In fact, according to [Marc Becker](#), president of ADR Systems, a Chicago-based alternative dispute resolution provider, more than 85% of the cases that have been mediated virtually during the past months have settled. Arbitrations are likewise being conducted as efficiently as

they would be if performed in person.

"This number is very nearly consistent with the rate for in-person sessions," he said. "I believe virtual mediation and arbitration will continue to be a safe and effective alternative to court as we traverse unprecedented times."

Technology cultural changes

Remote dispute resolution will likely also remain because of percolating trends toward remote work and greater use of technology in the practice of law.

In June, the New York Times published a think-piece, "[What If Working From Home Goes on ... Forever?](#)" that examines how telework and videoconferencing software have bolstered, not reduced, productivity in certain ways. For example, employees have regained time previously lost to commuting, which also contributes to greater work-life balance. The time and costs of work travel are also being re-examined now that it is clear that deals can be made and clients can be served just as well with the help of videoconferencing software.

The legal industry that was once slow to embrace change has been forced to deliver services differently during the pandemic, aided in part by a growing segment of the profession that has come to value remote work with new business models to suit it, [cloud computing](#) to enable it (especially among smaller firms) and work-life balance to sustain it. According to a May survey by Loeb Leadership, [67%](#) of survey respondents — including employees, associates, partners and managing partners at various firms — admitted they would prefer to continue with at least partial remote work once the threats of the pandemic abate.

Millennial attorneys are at the helm of these trends, distinguishing themselves from supervisors and partners at smaller

firms in their desire for [greater technology usage and work-life balance](#) in the practice of law. Millennials have comprised the [largest demographic of workers](#) in the United States for several years now. While the American Bar Association concluded in its [2019 TECHREPORT on practice management](#) that the newness of law technology is a bulwark against its widespread adoption, these past months have shown that millennials have embraced technology and will, in the years ahead, advance to positions of power in the legal profession where they can make their interests in technology and work-life balance stick.

The quality and convenience

Remote dispute resolution loses none of the quality of an in-person session. Whether happening in a three-dimensional room or a two-dimensional room, a mediation is a mediation and an arbitration is an arbitration; the same processes and practices apply. Wi-Fi bandwidth or audio-visual connectivity challenges will occasionally delay the start of proceedings, but these are often

short-lived delays that are self-correcting and surmountable with a bit of patience.

On videoconferencing applications like Zoom, screen-sharing capabilities allow for visual displays of demonstrative evidence, where applicable. Virtual breakout rooms provide private caucusing spaces for parties that only the neutral can access. [Security safeguards](#) encrypt sessions' contents and allow the neutral to regulate access to the session, deactivate cloud recording features and more to protect the confidentiality of the proceedings.

Arbitrations lend themselves to remote formats particularly well. The composite pieces of an arbitration — opening statements, direct and cross-examination of witnesses, closing statements, the requisite documents provided to the arbitrator by both snail mail and over email — can be accounted for without meeting in person.

Remote dispute resolution also offers a logistical convenience. Insurance representatives may work from different states and do not want to travel for hours and pay additional expenses to attend in-

persons sessions that typically require no more than four hours to complete. Parties may move their residences during a pending case as well, or they may suffer an ailment or injury that makes in-person attendance at a session inconvenient, burdensome, and more costly.

Videoconferencing software provides easy access to alternative dispute resolution to people throughout the country and across socioeconomic levels. The COVID-19 pandemic has demonstrated that it is possible to resolve cases virtually, saving travel time and expenses without sacrificing the effectiveness and benefits of alternative dispute resolution.

Remote dispute resolution has quickly become the norm for providers. While some companies are again providing in-person sessions with stringent safety measures and social distancing, the majority of cases in recent months are being resolved in virtual sessions. Until there is a way to control COVID-19 with a vaccine or other therapeutic, and given the trends already at play in the legal profession, it seems that remote dispute resolution is here to stay.