

Real Problems with Virtual Jury Trials: The Shallowing of Jury Pools

“As the COVID-19 pandemic continues with no certain end in sight, courts and lawyers alike must come to terms with the possibility that the conduct of trials may require dramatic changes to keep the wheels of justice turning,” write Thomas B. Fiddler and Vincent N. Barbera in *White and Williams’ News & Resources*.

“While bench trials (by video, and in some instances, live) present their own logistical challenges and strategic considerations, the prospect of video trials by jury adds additional layers of complexity. One threshold factor that must be carefully considered is the impact of video jury trials on the jury pool itself.”

“Significant change to any longstanding practice has consequences, both good and bad, and a shift to conducting jury trials remotely is no exception. Replacing the need to report to court for jury duty with the need to report to one’s personal computer may help remove barriers associated with transportation, but invariably presents a host of new questions and challenges. What about potential jurors who do not own or have access to the necessary technology to participate? What about potential jurors who do not possess the necessary skills to operate the technology required to fully and appropriately participate? These and similar questions highlight an unintended, but likely consequence: the de facto exclusion of jurors who do not own the requisite assets or possess the necessary technical skillset to qualify for remote jury service. In turn, there is a realistic possibility that neither plaintiffs nor defendants will have access to the jury of their choosing or a jury of ‘their

peers.'”

Read the article.