



**PANDEMIC UPDATE  
FOR  
THE LEGAL COMMUNITY  
IN  
ILLINOIS**

MAY 1, 2020 / ISBA Speakers Bureau

# AGENDA

- INTRODUCTION
- THE PANDEMIC
- THE SUPREME COURT OF ILLINOIS
- THE GOVERNOR AND HIS EXECUTIVE ORDERS
- PRACTICE IN OUR LEGAL COMMUNITY: Today
- PRACTICE IN OUR LEGAL COMMUNITY : Tomorrow
- QUESTIONS / SOME ANSWERS / COMMENTS / ADJOURN

# INTRODUCTION



Who Am I?

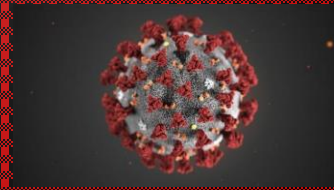
# INTRODUCTION

(CONTINUED)

This presentation is offered remotely and will provide an **update** on current work in the legal community and Courts of the State of Illinois. It will provide an update on Orders, and cover **what is happening** and **what could be happening** in our virtual halls of justice. As circumstances allow, attendees will be able to ask questions, which will be addressed within the limits of ethical rules.

# THE PANDEMIC

The *new world order* . . . communicated through many . . .  
Governor Cuomo around 10 a.m. . . . Mayor Lightfoot  
around Noon . . . Governor Pritzker around 2:30 p.m. . . .  
President Trump around 4:30 p.m. . . . and others . . . and  
their doctors . . . and then commentary . . . .



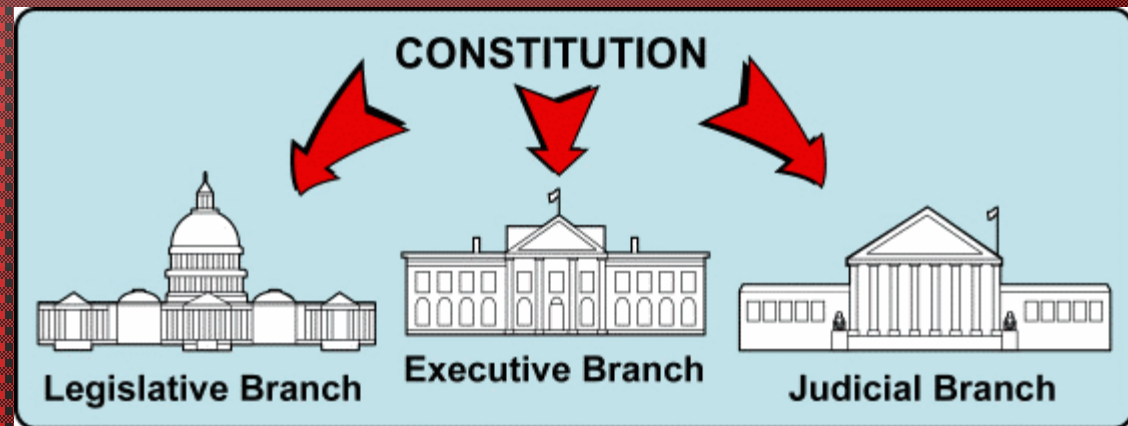
# THE SUPREME COURT OF ILLINOIS



# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

- Administrative authority over the State Courts of Illinois.
- [www.illinoiscourts.gov](http://www.illinoiscourts.gov).
- Separation of Powers.



# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

IN THE  
SUPREME COURT OF ILLINOIS

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In re: Illinois Courts Response to COVID-19 Emergency )  
)  
) M.R. 30370  
)  
)

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Order

On March 9, 2020, Governor Pritzker declared a State of Emergency in response to the novel coronavirus (COVID-19). On March 13, 2020, the President of the United States declared the COVID-19 outbreak a national emergency. Pursuant to the general administrative and supervisory authority vested in the Supreme Court under Article VI, Section 16 of the Illinois Constitution, Illinois appellate and circuit court procedures and orders entered in response to this ongoing threat of COVID-19 shall be consistent with the following guidelines in order to protect the health and safety of court patrons, staff, judges and the general public:

A. All Illinois courts shall continue to establish and periodically update, as necessary,



# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

- “A. **All Illinois courts shall continue to establish and periodically update, as necessary, temporary procedures to minimize the impact of COVID-19 on the court system**, while continuing to provide access to justice. These procedures shall be consistent with each appellate and circuit court Emergency Preparedness Continuity of Operations Plan (EPCOOP) and its operational plan for essential court functions. Each court shall immediately provide its orders and other communications on temporary procedures to the Supreme Court through its Administrative Office of the Illinois Courts. The Supreme Court Communications Office will post information on the Court’s website.

# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

- B. Essential court matters and proceedings shall continue to be heard** by the Illinois courts. **If feasible and subject to constitutional limitations, essential matters and proceedings shall be heard remotely via telephone or video** or other electronic means.
- C. All non-essential court matters and proceedings should be continued or, where possible, conducted remotely via telephone or video** or other electronic means.

# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

- D. **Subject to constitutional limitations, all courts, in any civil or criminal case, may:**
1. Modify or suspend any deadlines and procedures, whether prescribed by local rule or order, for a stated period ending no later than 30 days after the Governor's state of emergency declaration has been lifted.
  2. Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, by teleconference, videoconference, or other means.
  3. Require every participant in a proceeding to alert the court if the participant has or knows of another participant who has been diagnosed with COVID19.
  4. Take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.

# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

**E. Until further order, the Supreme Court temporarily suspends the operation of any Supreme Court Rules to the extent they are contrary to any provisions of this order.**

# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

**F. Individuals, including judges, court staff, parties, attorneys, jurors and witnesses, should not enter any courthouse if they:**

1. Have traveled, within the last 21 days, to any country designated by the United States Centers for Disease Control (CDC) as high-risk locations for transmission of COVID-19;
2. Reside or have close contact with anyone who has traveled to any country designated by the CDC as high-risk locations for transmission of COVID-19;
3. Have been directed to quarantine, isolate or self-monitor at home by any medical provider;
4. Have been diagnosed with, or have had close contact with anyone diagnosed with, COVID-19; or
5. Have flu-like symptoms including fever, cough or shortness of breath.

# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

- G. All courts should implement temporary reductions in courthouse staffing while maintaining core functions and essential court operations. Temporary suspension or relaxation of leave policies may be necessary. To the extent feasible, court staff able to conduct work remotely should do so.

# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

“ . . . IT IS HEREBY ORDERED that the Court’s order of March 20, 2020 is amended to read:

**The Chief Judges of each circuit may continue trials until further order of this Court. . . .”**

*Order* (April 3, 2020) (Case No. 30370) (with **emphasis** added).

# THE SUPREME COURT OF ILLINOIS

(CONTINUED)

On April 24, 2020, the Court further ordered the release of \$4,000 being held for a judgment creditor pursuant to a garnishment or citation . . . .

*Order* (April 24, 2020) (Case No. 30370) (with **emphasis** added).



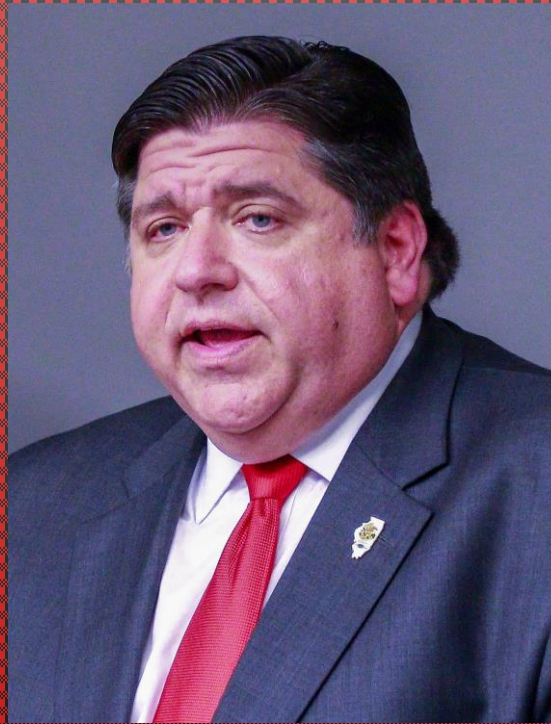
# THE SUPREME COURT OF ILLINOIS

(CONTINUED)



*Please stay tuned, more to follow . . . .*

# THE GOVERNOR AND HIS EXECUTIVE ORDERS



# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

“EXECUTIVE ORDER IN RESPONSE TO COVID-19  
(COVID-19 EXECUTIVE ORDER NO. 8)

**WHEREAS**, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area on March 9, 2020 (Gubernatorial Disaster Proclamation) in response to the outbreak of Coronavirus Disease 2019 (COVID-19); and,

••••

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(8), 7(10), and 7(12) of the **Illinois Emergency Management Agency Act**, 20 ILCS 3305, and consistent with the powers in public health laws, I hereby order the following, effective March 21, 2020 at 5:00 pm and for the remainder of the duration of the Gubernatorial Disaster Proclamation, which currently extends through April 7, 2020:

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

## Section 1. Stay at Home; Social Distancing Requirements; and Essential Businesses and Operations

1. Stay at home or place of residence. **With exceptions as outlined below, all individuals currently living within the State of Illinois are ordered to stay at home** or at their place of residence except as allowed in this Executive Order. To the extent individuals are using shared or outdoor spaces when outside their residence, they must at all times and as much as reasonably possible maintain social distancing of at least six feet from any other person, consistent with the Social Distancing Requirements set forth in this Executive Order. All persons may leave their homes or place of residence only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses and Operations, all as defined below. . . .

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

10. Essential Governmental Functions. For purposes of this Executive Order, all first responders, emergency management personnel, emergency dispatchers, **court personnel**, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support Essential Businesses and Operations are categorically exempt from this Executive Order. . . .

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

12. Essential Businesses and Operations. For the purposes of this Executive Order,

**Essential Businesses and Operations means** Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure, and the following:

....

- r. Professional services. **Professional services, such as legal services,** accounting services, insurance services, real estate services (including appraisal and title services);

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

14. **Essential Travel.** For the purposes of this Executive Order, Essential Travel includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section.
  - a. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses and Operations, or Minimum Basic Operations. . . .

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

15. Social Distancing Requirements. For purposes of this Executive Order, **Social Distancing Requirements includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands. . . .**



# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

- a. Required measures. Essential Businesses and Operations and businesses engaged in Minimum Basic Operations must take proactive measures to ensure compliance with Social Distancing Requirements, including where possible:
  - i. Designate six-foot distances. Designating with signage, tape, or by other means six-foot spacing for employees and customers in line to maintain appropriate distance;
  - ii. Hand sanitizer and sanitizing products. Having hand sanitizer and sanitizing products readily available for employees and customers;
  - iii. Separate operating hours for vulnerable populations. Implementing separate operating hours for elderly and vulnerable customers; and
  - iv. Online and remote access. Posting online whether a facility is open and how best to reach the facility and continue services by phone or remotely. . . .

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

## Section 2. Order ceasing evictions.

Pursuant to the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(2), (8), and (10), **all state, county, and local law enforcement officers in the State of Illinois are instructed to cease enforcement of orders of eviction for residential premises for the duration of the Gubernatorial Disaster Proclamation.** No provision contained in this Executive Order shall be construed as relieving any individual of the obligation to pay rent, to make mortgage payments, or to comply with any other obligation that an individual may have under tenancy or mortgage. . . .”

Executive Order 2020-10 (March 20, 2020) (with **emphasis** added).

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

## EXECUTIVE ORDER IN RESPONSE TO COVID-19

### (COVID-19 EXECUTIVE ORDER NO. 12)

**WHEREAS**, in late 2019, a new and significant outbreak of Coronavirus Disease 2019 (COVID-19) emerged; and,

....

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(3), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, I hereby Order the following:

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

Section 1. During the duration of the Gubernatorial Disaster Proclamation related to the outbreak of COVID-19, the requirement that a person must “appear before” a Notary Public commissioned under the laws of Illinois pursuant to the Illinois Notary Act, 5 ILCS 312/6-102, is satisfied if the Notary Public performs a **remote notarization via two-way audio-video communication technology**, provided that the Notary Public commissioned in Illinois is physically within the State while performing the notarial act and the transaction follows the guidance posted by the Illinois Secretary of State on its website.

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

Section 2. During the duration of the Gubernatorial Disaster Proclamation related to the outbreak of COVID-19, any act of witnessing required by Illinois law may be completed remotely by via two-way audio-video communication technology, provided that:

- a. The two-way audio-video communication technology must allow for direct, contemporaneous interaction between the individual signing the document (“the signatory”) and the witness by sight and sound;
- b. The two-way audio-video communication technology must be **recorded and preserved by the signatory or the signatory’s designee for a period of at least three years;**
- c. The signatory must attest to being physically located in Illinois during the two-way audio-video communication;

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

- d. The witness must attest to being physically located in Illinois during the two-way audio-video communication;
- e. The signatory must affirmatively state on the two-way audio-video communication what document the signatory is signing;
- f. Each page of the document being witnessed must be shown to the witness on the two-way audio-video communication technology in a means clearly legible to the witness and initialed by the signatory in the presence of the witness;
- g. The act of signing must be captured sufficiently up close on the two-way audio-video communication for the witness to observe;

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

- h. The signatory must transmit by fax or electronic means a legible copy of the entire signed document directly to the witness no later than the day after the document is signed;
- i. The witness must sign the transmitted copy of the document as a witness and transmit the signed copy of the document back via fax or electronic means to the signatory within 24 hours of receipt; and,
- j. If necessary, the witness may sign the original signed document as of the date of the original execution by the signatory provided that the witness receives the original signed document together with the electronically witnessed copy within thirty days from the date of the remote witnessing.

....

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

Section 4. During the duration of the Gubernatorial Disaster Proclamation related to COVID-19, notwithstanding any law or regulation of the State of Illinois to the contrary, absent an express prohibition in a document against signing in counterparts, all legal documents, including deeds, last wills and testaments, trusts, durable powers of attorney for property, and powers of attorney for health care, may be signed in counterparts by the witness(es) and the signatory. A Notary Public must be presented with a fax or electronic copy of the document signature pages showing the witness signatures on the same date the document is signed by the signatory if the Notary Public is being asked to certify to the appearance of the witnesses to a document. . . .

Executive Order 2020-14 (March 26, 2020) (with **emphasis** added).



# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

## EXECUTIVE ORDER IN RESPONSE TO COVID-19

### (COVID-19 EXECUTIVE ORDER NO. 23)

**WHEREAS**, Coronavirus 2019 (COVID-19) is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza; and,

....

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, pursuant to Sections 7(1), 7(2), 7(8), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, I hereby order the following:

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

- Section 1. During the duration of the Gubernatorial Disaster Proclamations, Sections 5/12-705, 5/12-805, and 5/2-1402 of the Illinois Code of Civil Procedure, 735 ILCS 5/12-705, 735 ILCS 5/12-805, and 735 ILCS 5/2-1402, that permit the service of a garnishment summons, wage deduction summons, or a citation to discover assets on a consumer debtor or consumer garnishee, are suspended.
- Section 2. Notwithstanding the foregoing, nothing in this Executive Order shall be construed to apply to domestic support obligations, including child support and spousal maintenance obligations.
- Section 3. No provision contained in this Executive Order shall be construed as relieving a debtor of any liability. . . . Executive Order 2020-25 (April 14, 2020) (with **emphasis** added).

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

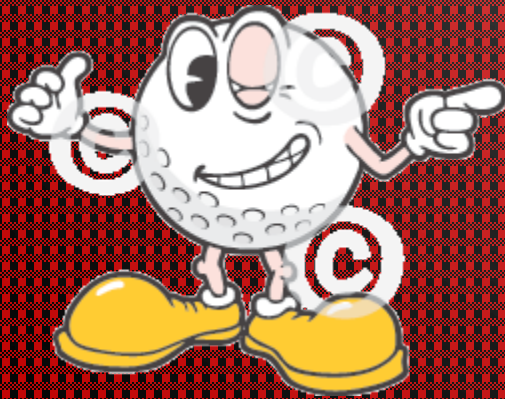
Various other Executive Orders have been put in place to deal with various things like expansion of the period for electronically collecting fingerprints for certain health care workers (Executive Order 2020-22), expansion of hospital capacity (Executive Order 2020-26), suspension of certain training requirements for insurance licenses (Executive Order 2020-29), etc.

See <https://coronavirus.illinois.gov/s/>

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)

On May 1, the “Stay-at-Home-Order” is being expanded through May 30, 2020, along with requirements for face masks, additional limitations on gatherings, etc., but also allowing for expansion of what is essential or otherwise allowed, like golf....



Executive Order 2020-XX (\_\_\_\_\_, 2020) (with **emphasis** added).

# THE GOVERNOR AND HIS EXECUTIVE ORDERS

(CONTINUED)



*Please stay tuned, more to follow . . . .*

# PRACTICE IN OUR LEGAL COMMUNITY: Today

Standing Orders.

Agreed Orders.

Emergencies.

Remote Hearings.



# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

## Standing Orders

More and more, Judges are publishing Standing Orders to establish guidelines and protocols which apply to the cases which are assigned to them. These might typically address when and how certain matters can be addressed, how to communicate with the Court, and the like.



# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

## Agreed Orders

All parties in a case may stipulate or otherwise agree to the entry of an order in a case. **Proposed orders should be signed** by all parties (or their attorneys) in the case, or by an attorney with a representation that presentation of the proposed order involves an agreement of the parties. The Court reserves the right to enter and/or modify any such proposed order. With reduced staff, proposed orders will be filed and otherwise made available when they have been processed, which may take a week or more.



# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

## Emergencies

*“As always, the Court will continue to handle emergency matters as need and circumstance warrant. In these times, the Court generally finds true emergencies to be rare and to involve life, limb, or liberty.”*

Standing Order – Civil Division – 22<sup>nd</sup> Judicial Circuit (March 20, 2020).

# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

## **For an emergency in a case:**

1. E-file the pleading(s).
2. Call Court Administration . . . .
3. A Judge will decide if it is an emergency.
4. The Judge decides when/where/how . . . .

# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

**In handling any matter with the Court**, please recall the dictates of the Judicial Canons, especially that which is found in Rule 63(A)(5) of the Supreme Court of Illinois:

A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

- (i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and
- (ii) (ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

(b) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(c) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(d) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(e) A judge may consult with members of a Problem Solving Court Team when serving as a Judge in a certified Problem Solving Court as defined in the Supreme Court "Problem Solving Court Standards."

# PRACTICE IN OUR LEGAL COMMUNITY: Today

(CONTINUED)

Stipulated / Remote Hearings. “While all matters set for presentation or hearing in open court on and after ~~March~~ May 18, 2020, have been and will be continued to certain points in time to be posted on the Circuit Clerk of the Court’s Website (<https://caseinfo.mchenrycountyil.gov>) on or after March 23, 2020, all parties in a case may stipulate to or otherwise agree on a new date which arises in or after May, 2020. Proposed orders may be emailed to [proposedorders@22ndcircuit.illinoiscourts.gov](mailto:proposedorders@22ndcircuit.illinoiscourts.gov). Proposed orders must be signed by all parties (or their attorneys) in the case, or by an attorney with a representation that presentation of the proposed order involves an agreement of the parties. The Court reserves the right to enter and/or modify any such proposed order. With reduced staff, proposed orders will be filed and otherwise made available when they have been processed, which may take a week or more.

PRACTICE IN OUR LEGAL COMMUNITY: Today  
(CONTINUED)

Parties may stipulate to have the Court decide a matter on the filings.

Parties *with the Court* may agree to have a matter heard remotely.

# PRACTICE IN OUR LEGAL COMMUNITY: Tomorrow





# PRACTICE IN OUR LEGAL COMMUNITY: Tomorrow

(CONTINUED)



*If you put your mind to it, you can do anything.*

PRACTICE IN OUR LEGAL COMMUNITY: Tomorrow  
(CONTINUED)

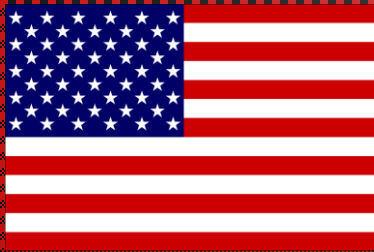
*Here's what we know:*

Truly *unique* situation, with *much* uncertainty.

No trials probably before June 1, 2020 . . . .

We need to reinvent our selves/processes.

# QUESTIONS / SOME ANSWERS / COMMENTS / ADJOURN



THANK YOU!



*That's all Folks!*