

The ‘New?’ Normal

By Vesselin Mitev

Certain readers of this column may remember old Larry King Live episodes, where (with our cable TV and entertainment news options limited) the bespectacled, suspenders-bound Brooklynite newsman ruled the airwaves and would entrap mass audiences with (accusedly) softball questions lobbed at alleged dictators and tyrants with the same fervency as hollow-eyed movie stars and tabloid fillers.

In any event, no matter how you sliced it, Mr. King was never in doubt, albeit often wrong, but cumulatively wholly entertaining. In that vein, my last column about life as an attorney returning to normalcy after three weeks, admittedly, did not age well. I was wrong, but good-naturedly so, without an ounce of predilection and less than a pound of circumspection, if I’m being honest.



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Below some takeaways now, after more than two months of pandemic rules, and a slated return to normal, or the new normal, whatever that means.

Court conferences, especially in matrimonial/family matters, should, as a matter of course, be phone-ins or conducted via Skype or Zoom or other medium, absent an exigent or emergency circumstance. There is no true need — again, absent an

emergency situation — to require parties to take the day off work (or even a half day) to wait around for two hours in the courtroom or the courthouse hallway, while attorneys conference the matter in the back, usually for (at best) 20 minutes, and then await a report from their attorneys as to what transpired. Moreover, this would obviously reduce the number of people (litigants) crowding the already crowded court-

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house hallways, making for an easier people management plan when courts fully reopen.

E-filing of matrimonial actions, despite a Star Wars-level “disturbance in the force” moan amongst certain leonine, entrenched practitioners that were previously unaccustomed to e-filing, was a quantum leap forward that should have arrived eons ago. The added benefit of no longer having to waste trees serving burdensome statements of net worth with attachments by regular mail cannot and should not be understated: In 2020, there is something inherently wrong if your adversary demands a paper copy be served upon them as well.

Depositions of all matters after much groaning on all sides being carried on by electronic videoconference killed two birds with one stone: the simultaneous video recording of the deposition (a very powerful tool for being played in court, as opposed to the dry reading of the transcript, although one typically eschewed by the matrimonial/family bar) and an additional, built-in tool for moving cases along, despite the hand-wringing and pearl-clutching over safety concerns and immediate ability to “confront” the deponent, such as by dramatically slamming down the necklace bought by the cheating husband for his paramour and exclaiming: “Isn’t this a

gift, sir, you bought for your mistress, for \$7 thousand dollars, while your children were foraging for food?” having lost some of its perceived effectiveness, in fair trade for the ability to matriculate a matter towards conclusion, as opposed to hanging in indefinite legal purgatorium.

The ability to notarize someone over videoconference: This should have been a long time coming and should not be rolled back with the reopening(s) of the state and the nation; there is no actual difference between FaceTiming or Skyping someone who signs a document as you witness it, versus them doing so in front of you in your office (espe-

cially in light of New York’s law decreeing copies as originals absent some good-faith challenge to same). This is a crystal clear example of technology being used to a benefit as opposed to solidify a fossil of a detriment.

Note: Vesselin Mitev is a partner at Ray, Mitev & Associates, LLP, a New York litigation boutique with offices in Manhattan and on Long Island. His practice is 100 % devoted to litigation, including trial, of all matters including criminal, matrimonial/family law, Article 78 proceedings and appeals.