

**ST. THOMAS UNIVERSITY COLLEGE OF LAW  
JOURNAL OF COMPLEX LITIGATION (JCL) AND CENTER FOR PANDEMIC, DISASTER, AND  
QUARANTINE RESEARCH (PDQ) SYMPOSIUM:  
ISSUES THE COVID-19 PANDEMIC HAS PRESENTED TO THE LEGAL PROFESSION AND COMPLEX  
LITIGATION**

This Symposium covered currently litigated topics which arose from the COVID-19 Pandemic and continue to be issues of present and future complex litigation.

**OPENING REMARKS**

*Isabella Otruba:* Good morning, everyone. Welcome. Please make your way to the front of the auditorium as I introduce our moderator for the day of our JCL and PDQ symposium for 2022.

Please make your way to the first couple of rows of the auditorium.

Good morning. The Journal Complex Litigation and the Center for Pandemic Disaster in Quarantine Research Center welcome you to this year's symposium. I'm going to be introducing you now to our Professor, our very own Professor Clark of the St. Thomas University College of Law, here at St. Thomas, Professor Clark. He will be our moderator for the day.

A tenured professor of law, he has previously taught Business Associations, Contracts, Corporate Justice, Employment Discrimination and Hip-Hop Law and Justice at North Carolina Central University School of Law, where he was also a tenured professor of law. At NCCU, he also served on the ABA compliance team and was a director of the Justice and the Practice of Law Certificate Program and the director of New Initiatives. Before that, Professor Clark was a lecturer in law at West Virginia University College of Law where he taught Legal Writing and Appellate Advocacy.

Professor Clark earned his BA in Political Science from Wittenberg University, his MBA from West Virginia University College of Business and Economics and his JD from University of Pittsburgh School of Law. Following his graduation from law school, he practiced law at the Law Firm of Steptoe and Johnson. His scholarship includes a book, *Corporate Justice*, published by Carolina Academic Press, as well as numerous law review articles and other scholarship on social justice, corporate discretion, and sexual harassment. He is currently working on a case book on sports law as well. Please welcome Professor Clark, professor of law at St. Thomas.

*Professor Clark:* Thank you for that warm introduction, Ms. Otruba. I'm very excited to be here. I'll tell you guys a quick story. I was asked to have a conversation with you until our esteemed President made it here. Normally, whenever the president's in the room he's like, "Todd, speak quickly. I don't want you up there talking too much." So, I get a little bit of leeway today because he didn't get a chance to tell me that this morning.

So, what I want to talk about is just the excitement that we have at our university. I mean we actually have two wonderful symposiums going on today and what we have is sort of an explosion of academic thought and exercise here at the university. I think this is consistent with the culture that our President, that the Dean of our law school, that the Dean of the business school, that we want to facilitate here at STU. So, this is something that's very special to us. We're going to continue to sort of be at the forefront of both of the types of issues that are being discussed here today.

With that said, I want to say a little bit about our Journal for Complex Litigation. When I spoke to Ms. Otruba and I said, "What is really important for me to mention to the crowd today?" and she said, "Professor Clark, there's two things: growth and expansion." She talked about how the Journal of Complex Litigation is growing and expanding and addressing critical issues in the area of complex litigation. In addition, she was very proud of the active support that she received from the members of that organization and just how excited and passionate you are about supporting. The other thing too that I think is very special about that particular Journal of Complex Litigation is that often in when the articles are published, there are opportunities for students to get involved. In my opinion, it's not the practice practitioners – the voices that matter the most to me as a professor are the student voices. I think you have a unique perspective and an unique vantage point and that is a special component of that particular journal.

Now, onto the Center for Pandemic Disaster and Quarantine Research that I co-chair with Dr. Jose Rocha, who was around here somewhere. I want to tell you that when the pandemic first hit, we had a leadership team here at our university that looked forward and thought that there was a need for having a sort of repository for information, having a resource that provided information to the community. With that, we grew our Center for Pandemic Disaster and Quarantine Research along with the assistance of Commissioner Gilbert and numerous individuals across the campus.

Through that initiative, we were able to provide information, grants, and resources to the community around us. Out of that relationship and the work that we were able to facilitate with that, the Journal Complex Litigation and the PDQ came together and we thought that this would be a wonderful time, given our current status with the pandemic, to provide additional information and resources to the community because there are a lot of hot topics out there. I mean, every time you pick up the newspaper there's something going on with the pandemic and it's like wow, I've read something the other day that kind of blew my mind. So, you know we're going to have a lot of those discussions in the context of our symposium today. So, I'm excited what you will have an opportunity to hear and want to thank all of you for your attendance.

Now, with that said, there are a couple of people that I really want to thank. I really want to thank Ms. Otruba and her staff. You guys have done a wonderful job. I've had a lot of telephone conversations with you and your members. You've done an excellent job of putting together a quality event.

In addition, I'd like to thank Professor Keith Rizzardi. Professor Rizzardi is the advisor for the Journal of Complex Litigation, and he has been very involved in the process. In addition, to Dean Fernandez and Dean Dykas, the lovely lady sitting at the front— anything that happens at the law school or that the law school is affiliated, these individuals are the engine behind it. So, if you want to have a successful event that's whose resources you utilize.

With that said, I'd also like to thank our platinum sponsors MSP Recovery Law Firm. Thank you very much for your service and your commitment. Our silver sponsor Grey and Moore Law Offices. Again, thank you very much for your support. As well as the Gus Machado School of Business, specifically, and I said, "Make sure you mentioned this name." Provost Dr. Michelle Johnson Garcia was very actively involved in helping to facilitate this event.

Last but not least, I'd like to thank Dr. Rocha. Dr. Rocha is the co-chair that I work with and his energy and passion for making things happen, everybody knows is really unparalleled here at the University. So, I want to thank him as well. With that said, I will now turn it over to Dr. Rocha who's around here somewhere to introduce our panel. There he is.

*Dr. Rocha:* Thank you, Todd.

## **PANEL 1: EDUCATION**

*Dr. Rocha:* Thank you very much to all of you to be here in this amazing, amazing event that we have today in partnership with the law school, the Gus Machado College of Business. What is extremely important to mention today is what a ride we have had in the last 24, 18, 12 months. Our lives changed forever. One thing that we should be grateful about is that in St. Thomas University, through the pandemic we, as an institution of higher education, we made a difference and we keep making the difference for our students, for our faculty and our staff.

So, I will follow the advice that President Armstrong shared with Professor Clark. I'm gonna keep it short and sweet because we tend —sometimes we have a contest, Professor Clark, and myself, that who will run for the longest time in the events that we have. But I'm going to be short. Okay, so I would like to share with you that we have today two amazing, amazing panelists to start our event. Why? Because higher education, it plays a vital role in the development of the pandemic again during the last 24 months. We wanted to start with a story about what happened in higher education. I would like to introduce our first guest for our higher education panel, President Hardrick.

President Hardrick an award-winning senior academic executive with a proven track record for promoting student success, enhancing student outcomes, optimizing faculty and staff development, and cultivating a culture of excellence. Dr. Hardrick fully understands the promise of education. Through education, Dr. Hardrick was fortunate to earn significant roles as higher education administrator: he served as the Vice Provost for Access and Success at Florida

International University and Assistant Vice Provost for Academic Affairs at Baylor University and now the entering President of Florida Memorial University.

As an education executive, he's committed to develop future leaders and closing achievement gaps among underrepresented students and creating a culture of academic excellence in higher education. He's also the co-author of *Making Global Learning Universal: Promoting Inclusion and Success for All the Students*. Please help me to welcome President Hardrick to the stage.

*President Hardrick:* Well, thank you, sir.

*Dr. Rocha:* Thank you for coming.

Now, I would like to introduce a person that for all of us he doesn't need an introduction, but I will read a little bit about the amazing accomplishments of President David A. Armstrong.

President Armstrong began his first year at St. Thomas University in August 2018, becoming the university's 10th president. He's a dynamic leader who is driven by excellence. In less than one year, he spearheaded the launch of a football and marching band program, began construction on the Gus Machado School of Business that we are here right now, started an ethical leadership program and helped it fundraise more than \$10.8 million for St. Thomas University. President Armstrong's collaborative, innovative spirit has yielded exciting new venture and has helped expand the university's regional and national footprint. Thank you for being with us President Armstrong.

To begin our panel, I would like to ask you if you can give some introductory remarks about COVID-19 and higher education and how have you seen COVID-19 from your perspective from the top. President Hardrick, could you start?

*President Hardrick:* Sure. Just have to turn this on first. Now it's on.

Well first of all, let me say good morning to everyone. Thank you for the opportunity to come and participate in this symposium. Let's give a round of applause to all of those who helped organize it and to the esteemed President Madam Provost. Thank you all so much and let me say her interim president. I am the actual President. So, I'll get that bio updated. Thank you. Thank you, Professor.

Let me quickly say that our two universities, we were, really at the beginning of this pandemic, we were on calls every week almost, talking to each other, trying to manage and navigate this situation. We did not have to be here as a nation, right? To close down, you think about the number of people who were impacted. There were no guidelines to manage and navigate a difficult situation that we encountered and we're still dealing with it. But one of the things that we tried to do was make sure that we, as Presidents, that we created an opportunity to keep our students safe, keep you all in school, make sure we're protecting the environments in which

we are, we were basically living in. If it had not been for the university, I can tell you there would've been so many who would have just been in a very awkward place.

COVID-19 really imposed some serious challenges upon us as a nation. I think we'll get into some of those details here in just a minute. But when you think about – you have a federal government, your state, your local governments, and everybody were operating on different pages. It really makes it difficult, and we found a many times that we had to make decisions that we thought were going to be in the best interest of our universities.

*President Armstrong:* Yes. Thank you., Dr Hardrick. So special to have you here. We got to give – he always dresses very nice, he's a phenomenal dresser. But the fact that he showed the respect today at St. Thomas University to wear our colors, that's pretty good. I'm impressed.

I got to mention Professor Clark I love hearing him speak and he knows that. I think you gave the wrong impression. I love hearing him speak, but the problem is us lawyers always go too long and so that was the point. Jose never goes too long. Professor Rocha never goes too long if anybody knows him right.

By the way, I was telling the students I almost wore that suit today in that picture. I literally thought I go, "Well, are they going to have the old picture of the new picture?" So, I went with a new suit.

I appreciate that.

I want to add on to a Dr. Hardrick's remarks about collaboration. When this thing hit, and none of us knew what was going on. Last time we had a major pandemic like this was 1918, none of us were around. We do what we always do in times of concern and crisis and things like that: we called each other. I'm very fortunate to say that Dr. Hardrick is my friend, Dr. Allen, Mike Allen at Barry University, is my friend. That friendship got even tighter during this time because we were literally at the beginning, talking daily. Why? Because we were going to get shut down by the county. We got together ourselves – not our lobbyists, not our team – us three and contacted the Miami-Dade Mayor's office, Mayor Gimenez's office, and made the argument, the three of us together, that we were an essential business. We had students living here from all over the world on our campuses. We needed to continue. I still believe till this day that our students were safer on this campus than they were off. I could prove that by statistics when it comes to the corona virus infection of our students. We actually successfully argued to get one line in the mayor's proclamation that everyone had to shut down that included us, these three private schools, the smaller private schools, as essential business. So, collaboration in times like this, so, so important.

*Dr. Rocha:* Thank you President Hardrick and President Armstrong. So, let's start with some of the nitty gritty experiences we had during the last 18 months. In your opinion, Dr. Hardrick, which were the most challenging and critical issues of COVID-19 for Florida Memorial University?

*President Hardrick:* Very, very good question.

For us, particularly, when it comes to our type of institutions – let me drill down and say that I’m even learning even more so among historical black universities. At the beginning or any challenges that many of the students’ face, the first thing they do is stop out. Our university, although trying to reverse over a decade of declining enrollment trends at the institution, our university took a 20% decrease in student enrollment because many of the students went home, had to try to work. Economically, it was it was devastating for so many of our families. I know everybody in this room, you guys are extremely wealthy, you need to work. You didn't have to worry about any of that, right? But so many of these students – it was such a challenge trying to convince them, this is not the time to quit. This is a time to literally develop grit and to persevere. Stay in school. Stay focused. But many of them, they didn't have a choice. So, economically, this pandemic, it hit us really hard. Particularly, when I was already dealing with austere budget situations at the university, the pandemic and then a 20% decline in enrollment, you can imagine. All of that was compounded. So, we quickly had to pivot.

Particularly in an institution – I recall when I walked in July 2018 and I was already talking about, we need to transition from so much of the manual and expand and leverage online and so on and so forth. People laughed at me like, “No. You're crazy. We're not doing this. We can't do this. That's impossible.” But yet, the pandemic then forced everybody to have to make that shift. The sad part of that though, is when we made this shift, we discovered the digital divide was more prevalent than ever. Many of our students did not even have laptops. They did not have the devices. I literally had to go out, get funding to be able to buy devices for our students to keep up. So, can you understand? The library was the place where they were going to do their homework and so on and so forth.

As President Armstrong articulated, we literally had to go to the Mayor at that time to say, “You can't do that. This will be to devastating on our institutions and on our students.” Because otherwise, they would have been shut down and had no way to study. So, that was very critical front for us from an economic standpoint

Now you're looking at me like, “Okay. You're getting like Professor Clark. You’re too long.” My bad, my bad. So, I’ll stop very quickly.

*President Armstrong:* No, we’re the panelists. We're good.

*President Hardrick:* But it was so much from an economic standpoint. Then just trying to get everybody to stay safe and get the testing and all these other things. Because as I said, there were no guidelines on how to manage any of this. We literally had to try to figure it out and what was best for our institutions.

And then, at the university – again, I walked into an institution where they just didn't have the technology. I know I’m exposing the institution a great deal, but you know what? Everything

was manual when I walked in. But today, everything is electronic, is automated, is digital ties now, in such a short time period. The students love learning online. Now, the faculty love it. Some of them didn't want to come back to work and I said, "No. Now you guys making me have to shift and start acting like Dave now. No, you've got to get the work." But many of them, that's what they wanted to do. Now, they all see the value in being able to leverage online learning and having diverse modalities to delivering education. Alright, I'll stop sir.

*Dr. Rocha:* Please do not feel constrained by the remarks of my co-chair. I thought Clark, let me tell you, when we started the organization of this event with the amazing team that we had, we said that we have a story to tell, a fascinating story. Please by no means feel pressure by time. President Armstrong.

*President Armstrong:* Yes, I can echo all of Dr. Hardrick's comments, but I'll start here. When the pandemic started, and I'll make more comments about this later, my concern was that it was also political.

So, I met with our board and they said okay President Armstrong where are we going and what are we doing? And I have said this from that day and every day since. That we made a conscious decision at St Thomas University that we would not make decisions based on the panic, the political, or the timid. We were going to make decisions on what was best to be able to provide a full collegiate experience for our students, while keeping our most vulnerable safe.

And that is, thankfully, because of the support of the board, that we have continued that throughout the pandemic and, I believe, because of the work of our faculty, our staff, administration, and especially our students, we were able to do that.

So when the when the pandemic first started, I was wishing happy Easter to some of our donors, I talked to a donor, Victor, down in Texas, and I was just going to say hello and happy Easter.

We ended up talking for an hour and a half, about the pandemic. He was a C-suite level executive at Exxon and a graduate of St Thomas University and he said, you know, we need an entity that can gather information so that leaders in business, politics, education, everything could make better decisions.

And we started thinking about that. That was how we started – his name is Victor Hennessy – that's how we started the pandemic disaster research, PDQ. So, and I want to thank Dr. Clark and Dr. Rocha from the College of Law and from the University. They stepped up as leaders of that and if we're doing a phenomenal job of that so give them a round of applause.

The most challenging thing was the academic transition. We had to be virtual within a matter of days and Dr. Hardrick same thing. When I came here and said, you know, we need to have more online programs, we need to have more modalities, education should be more personalized.

And, especially at the law school, which is the College of Law professors – they've been teaching law from 1000 years ago.

No, we can't have an online degree and I got to say this right away, virtual an online are not the same thing. Does everybody understand that? It's very important to understand that virtual is synchronous face-to-face on video screen, that is not a good way to learn.

Online is different. Ok? Twenty-four-hour access to faculty members getting information. You may have a hybrid where there is some in person face-to-face or some virtual synchronous face to face, but online is different from virtual.

So that's been a problem in the media and everything like that when people talk, well we all went online, no, we did not. Virtual is different. And so, our faculty in four days, four days, did it. That was impressive. And because of that now the College of Law has a whole different attitude on can we do virtual? Can we do online? Can we do hybrid? Awesome.

Okay, and probably used it more than anyone when it's all said and done. The other big critical issue for me is the academic mental and physical health of our students. That was always the concern, ok? And so we'll talk again more about that. Dr. Hardrick mentioned laptops – you know 70% of our students are eligible.

We had issues, you know? If you didn't know this, in Miami-Dade County 25% of the students K-12 have no access technology. Those students for two years have been lost. That is going to come back to haunt us. You've heard me say it here today, that is going to come back to haunt us. So that's not just the answer to say, "oh we're going to go virtual."

But I'll say this, the pandemic, the quarantine, the shutdown was a rich man's or a rich woman's shut down. Why do I say that? Like you, we bought laptops for students that didn't have access to technology and had the equipment. I delivered a laptop one of our students in Hialeah. I went to her apartment complex, and when I pulled in and I'm looking out on the street.

I live in Westin, we shut down and everybody would walk in the morning, I could tell everybody was home more all that kind of stuff. I was in Hialeah, and I dropped off that laptop, everyone was out, and everyone was working.

So, when you talk about essential employees and all that kind of stuff it was also shows socio-economic. Who delivered the food? Who made the food that we all ordered through Grub Hub? Ok, and the young lady I gave the laptop to was heading to work. I think that's an important point to be made, is that there were some disparities in how this happened.

*Dr. Rocha:* Thank you person President Armstrong. President Hardrick, which are the lessons learned and best practices that you have, and you are still having in Florida Memorial University for COVID-19.



*President Hardrick:* Alright, so let's say to ask the question again.

*Dr. Rocha:* Yes, which are the lessons learned the best practices?

*President Hardrick:* The lessons learned is that we are resilient people and that we can adapt, we can adjust, if we ever have the right mentality and the right attitude to anything.

And despite the challenges we face in life it's so important to learn to be innovative and solution oriented, as opposed to always thinking about what we can or cannot do. That's one of the things that we have literally been pushing. The second thing for me is that we, as an institution, had to always think about what was best for our community.

The meeting our students, our faculty, our staff, our alumni, and others who look to this institution to be a resource. The third one is to learn how to literally refrain from being mediocre and being innovative, and not look at higher education in the same traditional ways because it's changing – higher education is changing and we got to be able to quickly adapt in these types of situations and leverage the technology, right?

To make sure we're engaging and we're bringing everyone along, I think the fourth lesson for me was that my responsibility was not only to speak up for those at Florida Memorial but also those that are that are in our community as a whole. From a political standpoint when everybody has – as President Armstrong indicated some wanted to use this and leverage that from a political standpoint. We got to realize – listen we're talking about people's lives, we're impacting people's lives, this is not a time to play politics.

And, and those are the things from me, from my standpoint, is being able to speak up for the greater good in our community. Sometimes, and I think the last thing that I would say, because there were many lessons, but I think the last one, is that in situations like these that's when leaders have to have real courage. Because we didn't have any textbooks, we didn't have scripts to help us navigate through these situations.

We had to really analyze and make the best decisions and that's where I found the value. He [President Armstrong], Mike Allen [President of Barry], and I were talking on a weekly basis about how we're managing our situations. That also includes the courage to continue to inspire our governing body, like a board, right? Many who want who would want just to sit and watch the news all day and start panicking. My job was really to say guys, peace be still, it's ok, we will get through this, but you got to let me help manage us and lead us through it.

We cannot have these knee jerk reactions. Just because you heard something in the news, the media, from my standpoint, if we have any media persons here, I mean no offense, but I felt like they were all over the place. They created the hysteria and a panic that so many experienced as well. Ok, so I'll stop there, sir [Dr. Rocha], you're giving me that look again.

*President Armstrong:* Lessons learned, well, and best practices. And this is going to mirror some of Dr. Hardrick's comments. We actually had two full commencements, in person, during the pandemic. Because, again, going back to that original statement I made, that was best for our students and their families.

I said at the last commencement this quote: "Twenty-four hour news and social media are intentionally trying to destroy this country for news ratings and clickbait." Twenty-four hour news and social media are intentionally trying to destroy this country and divide us for news ratings and clickbait.

I've studied the founders throughout my life. If you know Federalist number ten written by James Madison talks about the evils of the two party system. We really have survived with the two party system, but I believe now it's been exacerbated by twenty-four hour news of social media.

And that's what it is amazing to me about the founders and their writings, is it's almost like they predicted that once this happened, and it was only going to get worse. If I had the ability, the magic wand, Harry Potter – I didn't read any of those books, though, so I didn't do that.

If I had the ability to go back in time, this is what I would have demanded from our political and medical leaders – they come to us as the citizenry and say: this hasn't happened since 1918. We don't have the playbook, we don't have it written down, we don't know what to do, but here's what we're going to do – we're going to do things to try and save the stock and we're going to try and work with people to keep people safe.

And if it works, we're going to keep doing it, but if it doesn't work we're going to tell you, and we're going to move on to something else. We're going to give you total transparency in everything that we do. That's what should have happened. That's true leadership. That did not happen, we made it political and, therefore, we were not our best selves in this process.

There is an article and sadly it had to come from not America. They researched all the countries and states in the world, based on their political affiliation, whether conservative, liberal, right, left, communist, capitalist all the way down and said, did any of those entities make the better decision in COVID?

You know they looked at infection rates and death rates and all those things. Guess what the answer came back. It made no difference. It made no difference. Eventually everyone gets the virus, the virus does what a virus does.

I love the Plexiglas thing. We have Plexiglas that's like three foot by three foot. Air doesn't go around it? Air doesn't go above it? Ok, so we did a lot of things and I get it, but once we tried it and we knew that that wasn't working, we should move on.

Other lessons learned: delivery modality. We all got better at this, and you know I despise virtual, when I watch TV and there is a virtual interview or a virtual show, I turn it off. I can't do it anymore, but there are some good things about virtual, we get 100% participation. We get this out of our Board of Trustees and our Board of Advisors meetings. Because traffic in Miami? I'm not sure, whatever, but hey, if that works, we're going to keep it right? Again, faculty-student transition from in person to virtual.

I think one of the lessons learned is the devastation to students' well-being K-16. Obesity has doubled in children, suicide rates have increased by 50%, and young women suicide rates have increased 100% for African American students from 13 to 17. That's scary.

Other lessons learned, the most important thing for us was not vaccine mandates, was not masked mandates, the most important thing for us, and why we were able to stay open the whole time was contact tracing.

So, we learned to get good at that, our students learned to get good at it, our people learned to get good. I will say this, and I know people are going to say it sounds political, but to me it's not, thank God, I live in the great state of Florida.

We were still able to live our lives, have our business, and educate our students. I don't care what anybody says in the country, right or left, republican or democrat. Everybody in the country visited Florida during the pandemic. I can prove it, on social media they were all here, because we could live our best life. My home State of Ohio, which is a republican led state, was a disaster in my opinion, I hated going and I didn't go back.

I was in New Jersey, I was in New York just recently, I was in Massachusetts also recently. Totally different if you have not traveled it is completely different. We were very fortunate to have our Governor and the belief system that we had as Floridians, so thank God for that.

*Dr. Rocha:* Thank you President Armstrong. President Hardrick, coming out of COVID-19 pandemic, how is your institution better prepared for similar events in the future?

*President Hardrick:* One, we've learned a lot. Let me just say that again, we've learned a lot and we built a strong foundation that is now going to propel us to another level. The morale. Because one of the things that I focused on, as we talked about earlier, was the well-being of everyone. We followed the CDC guidelines, we did all the right things, we had an extremely low positivity rate, and I think we pivoted as – I'm tired of that word too – we adjusted to try to accommodate everyone.

So, I think to folks it spoke volumes to our faculty and to our staff. I also said to them, that I need you now to be more committed than ever.

While, yes, we are seemingly getting out of this situation, we're also dealing with some of the effects of COVID-19, in terms of just the increase and the mental challenges that so many

students and families are still experiencing, and I can tell you I see it on our campus. I see it in this community, and it says to me that we must do a better job collectively to help solve the challenges confronting our communities, because they are real.

My psychologist, psychiatrist, and counseling services, I mean they couldn't even keep up. We had to go out and try to outsource just to help meet some of those needs. So, for me it was literally just making sure that we maintain a good, healthy environment and that families knew we had their best interests at heart.

Our students know it and they are seeing it. They're seeing the difference in themselves and are excited. I'm so thrilled that they're coming out of the dorms because many of them were afraid to even come outside, and I couldn't even understand it man. I was throwing barbecues, all those things to get out, let's enjoy each other.

I was just at a cyber security conference last night, and it was amazing to me that many of the people had similar comments, and that it was their first time getting out to be among people within two years.

And folks forgot how to have conversations, other than virtually. I think for me right now that's why I don't even want another virtual meeting. I am the kind of person that needs social interaction, I mean, am I not only one? Are you guys like that as well? Yeah, ok so five of you need the human, everybody else you still want to do it virtually online? Ok, so now it's all no.

All right, but for us, those are the things that we're doing, and we continue to we continue to do testing with our team on a daily – weekly basis, I should say. I'm still trying to, again, we're following the CDC guidelines in everything we do, but just trying to tell people it's okay. Let's just live your lives, stop trying to live in fear. Do what you need to do to protect yourself but stop living in fear.

*President Armstrong:* So, for us, very simply, is the ability to go to different modalities. Number two, never waste a crisis. We decided to get better during this and try to make this better for the future. I met with all our recruiters, we had 50 recruiters, that includes the College of law, all the coaches, everybody that has recruitment responsibility. I said, "I know a lot of people are starting to pull back in and they're lowering their goals, we will not do that." "We're actually going to increase our goals 10%."

"Why? Because for the first time in your life as a recruiter you only have one job, no one's coming in your office, you don't have games to play, all that kind of stuff, you have one job, number two for the first time in your recruiting life, you know where the students are. They're home."

And I'm very happy to say that, throughout the pandemic, for the last three years, we've had three straight years of record enrollment. Last year in the College of Law, we had our largest and strongest class in history of the College of law, and so it's about attitude.

It was our attitude during the pandemic, that that our people can step up in a crisis, and still perform. And that does not discount the devastation that this disease. But in agreeing with President Hardrick, human beings need interaction. We need interaction, that's why we're alive, that's the gift of life we have.

*Dr. Rocha:* Thank you, President Armstrong.

*President Hardrick:* Specifically, when President Armstrong talked about an increase and you remember, I alluded to the fact that, prior to my joining the institution, the University had literally more than a decade of declining enrollments.

I told you about the 20% cut we took right at the at the beginning of the pandemic, but I'm so proud to say that because of the change and the transformation, the implementation of technology and so much more, for the first time we brought in the highest class this fall – the past fall we brought in the highest freshman class this institution has seen in the past 10 years.

Right now, enrollment, we are at a weird place, and the projections for the upcoming fall, we are out of space. Now, I must have conversations about new student housing and other facilities for our students.

*President Armstrong:* Good problems

*President Hardrick:* Yes, all good problems. Right, so there's been a lot of good that has come out of this, right? And really challenged us to realize, we can do so much more if we just think innovatively and solution oriented.

*Dr. Rocha:* President Hardrick how has your institution balanced the well-being of faculty, students, and staff?

*President Hardrick:* For me, I alluded to this earlier, one of the things I always try to do for me is that I always think about the well-being of our faculty, staff, and our students.

And creating good environments, work environments, and so one of the things I tried to do was adjust to those who had little kids, because remember the entire school shut down. The entire country shut down and we had to make some adjustments. We worked with our faculty and staff who had little ones or had some underlying health issues themselves, to try to work with everyone.

What we created was a protective pride committee, at the very beginning to really monitor and track everything that was happening on our campus, and we met every week, we had conversations with all key stakeholders, including our students, and we're still following so many of those things today – cleaning protocols.

We are still following CDC guidelines, we test every week, we still have students who, and others who don't believe in the vaccination and I respect that. I'm not trying to compel any of them to do one or the other, that's their prerogative. But one of the things I want them understanding is that you have a responsibility to try to make sure you have kept everybody else safe.

So those are things that we are still doing and still encouraging all our folks about the importance of learning from all of this themselves. I think the faculty and staff will all say in unison, that we literally did everything to make sure we had a great, healthy environment.

*President Armstrong:* So, I would first say in times of crisis, you must lead by example, and like my friends, Dr. Hardrick, and Dr. Alan, I believe, and we talked about this, that we must be there, so if I had any people working on this campus, I was on this campus.

And that was starting in the major shutdown in March and on May 1, we had people back on campus. We did not do any layoffs, we gave raises during the pandemic, because of the job that we were doing, and that helped a lot of people.

Communication, in any time of crisis, in anytime of miscommunication, where people are assuming things, it's all about communication. So, I was making weekly videos to our students, parents, faculty, staff, and administration. We had a COVID-19 team; and we met every week for two years. Dean Lawson is shaking her head, she was on those meetings. Every day we went over our numbers, every day we went over our employees' numbers, our student numbers', we went over everything! I'm sorry not every day, once a week, and then we had our charges.

Lastly, health counseling, this was unprecedented in our lifetimes, we knew we needed help. So, my AVP of student life, Matt Roche, came to me and said, "we need help, Maria does a great job as our mental health counselor but need another one." I said, "do it, hire another one." I hired another full-time counselor, we also hired Tele health services to make sure our students had that.

*Dr. Rocha:* Thank you, President Armstrong, President Hardrick. If you had to do Covid-19 all over again, what would you do different?

*President Hardrick:* Wow, if I had the powers to just be able to speak to all our leaders nationally, we wouldn't have had so many people lose their lives unnecessarily. But I would make sure we do a better job of collaborating, and having uniformity in how we are going about messaging and dealing with a crisis like this. We were all over the place, as a nation, and we're better than that. Also, really separate, from my standpoint, trying to use politics over the lives of people. I would continue to lead differently, even in a situation like, this because honestly, I think we can write books on leadership and how to deal with these types of issues. I hope as a nation we are learning from it, to be honest with you, it was sad, we didn't have to be here.

*President Armstrong:* As I said earlier, I agree with Dr. Hardrick on those comments, as far as us as an institution, you can always improve, you can always assess what you're doing, but I'm proud of the three local private colleges, I'm proud of our university, and how we handled it and I'm proud of our students, our faculty, staff and administration. That's, not to say we couldn't do things differently, but I can't think of anything that I would do differently, because I was very proud of what we did.

On August 1, 2020, when most people were closed, we were here in person; student life, residence life, athletics, in person classes, played every single athletic contest, we had in person graduation in December for the May graduates, and then in May of 21, when most people still didn't have in person commencement, we had in person commencement, so I'm very proud of what we've done.

But I agree with President Hardwick wholeheartedly, to my comments earlier, I wish, we would have had more transparency and more togetherness as a nation from our political and medical leaders.

*Dr. Rocha:* Thank you, President Armstrong, and now I would like to open the floor for questions and answers.

*Audience Member:* Oh, I hear my own voice... so, I came from Indiana, especially because I knew I could do kind of diverse education with the implications that COVID had, so I came here for tax, trial team, the inclusion of minority students', things like that.

Do you believe that, at least positive repercussions of COVID-19, allows smaller universities, such as St. Thomas and Florida Memorial, to reach out to students from a broader basis across the United States, because you don't necessarily have to just relocate immediately, at least for other programs outside of college of law?

*President Armstrong:* If you don't mind, I'll start with this one. That's an excellent question, and the answer is absolutely. I'm a product of a university just like this, I've dedicated my life to make sure that in university, colleges like this, not only survive, and I believe that small colleges especially in Florida did it the best way. We had a commercial that we did during the pandemic, we started advertising up north, where everything was shut down. This commercial was done to tell students, they can have a full collegiate experience here, we got about 100 students through that campaign. There was another commercial we did, and I copied it, and I got to give credit from St Thomas University in Houston. I was speaking at an event like a virtual event like this, they showed their commercial and the commercial was "come to St Thomas University of St Thomas University in Houston" and "this is what your class looks like", and it was a virtual class, with nine people or you can go to a large State University, and this is your class, and they showed a virtual zoom thing with 1000 people in tiny little pictures.

So, we had more flexibility, because we were smaller, I don't like using this term a lot, but because we were more intimate, more personal, we were able to do that and be open and

inclusive and make sure that we are supporting all our students, and definitely because of our size, was an advantage.

*President Hardrick:* I will concur with what Dave said, the same applied to us, we attracted quite a few students from Chicago, New York, and some of those other areas. Because we were showing videos of sunshine, people out engaging, while they were shut down. Thank God, this is the flexibility I think we have over the public schools, because they really didn't have any say in what they could do for quite some time, so I'm grateful for the flexibility.

*President Armstrong:* That's an excellent point, I want to clarify the points I made, I'm not criticizing public universities, because my fellow Presidents in public universities didn't have control, because that was political because it's a state-run system, so we had an advantage as a private and also religiously affiliated and smaller, more personal to be able to do those things.

*Jessica Pagliery:* Hi I'm Jessica, I'm a second-year law student here at St Thomas and I'm a member of the Journal of Complex Litigation.

My question has a bit of a preface to it because education, at least for us students, especially in higher education is an emotional process, in the sense that, when you're behind you feel it, and when you're not as smart as other kids you feel that, especially in a very competitive type of environment that higher education just has naturally, and I know, President Hardrick that you mentioned, you had to outsource counseling and things of that nature, obviously mental health now is at the forefront for a lot of students in this kind of uproar of being cognizant about mental health. Everybody at a university needs more funding that I understand, from a president's role, the sports want more funding, law school wants more funding, they want new buildings, they want textbooks, you know they're like kids.

But how do you I guess with something this important, students' mental health, make sure that they're feeling good? because if they're not feeling good, they're not going to learn, what are you doing at each respective university to make sure that that's happening for your students?

*President Hardrick:* Well, for us, we are continuing to provide those type of services and we're making sure that our faculty is putting their finger on the pulse as well and being very cognizant of what is happening in the classroom. Such as, looking at the behavior of our students, their level of engagement and so on, so forth. In addition to that, I charge our student affairs team, make sure that our student engagement is at the highest level, getting our students out, getting them connected, teaching them how to reconnect again.

You know one of the things my leader said to me, and it just didn't resonate at first, because I was like "why aren't people out" and he said to me, as we were walking from a meeting one morning he says, "Jaffus you have to understand that when you came in, you had one set of students and then 2020, we had to recruit students virtually and students never had an opportunity to really get together and connect, we have two years of recruitment of students



who never knew what it was like to get together and to socialize and we attract a lot of students throughout the Caribbean of all over, and they never had that opportunity.”

It just lit the light bulb for me, yes, a little slow, that's probably why I didn't go to law school, but the bottom line is that we must keep them engaged. We must pay attention, we have to listen, and we have to be very watchful about how our students are interacting and what I have seen some of this even increase more in some about female students, believe it or not right and that that's always been a concern for me. I've made sure that we have extra resources, additional assistance to make sure you're working with our students and their families.

*President Armstrong:* I would agree with everything that Dr. Hardwick said, but also you talked about resources, that's very important. Before I get into that, I want to congratulate all our college of law students and our university students, we have two events going on, as I mentioned earlier, our college of law students not only look professional, but they are also professional. They've done a wonderful job so give them a round of applause, Dean Lawson is here, so we're going back and forth from both events.

I've been called a turnaround guy in higher education, I've dedicated my life, to make sure that institutions like this, not only survive, but thrive, just like Dr. Hardrick. I'm working on a podcast, that I hope we will become a book, called “The 21 things I Know Before Walking into a Financially Failing Institution.” Now, let me give you a caveat, just because it's financially failing doesn't mean there aren't great people there and doing great things, so I want to say that first, but the number one thing of the list of the 2021, is a culture of austerity.

I used to say culture of poverty and people said that was too harsh, so we changed it to a culture of austerity and there's what I call the austerity pie. When you go to a school like this, people take their little, tiny slice, because there's not enough money and not enough resources, and they run into the corner and they nibble on it, and they're never satiated they never get full and that's what we do, and everyone's fighting to keep that tiny little slice. The first thing I do when I walk into a financially failing institution is I take over the pie. All expenses, spending, is centralized, and what I tell everyone is “listen you're going to have to trust me on this one. we're going to cut the pie differently.” I'm going to add more to marketing and enrollment and things like that and fundraising to get more resources to grow, the pie, and when we grow the pie, we get to cut bigger pieces for each one of our entities. Then I asked them, don't go into the corner take the parts of your pie, and if you have anything left you put it back into the pie.

We keep doing that, repeatedly, till we get to a point where their piece of the pie they're satiated immediately, and they continue to give that back and that's the attitude of the university. But everybody wants their slice of the pie, so you got to grow, the pie.

*Professor Clark:* First, I think this has just been an amazing panel, thus far, it's great to hear information from such a high level and it really got me to thinking about both of your words, particularly.

President Hardrick something you said about HBCU struck a chord with me, before I got to St Thomas, I was a law professor at a law school in North Carolina North Carolina Central School of Law at HBCU, and one of my colleagues shared a story with me and it's something that I hold near and dear to my heart.

She said, "you know Todd I love this school because I was educated here, when I was just a law student, the law librarian came to me and said, 'hey Pam can you help me go and pick up these books from Duke university, because we need some additional resources'" Pam said, "absolutely." After Pam gets into her car with the Director of the library and they drive to the back of the law school of Duke, they get the books out of Duke university's trashcan to bring them back to North Carolina central university school of law.

That meant so much to me, and at that point, I would have fought for that school because of the fact of the school's story. I heard that Professor Armstrong told a story about providing resources and laptops to students, like what has transpired because of the pandemic has been extremely amazing.

My question is, how do you bottle these stories and experiences to motivate your students to achieve their greatest potential, to get your faculty and administration to say, "I'm going to work tirelessly to continue to support the mission of this institution."

What is some of the things that you are doing to bottle these experiences into sell them to have a more positive experience for your students?

*President Hardrick:* Good question, powerful. For me it's reminding everyone about our mission and reminding them about what's most important, it is our students. If we didn't have students, we wouldn't have institutions and regardless of whether we want to, and I know sometimes in the Academy, we don't like to think of it, but it's a business, it is a business and we got to think about the people we serve and for me it's making sure when you are talk about building a cultures of excellence, the success of that organization is predicated on one, the quality of its talent and its leadership and if you don't hire people who can embrace the mission, who can really embrace why you exist, then they are not the people who need to be a new organization.

You must either coach them up, or you coach them out of the organization, very simple. There is no room for mediocrity anymore in higher education, it is too competitive, and you have non-power entities that are saying "we're going to fill the gaps, because higher ED is still thinking in the old, traditional sense and we can no longer continue to do this."

For me, I just want to make sure that our environments, when our students, their parents that come here, that they are getting the best service ever, and that means challenging our students. I've often said to my faculty, and what drove me to have a conversation with them is that I saw an email from a student who was graduating, and the email was just so poorly written I asked myself "how did this student go through four years, five years and will write an

email like this, there is no way.” If that person has sent an email, to me, I promise you, they were doing that in their classrooms, in their papers, and faculty said nothing, and I challenged our faculty. That was an absolute, no, no, you are failing our students. If you allow this level of mediocrity to occur, you are going to hurt this student as he or she was about to enter the workforce.

I don't care what professional you are; you need to know how to write, how to communicate, verbally and in written form and when I saw that it was just it was so unacceptable.

I think it's our responsibility as leaders to make sure we get people who are going to help us elevate our institutions and make sure we're positioning our students to be competitive in a global marketplace, because it's no longer about us just competing here in America, but around the world. I feel like our institutions are some of the best and we need to make sure that we're producing talented students who can literally compete anywhere in the world.

*President David Armstrong, J.D.* If you come to my office, I have a quote wall of my favorite quotes, are up and down the wall. One of them is “if we don't have any students, then we don't have any dot dot dot.”

Everyone that works higher education institution, K through 12, must understand that it's not about us, it's about the students. To answer your question, I love that story, it's disheartening, but I love the fact that those people at the HBCU found a way, we always talk about you find a way, don't tell me no... tell me how. If that means I got to go through garbage cans to get books to give to my students that's what we do.

Mission, mission, mission!

I've been asked as a president now twice as to why I spend so much time creating partnerships with HBCU as a Catholic University. Mission, mission, mission! HBCU has a mission, we have a mission, that's why were together.

We accept everyone, we love everyone, but we are a Catholic University, and every student, every employee, must respect the teachings of the Catholic Church, that is our mission and so we are very consistent with that as a university and it's because of that mission, love and care and all those things, that I believe why it's the best education. Statistics could prove me out, lastly, to end it, there is a problem in this country in higher ED, all the land grant institutions, the large state universities, and every state, were designed and created to be access institutions in the state, when I was going to school and looking at colleges, they were the access institution, anybody getting Ohio State from Ohio.

Now, in almost every state, the most elite institution, is the large land grant state institution, so who's doing the job of what those things were designed for and all the money they're getting?

Mission centric smaller faith-based institutions have become the access institutions and we're not getting the money that they get, that's an issue, but we know it's our mission, so we continue to do the best job possible for those students.

*Dr. Rocha:* Thank you very much President Armstrong, thank you very much President Hardrick. To finalize this panel, I just want to share two personal stories with you. Number one, two years ago outside the St. Thomas University library, I went for my coffee and suddenly I saw President Armstrong, having a conversation with a group of students, and these words always resonate with me, because he was sharing to the students.

Dear students, you are safer inside ST. Thomas University then outside, that's why we are still open, why? because we care about you.

Since then, I call it ST. Thomas University bubble, because it happened, and the other one, it is that the competitive advantage that we have in institutions like these, it's that we know our students by the palm of our hands.

Oh my gosh! many of our faculty have the WhatsApp of our students and if they miss class, let me tell you that we are going to send them a message on WhatsApp asking what happened, or if we see them in the cafeteria, we ask what happened? Why didn't you show up to class?

At the end of the day, yes, its learning, but also it's about deeply caring for the person and the professional development of our students, and to piggyback about Professor Clark's remarks, about his former institution, we are very lucky to have people that have had their undergrad, their masters, their PhD, as an administrators of St. Thomas University and you know why? because they care, and we thank you very much for caring!

Finally, when the books of history are written in South Florida, for sure Florida Memorial University and ST. Thomas University will be the highlights of those books for COVID- 19 and the response that we have in the name of our students and the communities that we serve.

Thank you very much for your attendance today, we will have a brief coffee break outside, and we will continue with our program, Thank you.

## **PANEL 2: LOCAL GOVERNMENT**

*Dean Cecile Dykas:* Okay welcome back everybody, we had a great wonderful morning panel. For any of those in our audience who do not know me, my name is [Cecile] Cece Dykas. I'm the Associate Dean for Administration and Clinical Programs at St. Thomas College of Law. We have a wonderful afternoon lineup, or I'll call it our pre-lunch lineup today and it's my pleasure to introduce Dean Tamara Lawson. Dean Lawson is a professor of law, and she joined the St. Thomas law faculty in 2004. Her area of expertise and practice is criminal law, criminal procedure, evidence, [and] race in the law. She was twice voted upper class professor of the year, she was our associate Dean for faculty development.

Prior to her joining St. Thomas she was a deputy district attorney for Clark County and we had the pleasure of having Dean Lawson join us originally as a faculty member, a professor, and now our Dean. And Dean Lawson is the first female African American Dean at St. Thomas College of Law so, with no further ado, Dean Lawson.

*Dean Tamara Lawson:* Thank you, thank you, Dean Dykas and I would just add, thank you for that warm introduction, but everything I do is in collaboration with our esteemed faculty and in conjunction with our students that inspire me every day and so happy that you've put on such a great symposium. So, I'm happy to be here and I'm happy also to be engaged with our alumni, our distinguished, alumni that reach, to the highest heights of our legal profession.

Commissioner Raquel Regalado, thank you so much. Her accomplishments are just too vast for me to cover all of them. I will just give you a few highlights. It's also important to note that she is a first, she is the first Miami born Hispanic woman elected to the Miami-Dade County Commission. So, thank you for breaking that ceiling and being a leader and an example for our students. We are Hispanic serving institution, and we also are in the top 10 for female enrollment. There are a lot of female students here looking up to you today, we appreciate you being here.

Commissioner Regalado's entire career reflects a deep commitment to the people and issues that make Miami a place like no other. As a community leader, she is most known for her strong advocacy for disabled children and adults, housing, seniors, fixing school facilities, and transportation. Like I said, her bio is too long to read to you now and it's in the materials, but I would just add that she has been inspired to leadership by her children and she has dedicated her time and talent to many projects and initiatives that give more resources to disabled children and give more awareness to those issues. So- without further ado, welcome, Commissioner Regalado.

*Commissioner Raquel Regalado:* [Tests microphone] We're Good? Yeah we're good. I'm a radio person, so I can project, so I don't need the mic, so I'll try not to be too loud, but thank you so much Dean Lawson it really is a pleasure to be with you all today. So, I'm actually going to cover a few topics and I think it's- I really loved the bend of this panel because we've learned so much during COVID and government has changed so much. One of the jokes that we have at the Board of County Commissioners is that for the first time ever, people actually know what their County Commissioners do, and they care, because we interjected ourselves in your lives during this public emergency.

So, we'll start with kind of the basic framework, which is the Florida Sunshine law and that'll explain kind of some of the madness that you saw in the Zoom meetings that everybody was following as they tried to navigate what was open, what was closed, and how many people could go to your house. So, the Florida Sunshine law actually was enacted in 1967 and it was later amended in '95. It was codified into the Florida Constitution in 1992 by a vote of 83% and it's broken up into two phases, the first part, has to do with public access to meetings and that's the part that really impacts elected officials, and the second part, has to do with public

access to documents and that's the part that is amended every single legislative session. And it's important because the majority of litigation that we have in our government sector has to do with access to those records. Just to give you an idea of how many bills we're talking about, since 1992, our Florida Legislature has passed over 1,100 exceptions to the public records law as it pertains to documents and access to documents. A lot of those have to do with technology, with law enforcement, with witnesses, and more than 80%, really impact our criminal justice system, but it's significant that every legislative session, we have a minimum of 100 bills that have to do with public records. And we at the county make decisions on whether we support them or not, some of them we bring, some of them were actually against, and they require two thirds vote of the House and Senate.

One thing that's interesting is the part of the law that impacts meetings and the fact that elected officials that serve on the same board cannot have conversations on topics that may come before them without a publicly noticed meeting doesn't apply to our Florida Legislators, right. So it only applies to our Commissioners, our cities, and all the meetings that we partake in that are associated even with planning. So, how absurd does that get? Well, I'm a member of the metropolitan planning organization when it comes to transit, and I can't talk to my Coral Gables Mayor about transit because we sit on the same board. So, every conversation we must have in the sunshine and one of the things that we've been navigating at the county is, some elected officials just don't want to have a Sunshine meeting with you. That means that you can't talk about things, so it's a little frustrating.

There have been attempts to change it, but for the most part that aspect of it remains the same. It applies to staff and it applies to third party conduits, so it's pretty broad now that I mentioned that, because when we get into executive orders, this and what happened during COVID, it really limits, what should be happening and how people were participating in meetings and there was a lot of confusion about that.

And that's because when we get into executive orders and specifically a determination of a public emergency, all bets are off, right? When you have a public emergency, the whole point is that the regular process now needs to be interrupted, because we need to solve problems quickly, right? So, we go from the Sunshine law, and access and process based on the public's right to access, to a very interesting paradigm created by this emergency situation and the suspension, because the process would result in a slow response. So that's the terminology that they use in Tallahassee.

It also allows the governor to make and then we'll get into who else does emergency orders, but the idea is when legislators are out, they can also take this action. So, that's perfectly fine when we talk about hurricanes and unnamed storms, right? So before COVID we were all kind of "Eh, emergency orders like how bad could it get?" right? And really the number one example as to the impact that an emergency order and those emergency powers had, and how important they were was Hurricane Andrew.

So, Hurricane Andrew happened before you were born, so I'll tell you what happened, it was a hot hot mess. We weren't prepared for this hurricane, so we had National Guard out on the street. I worked at the Blockbuster Video on US-1 and Mariposa, and this doesn't sound like a controversial job at the time, however, when all of Coral Gables didn't have satellite, we actually rented every single video in the store, in the first three hours that we opened, and that was 852 videos. I know because I was the only employee that showed up to work. So, I was actually escorted by the National Guard to and from my job at Blockbuster Video because where I worked, and where I lived, there was no electricity and we were running on generators. This gives you an idea, we get into price gouging, we get into the scarcity of supplies, and how long can a community be without power. That was really our foundation of understanding of emergency orders. We were giving government these extraordinary powers in order to protect us, because we lived in these chaotic situations.

Some of us would make the argument and we have that this probably was true of the pandemic, for the first hundred days, but after the first hundred days, we no longer saw the need for these extraordinary powers. We still have extraordinary powers, right now, even though it appears Putin killed the pandemic but that's another story. But at the state level and at the county level and even at city levels, we still have extraordinary powers, based on COVID. And some of it is tied to funding, and what happens at the federal level, but it also does allow us to thwart the process and to accelerate certain things and that creates a bit of chaos.

So, what we saw at the beginning and it's important because we have this critique of Tallahassee currently, because how they have curtailed our emergency powers. But, at the beginning of the pandemic actually, the Governor declared a state of emergency on March 1 when the first cases in Manatee and Hillsborough were detected. So, for the first hundred days you have government kind of lockstep walking together. Miami- Dade County under Carlos Gimenez, now a Congressman then a Mayor issued a document that if you have problems sleeping, you should download and read, is called the new normal. It's about 122 pages of absolute complete nonsense. We paid a fortune for it, and it broke down emergencies into colors we still don't understand it. In fact, we amended it because not even staff could explain it to us.

But that was our first kind of entree into how government was going to regulate in this public health emergency. We had a second executive order on March 17 by the Governor. Which is where I think most of Florida stood up and took notice, because this was the executive order that beyond supplies and masks and National Guard dealt with occupancy, dealt with how many people could be in a public place. This was the famous 10 or less and we were like "why 10? How is 9 less dangerous than 10?" And started mandating a lot of what we were seeing at the CDC. After the first hundred days, we see a falling out there was a disalignment [sic] between the conversation that we were having at the federal level, the information we were getting from the CDC, and what local government was doing. And that's the chaos that has led us to where we are right now, where the state government has limited our ability to have emergency powers to the point where we almost don't have them anymore.

I think it's a very sad state. From the very beginning, I said that we should change it and base it on number of days, because truly and honestly, you can't have a state of emergency, that lasts two years that's absurd! There should be phases of it and, obviously, we have to go back to the public's right to access and lessons learned. Right now, one of the issues that we have at the Board of County Commissioners is attendance to meetings. So, I was actually the first County Commissioner, to have COVID. I was asymptomatic, so, I held my committee from my living room. And I continued to work in fact my staff will tell you I worked more than before I had COVID because I didn't have anybody interrupting me.

But some of my colleagues were sick and some of them could not come and could not attend so finding a physical quorum, is difficult, and right now, pursuant to Florida law, we have to have a certain amount of bodies at the dais in order for people to participate virtually. So, the joke at the county is that for the first time the older Board of County Commissioners were very happy to have a bunch of youngsters there because we could sit in the chairs and hold the quorum while they stayed home and we're safe on Zoom.

So, then, the last thing I want to mention, and I know we'll talk a little bit about it is what happened in our court system. This is so important, for those of you that don't know my background I actually took on our beloved judiciary system over a decade ago when we were fighting about the new courthouse. And one of the things that I submitted to them at that time, when I was a school board member, was that I wanted us to use our satellite courthouses. I wanted to use technology. I wanted people to be able to go to a satellite court room and swear in so they wouldn't have to go downtown. We could actually facilitate access specifically for criminal and county court.

I was a judicial clerk for Judge Kravitz who recently passed away, and I did county court, while I was a law student here. And really asking people who can't pay their rent to schlep downtown and pay \$50 just because a few of us don't want to be bothered to go to a satellite courthouse is egregious and I always thought that, but we had a tremendous pushback on the use of technology and one of the benefits, I think that we have received as a legal profession from the pandemic is, everyone had to log on and everyone had to figure it out. And now we can provide our clients with options that don't disrupt their lives and now our judges actually prefer these options, so, while it was difficult for our court system, I think that the lessons learned from this are going to provide us with better access long term.

*Dean Dykas:* And let me briefly introduce, as we go along, I'll do Nick Noto and Alex Falcone. Nick is an associate with the government division of Weiss and Serota. He handles a variety of legal matters, including legal Services to several city departments, preparing ordinances, resolutions, city policies, [and] drafting. He served on the board of attorney to several advisory boards, including, general employees' pension board, administrative zoning, and stipulated agreement. He's a former city attorney for the City of Coral Springs so Nick has the perspective of having been at the City of Coral Gables and now in the private sector side, continuing to represent different cities.



Alex Falcone is the director of emergency management, special events, and city security for the City of Coral Springs. He started serving as an emergency manager in 2016. He had a strong call to public service. He is a seasonal law enforcement officer with Cape May, doing mitigation planning, and lead mitigation planning for the Florida Division of Emergency Management, where he has that experience. So, we're interested, following up on Commissioner Regalado's, Nick, and then Alex, what was your perspective? Obviously, Commissioner, had it from the county level, the city level, and now the emergency management level.

*Nicholas Noto:* Sure, and thank you. And just for the record I work for the City of Coral Springs.

*Dean Dykas:* Oh Coral Springs, sorry.

*Nicholas Noto:* Which I got to work with Alex here in that interaction and working with staff was- one huge takeaway from lessons learned from dealing with a pandemic. But I want to go back to some of the things that Commissioner talking about and talk about the Sunshine law, because when I went in prepared for this, the first thing that came to mind was public meetings, right? And all the issues with public meetings because we had this pandemic that was starting to affect every aspect of life and in a local government law scene, we all know that there forever has been this interpretation from the Florida Attorney General that you have to have a physical quorum present to hold of Sunshine meeting. The Florida Constitution and even the Florida Sunshine law that's codified in the Florida state law, it requires that a public meeting is noticed to the public and is open to the public. There's no requirement that there be a physical quorum present to hold that Sunshine meeting.

The Florida Attorney General been asked about this over the years, and it's consistently opined that because there's certain state laws such as: Section 166.041 [of the Florida Statutes] which provides how local government has to pass an ordinance which is a majority of the physical quorum present has to vote to pass an ordinance. So, kind of piggybacking off that language, and I'm summarizing the Florida Attorney General over the years has opined that a quorum present and looked at the dictionary definition of present and determined that meant they had to be physically present, and you could not establish a quorum by electronic means.

So, COVID is starting to break out, we're starting to become aware that this is going to become a major issue for us, and we don't know how our elected officials are going to get together to make decisions on how we can move forward, how can we protect our citizens? How to protect our businesses? And the Florida Governor received a lot of questions from local governments on this issue, and he asked the Florida Attorney General again "what is your opinion on this?" "Does the Sunshine law require a physical quorum be present?" And on March 19 of 2020, so this is just at the beginning of kind of everything that we dealt with COVID-19, I'm just going to read from the Florida attorney general's opinion. She said "[t]he nature, extent, and potential duration of the current emergency involving COVID-19 present unique circumstances. However, without legislative action, they do not change existing law. It is my opinion that, unless and until legislatively or judicially determined otherwise, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other

technological means if either a statute permits a quorum to be present by means other than in-person, or the in-person requirement for constituting a quorum is lawfully suspended during the state of emergency.”

So, what happened? The very next day of the Governor suspended the virtu- or the physical quorum requirement, and we were able to operate. And you would think that would be kind of a sigh of relief, now we can at least start to let our elected officials start to make policy and make sure that our businesses and residents were protected. But as a local government lawyer, that created - that opened a whole new book of worms. What notice requirements change now that we're having virtual public meetings? How do we make sure that if someone doesn't have access to what the law calls communications media technology, Zoom or otherwise, how do we make sure that resident or that business owner has access to the Commission meetings? The public meetings?

So, we had to go through and amend all of our notices. We had to make sure that it was clear how you attend a meeting virtually. We had to include instructions on who to contact. We had to delegate a person, the city clerk's office to make sure that, if someone had questions, they couldn't connect, that they were there for them. We actually put a iPad on a pedestal outside of City Hall for those people that that just didn't have access the internet or couldn't view a public meeting virtually. And, we had to make sure that at the beginning of every meeting, we were doing our best to make sure that if you were coming physically to watch this at City Hall, you have to do your best to take precautions, because at this time, it's kinda like the Wild Wild West, we had no idea what was going on, we knew that close interaction amongst people was a bad idea we didn't know what the effect of masks were but social distancing was kind of at that point and I'll let Alex correct me if I'm wrong on this since he's the expert, was are our fall back if you will.

So, another issue that you don't really think of until you get into it, is how does public comment work? Right? Certain Florida Statutes require public comment before a elected body can make a decision. So, we had to come up with new rules: you're allowed to publicly comment via zoom, you're allowed to publicly comment via telephone, and you're allowed to publicly comment via writing to an email to the city clerk that can be read onto the record. These are all things that we had never dealt with before.

Another big hurdle that we had to deal with is, how do you have quasi-judicial hearings and evidentiary proceedings via Zoom? No one was really doing that at the time. How do you allow someone to submit evidence? Do they give you a package of documents in advance? Are they able to upload them at the time of the hearing? A lot of local governments are dealing with land use actions, where developers are submitting packets of site plans and all kinds of stuff that has to be reviewed by the Commission for them to make the decision.

So, we had to go through and craft careful procedures on how someone: (a.) Gets the documents to the city, and so the elected officials can review it in advanced and be prepared for that and (b.) How do you allow them to present it in an electronic format, that makes sense

and everyone can see what's happening like they would, if things were still happening in person? So, there was the hurdle of getting to virtual meetings and there was a second hurdle of how do you properly hold a virtual meeting and I think moving forward.

A lesson learned is I think across local governments, whether it's at the county level, the city Commission level or even advisory boards and committees, I think the value of communications media technology was really recognized by local government and I've seen certain local governments, from that point forward, you know everyone for the most part, is still allowing having some. Zoom or Internet based access to the public meeting, some are even still allowing public comment to be taking place via Zoom or whatever platform they're using.

So, one lesson learned is technology is great, and useful and can be implemented in our local government processes to maybe provide a better product to our constituents provide better access to our residents in our business owners. Other takeaways, huge one, the importance of intergovernmental coordination, like the Commissioner referenced they were emergency orders it felt like coming out every hour in the heat of this thing.

Just in 2020 alone, I think the governor issued approximately 50 emergency orders, the counties respectively Alex and I were in Broward county at the time. The county was issuing their own emergency orders and then every city was similarly issuing emergency orders, so it required a tremendous amount of communication coordination amongst agencies to make sure there's some consistency there.

So, the way that it works generally, at least in the beginning, is the state would pass an emergency order and local governments could be more strict than the state's emergency order. Eventually the state kind of took that right away. But that was interesting because it allowed local governments, even you know, on the city level to regulate based on what their residents and business owners needed more so than you know the state, for the most part doesn't understand the intricacies of what's going on and city of coral springs so having a process in place like that allowed the city to adopt regulations that made sense for its residents versus trying to kind of pigeonhole everybody into one box regulations that are supposed to work for the entire state. Ultimately that right was taken away. But, the importance of intergovernmental coordination was certainly a huge lesson learned and take away from dealing with the COVID-19 pandemic and another lesson learned specific to that that I thought that I, I took away from it was actual how do you create emergency orders and how do you number emergency orders, because there were some agencies that would put a date on them versus just saying emergency order 12345. I found in my opinion that the 12345 allowed residents, and business owners, constituents to go and more easily I understand.

The progress of the emergency orders and be able to kind of circle back and find what they're looking for versus memorizing specific dates that in an order was rendered, especially in cases where multiple orders are rendered on the same day, which happened a lot.

Another big lesson learned from a practical sense is make sure that you have a database of emergency orders that is very easy for your residents to find. You know I think we had a big banner on the top of the city's website at the time that said all emergency orders click here and, once you click there, then you saw merge to order 12345 and it can't be overstated how something as simple as that provides the information to your residence so much more easily and provides a sense of calm, because they know where to go what they're looking for, and they can find it easily.

So, from a local government lawyer perspective my next takeaway was being an effective communicator with your client and that matters, regardless of what type of law you're practicing communication is key, and I think across these panels you'll hear one lesson learned from COVID is communication is probably the most important thing right we work so closely with we always work closely with our city staff or their city manager's office or department directors in our city Commission.

But we had weekly Teams calls, I'll let Alex talk about the ICS structure, which I think is critical. And we pivoted to an ICS structure of management almost instantly as soon as we declared a state of emergency, we implemented the ICS structure which basically. I'll have him explain it, but you have certain section heads it changes your form of government, where now that if the city manager down to this department directors it all changes to where now the structure of government is designed to respond to an emergency, so we did that instantly and then every week we had calls based on that ICS. ICS structure where the section heads would report. And everyone that was a decision maker or department director was on that call everyone got the same information that they could then make decisions based off of everyone was working from the same playbook if you will. And also had all the information for their employees right, so that everyone was apprised of what was going on what the updates were what the numbers look like and what the city was doing to respond to that.

Similarly, we had weekly updates with our city Commissioners because the city Commissioners are the ones that while everyone's communicating with the residents, the elected officials have a personal connection and a tie, to make sure that their constituents know what's going on and a lot of residents look to their elected officials for that information, so we were having at least weekly calls with our city Commission individually to appraise them of everything that was going on in our weekly staff calls, so they also had all that information to share with the residents. Another thing that our city manager did and again this isn't necessarily a legal thing but you know, a lesson learned from dealing with COVID-19 and it has to do with local government, our city manager and our communications director and with Alex actually they put out a weekly memo to all the city staff, and this applies to any business, you know, a local governments, essentially just a big corporation right and the city manager being a CEO of that corporation would send out a newsletter every week to all the employees from the lowest to the highest to the assistant city managers outlining providing some support, providing details of what the horizon look like, and I think that was huge and our city manager at the time was a was previously our fire chief, so I think he had a lot of that type of leadership from his previous

experience, but I thought that was a huge lesson learned from dealing with an emergency situation generally.

And I don't want to take too much time, I was going to go into all the different regulations on, how am I doing on time? Okay, so I'll try to wrap it up with being agile and responsive as the emergency progresses, there are a lot of things going on a lot of different regulations taking place and they all changed drastically from start to finish, for example, the regulation of restaurants. At the beginning of the pandemic restaurants are closed entirely it pivoted a little bit to allowing pickup and delivery, but no in person dining. As the pandemic progress and we started to learn a little bit more we allowed on premise dining but limited to a certain percentage of the maximum capacity of the of the restaurant. There were a lot of local governments that had regulations that prohibited or restricted outdoor dining.

Those were state are lifted during the pandemic and I think a lesson learned from kind of land use regulation perspective, I think a lot of local governments amended their codes to be more. To allow more outdoor dining as a response to this, I think, businesses on the restaurant on the restaurant side also learned a lot from this, I was just at a planning and zoning board meeting recently for one of the cities, I represent, where Chipotle was proposing a new concept called their Chi-Pot-Lane, which is basically a drive thru for pickup orders, contactless pickup orders, you don't - there's no speaker box, there's no ordering from you know out in the drive through lane, but you order on your phone, you order online, and just drive through and pick it up. You don't have to go inside, it's contactless that's all a result of dealing what we you know dealing with COVID-19 and what we learned from it.

You know curfews was another big regulation that both counties put in place, I think Broward was from 11pm to 5am, in Miami Dade county was 12am to 6am, and I know Miami-Dade County in particular was sued over their curfew by Tootsies Cabaret because they thought that it conflicted with the governor's order which basically said local governments can't stop people from working essentially. I'm summarizing vastly but it went to the lower court, lower court actually issued an injunction saying Miami Dade county could not enforce its rule against Tootsies cabaret that they were right, it was appeal to the third District Court repeal. The third District Court of Appeal basically said no that's not right, the cities are the county is not stopping business from operating, those employees can still go to their place of work, but we're stopping large groups congregations in effect to stop this public emergency.

Restrictions on city parks, you know, in the beginning, not knowing what was happening, we close down all the parks, we thought that you know outside inside we weren't sure what we know groups of people large groups of people hanging out together is probably a way that this is spreading. That went from complete closure to passive use only I remember, I think it was either in Broward county's emergency order, maybe it was in ours, it was details of the point where, if you're playing you can play basketball by yourself.

You can't have pick-up games, you can't play team organized sports and then, as the pandemic progress further we realized outside probably not as big of a deal and the parks were just reopened completely.

So, there's a lot more, I could get into I started getting anxiety as I went back to prepare for this kind of reliving. Reliving this this whole phase of our careers and our lives that you know we that we- we all have our own perspective is what was dealing with COVID, but to summarize the lessons learned from my perspective was technologies, a useful tool. And maybe we should pivot a little bit and allow the use of technology, as a matter of course versus because this current state of the sunshine law is physical form is now back it's required you don't have a physical quorum. It's technically it's not a legal sunshine meeting business cannot take place unless you have at least a physical quorum present.

Be organized, you know have your emergency orders organized properly have them available, you want to make sure that the public has the easiest access and that the information you're putting out in the orders that you're drafting as a lawyer are easily read and understood by your constituents. Be flexible, adapt as the data changes. Be flexible in terms of your working with your client if you know we were in constant communication with our elected officials and also our city manager's office. And finally, kind of picking piggybacking off would be flexible, is communicate effectively with everyone whether it's other agencies, the county, the state. And, and you know your client, the elected officials if you're in my shoes and your local government or the elected officials and city staff. And I think that's all I got for now.

*Alexander Falcone, MPA:* Thank you, so first and foremost I know I'm standing between you and your lunch so I'm going to do my best to make this as exciting and interesting as possible.

While Nick was working on all of the emergency orders, I got to actually work on some of the fun stuff you know if you want to call it fun with the pandemic. So early on, I had to make a decision, I had to decide whether I want it to keep my doctor or my attorney closer to me. Okay, that was the big decision that we had to make. In emergency management, you know we usually issue very standard emergency orders, and we knew that with this pandemic, things are going to be different, we actually issued more emergency orders during the pandemic than we had in the city's entire history okay to put it in perspective, so these guys definitely are in their money during the pandemic working day and night to keep us organized.

So, Nick mentioned the incident command structure or ICS, as we call it for short. And essentially what that means is it allows us to streamline the way our government functions, so that we can react quickly, we can adapt, we can be as efficient as possible to meet demands. So, when you're operating under a normal governmental structure, if I want to procure things, I have to bring them into our county or, sorry, to our city Commission. Same thing at the county level. We have to go through certain policies and procedures. We have purchasing thresholds. We have to make sure that we have first and second readings for new ordinances. It's a very labor-intensive and time-intensive process. When you're dealing with a rapidly developing emergency, that model does not work.

So early on in the pandemic, just after the governor's state of emergency, we actually had a declared state of emergency in our city that delegated authority to the incident commander, which was our city manager at the time. When that happened, we actually flipped the switch to put all of our departments into an ICS structure. So we have six different functional groups, and each of those functional groups was tasked with different areas of responsibility. We had a health and safety component that was focused on all of our response our contact tracing or employee testing, law enforcement issues, fire rescue EMS messages, we had issues that focused on business resiliency, and then we had some internal functions such as our financial tracking policies procedures are legal areas. So, by flipping that switch, we were able to coordinate our response on a daily so, in the early days, we met seven days a week, every morning. We got updates from our cities and medical director as to the latest information from the CDC, what the numbers look like, and what the latest guidance was. From there, we then adapted and implemented our policies, not just for our organization but also out to the community.

So, you heard a little bit about the emergency orders and the jurisdictional differences, right, so we had emergency orders from the state, we had emergency orders from the county, and then we had emergency orders from the local government. In certain instances, the state orders and the county order is actually preempted what the local government could do. So, although we may have agreed with some of the orders, we may have disagreed with some of the orders, we were bound by them. We had to follow them in our jurisdiction.

So, we took a little bit of a different approach. We knew that no matter what we did in Coral Springs, it wasn't necessarily going to change the course of the pandemic. What I mean by that is if I shut down every single business in the city of Coral Springs, but the city of, you know, Tamarac to our South, or Coconut Creek to our right still had all of theirs operational, our residents were going to go half-a-mile across the border and do as they please. Instead, we tried to actually focus our efforts on what we could control. Our first order was to institute, and our last order was to alleviate. In reference to our Assisted Living and nursing home facilities and what we implemented with that was very stringent recommendations, based on the governor's initial order that limited visitation, it required certain notifications, and it also outlined what they needed to do policy and procedure wise to protect those most vulnerable residents.

One of the unique things that we implemented in our emergency order was that if there was a positive case identified, they were required to report it to the city's fire department within 24 hours. The reason for that is we actually worked with the Florida Department of Health and Broward county, as well as our fire department. And we went out and did a site visit if there was a positive case. When we went and did a site visit, we actually brought in vital oxide sprayers for disinfectants, we brought in personal protective equipment, and we made sure that those folks were outfitted with everything they needed.

The biggest issue in these nursing homes and ALS that we found was that the staff would leave the facility, go out in the course of their duties, and would actually bring this virus back into that facility. So, we tried to actually focus on those items that we could better control. Although unfortunately, we did have some deaths, our mortality rate was much, much lower than some surrounding areas.

Early on, we had to establish testing and return to work procedures, so we knew that we were going to have to test and find a way to return to work individuals in our organization that became infected with COVID-19. So, we actually worked on a couple of different standards. We utilize the CDC guidance as a baseline. Then, in many cases, we were actually a little bit more stringent. So, we took the CDC guidance as a baseline at a minimum. We worked with our city's medical director, we also worked with the fire chiefs association, and we created a standardized return to workflow chart that was implemented through the use of three different safety officers. We had a safety officer for the police department, a safety officer for the fire department and a safety officer for general employees. When one of those groups and number one of those groups became or fell ill, they would actually go to that point of contact, who would then administer the approved return to work guidance.

That return to work guidance changed dramatically. We started with 14 days of quarantine. We actually signed a contract with a hotel and put employees and family members in a hotel to help their quarantine. That then transitioned back to seven days with the negative test. We actually at one point got to daily testing to remain in the workforce, so you know, setting those procedures up early was very, very important for our response. One of the legal concerns related to that was actually the records. We were creating medical records. As we were testing folks, our safety officers had access to this. So as a municipality dealing with the issues of the sunshine law dealing with the public records requests, we wanted to be very, very careful in how we acquire these records, what we had, and how we stored them.

So one of the important things we did was we partnered with a couple of agencies. We partnered with a CLIA-certified lab. And all of the testing, you know results, were actually provided to the employees directly through that CLIA-certified lab. So, the city, at no point in time, obtained any of those records, which could then become public records or be released. Furthermore, they were operating under their license through CMS and all of those records were separate from the city.

We also established monoclonal antibody treatments, so as the pandemic progressed, one of the things that we worked on getting early on was regeneration. Eli, Lilly, and a few others administered monoclonal antibodies to our employees, as well as to certain vulnerable members, members of the public.

So, when we were looking to set this up, one of the legal concerns, as well as how do we do this right? We're not really a health care provider. And this is the importance of having some smart attorneys in the room. Our legal counsel said "well our fire department provides medical services, right? We can operate under the fire department." So, we actually established the



monoclonal treatment apparatus under our community paramedic program. Our community paramedic is somebody that goes out in the community and administers care in people's homes to alleviate the burden of them going to the hospital. That's an issue on a normal day, but it was more so, an issue during the pandemic so operating that monoclonal antibody underneath that was vital.

When vaccines became available, we did pivot to provide vaccines to our residents were one of the first municipality-operated vaccine sites in the state. We had to work through what that was going to look like. I initially mentioned that we have delegated authority when we have a state of emergency. This is one of the important reasons why your government needs that power. We were able to sign a lease to acquire the property, which otherwise would have had to go to our Commission. We were able to procure the necessary partnerships. We were able to sign on with the Florida Department of Health as a provider site. We opened up a vaccine site within about two weeks of getting the green light that the FDA had supplies for us.

As a part of that, we did have to look at the city's liability. We utilized city staff to actually operate the vaccine site. We hired nurses through different temporary staffing agencies. We also had a partnership with Cleveland clinic and Joe DiMaggio to provide us with nurses for that. We had to make sure that everybody signed a consent that Nick probably drafted.

We had to make sure that everybody that went through that site was alleviating the legal liability on the city. An important piece of this was when we actually did mobile and in-home vaccinations. That release of liability that disclosure was very, very important for the city. We went to folks' homes, and we had individuals who had access or functional disabilities individuals who were just very elderly. The oldest person we administered to was 110 years old.

So, we actually went to these folks who did not have access to come to us. So that partnership was important and establishing early on what the legal requirements were was very, very important.

Another important part of this was partnership. We knew that we were not gonna be able to do it all alone, nor should we. So, we worked to establish a partnership with different labs and different companies that provided public testing and provided public services. We had about six to seven testing locations around our city that were. Basically, both public and private partnerships. There were private organizations that were providing services to the public, so an important component of that is every single one of those sites was having a legal agreement with the city. We had conditional use outline, we had certain requirements such as there could not be a public charge to any individual. We would not allow anybody to operate on our site that actually charged an individual to get a test or to get a vaccine. For that matter, all of that was outlined and established. We had one of the most popular testing sites in the south Florida region on our sports plex. We were doing up to 3,000 tests a day at that location, a very popular site.

Another thing that I wanted to hit on here is communication. The importance of what we talked about and the importance of working together with our community early on in this. We established a Business Recovery Task Force. What that means is we grabbed local business owners from around our city, and we had a Roundtable with them. We started with once a week, then as the pandemic progressed, we met once a month. We talked to them about what their concerns were.

One of our initial concerns as the government was, "I don't know how to operate a business," right. "I don't operate a restaurant." "I don't know how to do that." And we wanted to make sure that we were getting proper buy-in before we passed emergency orders or before we presented recommendations back to our county on the emergency orders that were outlined.

So those calls were very important, and one of the things that really stuck out to me was the curfew. So, we had a curfew implemented, where I think originally it was 11:00 pm and shut down. And one of our prominent business owners said to us, "you know, I understand the importance of the curfew. I understand where we're at. But if you extend that curfew another hour, that would allow me to do a second seating at my restaurant with the reduced capacity limits. A second seating would actually allow me to make a little bit of money, and right now, I'm operating at a loss."

And you know, I went around the room talking to a lot of different businesses, and all the restaurants were saying the same thing. So we actually took that recommendation back to our Broward County Mayor's call. We brought up the issue other cities were having a similar issue, and the county amended the curfew based on that recommendation.

As a member of the government, as an emergency manager, it would have never occurred to me that our difference would make an operational impact. Getting that feedback from subject matter experts was tremendous, very important. Another element was, as we mentioned, we're very close to the Palm Beach County line. Palm Beach County didn't have the regulations and restrictions on restaurants in particular that Broward County did. So, if I want to go out for a nice dinner, I could drive over to Boca Raton, I could have a nice steak dinner there. I could sit down with no restrictions. I wanted to have that same experience in the city of Coral Springs couple miles south. So, we started looking at those jurisdictional differences we started listening to what our business owners were seeing and bringing that back to make sure that our emergency orders were mended towards that.

And you know, I think that hundred-day analogy is very important because, as we got out of that, that's where we really started to throttle back.

The last thing that I really wanted to discuss with you all was RT lamp testing. We implemented a program called RT lamp testing. Essentially, what that is it's a surveillance-based testing model that we were able to test every single employee every single day in the house with about 97% accuracy on the test. The issue with this is that we were operating a test inside with city resources. We are not a Calia-authorized lab. We don't have the licensing to provide clinical

diagnostic testing results, and so we had to sit there and find a way to actually how do we do this, how do we get around some of these regulations to implement a program that we know is going to be beneficial.

So we actually sat down, we met with both our cities' legal counsel, and we also met with the directors for CMS as well as the FDA to sit down and talk about how we can implement this within our city. And what we ended up doing was pooled testing. What pooled testing means is that we would get three or four employees together. All three or four of us would swab and put it all in one vial, and we would actually test that vial for the prevalence of COVID-19. We're assuming if all four of us show up to work healthy that, we don't have COVID-19.

So if we did have a positive pool now, I'm able to follow up with four individuals and have those four individuals take a rapid antigen test, a cue card test, or go-to PCR tests, and I'm dealing with a much smaller number of people that I need to test as opposed to testing 1,000 employees every single day.

So, the implementation of that our RT lamp process enabled us to actually test every single employee during the Omicron variant. We identified a lot of individuals as pre-symptomatic. So, they tested positive and felt great. Two to three days later, they started to develop symptoms. And so that RT lamp process was very, very important, it was certainly cutting edge, so my takeaway from that process was our attorneys could have very easily told me no. They could have said nope. It's never been done before. There were concerns with Calia. There were concerns with HIPAA. There were concerns with medical records. We're not going to do it. And instead, they pivoted and said let's find a way to make it happen. That mentality, the idea that we need to find a way to get to "yes", we need to find a way to make this happen, is the reason why I think our city, in particular, did a good job with some of these things in response to the pandemic. It goes back to having very good legal support so. I said at the beginning, who do I keep closer, my attorney or my doctor? In many cases, it was my attorney.

Keep that as your takeaway, we joked, "they're keeping me out of the Orange jumpsuit." We want to make sure we were not violating any federal law with anything we were doing. And so, with that, we asked "where are we going?", and "what do I think the pandemic looks like from here on out?" We really identified early on, after talks with our medical director, that we had a community spread out we weren't not going to stop this right away. This is a global pandemic it's not going to stop a Coral Springs it's not going to stop at Miami Dade County it's not going to stop at the state of Florida.

So we focused on what we can control and really what we've pivoted to now and where I think we're going in the future is a consequence management model, and what that looks like is trying to avoid employee, you know, fatalities at the end of the day, unfortunately, we did have one of our police sergeants passed away as a result of COVID-19.

Since then, we've been able to provide anybody testing to almost all of our employees. We've been able to provide monoclonal antibody treatment to upwards of 60 employees, and

thankfully we've had, you know, no severe illnesses, meaning no hospitalizations, and we've had no death, so as a result of that, so our decision making, moving forward at least in the city of Coral Springs is going to be based on the severity of illness it's going to be based on, you know, the consequence management and really moving forward, how we deal with this it's a patchwork of solutions we have access to testing, we have access to vaccinations, we have access to treatment and so the three of those different you know solutions brought together is how we'll move forward that's how we'll handle this, and that's how we'll get out of it so, and that's really all I have right now, I appreciate the time.

*Dean Dykas:* Yeah, so following up on one of the comments, you know, Alex, that you made, and I'm going to direct this to Commissioner Regalado earlier panel talked about.

Some of it, the hidden disparities of economics and when the university's pivoted online students didn't have that you happen to mention nursing homes, the most vulnerable population high def. So, Commissioner, what were some of the issues that you saw that you might have been aware of but came kind of full front. Just even within the county, not just sunshine and being able to attend, but what did it highlight and what was the impact on communities that are less economically, you know, in good shape.

*Commissioner Regalado:* Yeah, thank you for that, thank you for that question. I mean, obviously, one of our biggest issues was who had access to technology and who didn't.

So Nick, I think, talked about that from the public meeting perspective. And the interesting part of the public meeting perspective is that we had more engagement than ever.

In our public meetings, but it was from a certain group of people who had access, there was an entire group of people that did not have access, so, if you look at the age group, you know.

And their economic status, all of a sudden, for example, we had one planning and zoning meeting in unincorporated Miami-Dade.

During those first hundred days, it was the first planning meeting a lot of them were postponed. We had to extend it past midnight because we had over 400 virtual speakers.

And that's it was an affluent community, and it was an issue that was important to them. A lot of those people, because they had kids in a normal situation, wouldn't have made it downtown to talk about this issue. So, there were areas of the county that were super engaged, and we saw that with the vaccines. Remember, the vaccine access initially in Miami-Dade county was through a website, and I was very critical of it. Because there was an entire group of people that were left out, my staff actually organized teams, and they spent time and their computers at home registering people for vaccines, so we had people calling us, and we told people the number over the phone. We actually had Los Municipios, which is an organization of exiles, they put together a phone network, and they actually had volunteers that registered seniors for

vaccines because even though seniors had access to it if they didn't have a son or daughter that could log in for them, they would never get into those windows.

And for Miami-Dade county was interesting because we own a public hospital, so we were actually also able to get Jackson to partner with nonprofits and with churches, and we took vaccines to churches and to areas where people may not have had access to the Internet, so the vaccine part I think was the one-piece, where we were like wow We really need to do better with this, we need to figure out how to provide people with this information because Jackson would just tweet out like hey the portals open, you know, and we're like, how does the average person who doesn't follow you on Twitter have access to that so that was one point that that was important and then also we saw a tremendous amount of disparity within our own workforce, so there were folks that could work from home. Look, we're attorneys. Every attorney picked up their computer and went home, right? I mean, we were a group. We had not been impacted the way that our bus drivers were. We had over a dozen deaths. You know, with our bus drivers, we have people who have to physically show up to do a particular job. And that created for us a lot of issues in terms of our Labor agreements and the authority that we provided supervisors in terms of who could help and who could not work from home. So, that became a very polemic issue and not just that, you know, because at first, we were like well if you know, are at risk, you know you can work from home, but then we were like well wait for a second What about if you live with someone that's at risk or you are the caretaker, someone, at risk right or later on, if you live with someone who doesn't have access to the vaccine, so it was very complicated.

And then people who opted not to take the vaccine, that was a super complicated thing for us to navigate. We had employees say, "No. we don't want to take the vaccine." So, then we had this whole testing protocol. If they had access and the long lines, and you know what could happen if they didn't go to work, so I think we learned a lot in terms of access technology we had we used our libraries, we use our libraries to push out computers, you know, we had wi-fi cards, you know people could go there to pick up forms, but you know if you look at the zip code maps you guys remember the zip talking about like things that give you anxieties like the zip code maps of where people were who was getting COVID and who was getting the vaccine.

And there's a there's an article there because really it really showed how educated, affluent people, you know, had access to information that other people did not and even when we did pop up sites in neighborhoods where we wanted to provide access because of disparity, we got affluent, educated people showing up. So, it's something that I think I will be grappling with for a very long time and but it's definitely a testament to how we needed to do better.

*Dean Dykas:* Okay, so we have just a few minutes left, and I asked the kind of the same question.

Alex and Nick, which is, you know, what the Commissioner highlighted? Are you know there are two sets of folks in South Florida, most states in the country, those that have access and the

ability and those that need it, so I would ask you what specifically have you seen being done for the cities that you work for and what are you doing specifically to fix issues like that.

*Nicholas Noto:* The two things that come to mind, for me, and I mentioned at least touched on, I think, or at least one of them, and my original discussion was providing a physical access point for public meeting purposes right because on a local government on the local government side, one of the biggest issues was access to your elected officials' access, to the decisions being made, access to information on what's going on with this pandemic, and what are your decisions, what are your government officials doing to help you.

So, understanding that not everyone has Internet access and not everyone has access to a computer, we made a huge effort to make sure that there was a safe way to physically attend all public meetings regardless of whether you had Internet access, so almost essentially to be the same as if COVID was not happening, and you are attending in the Commission chambers, except you are standing outside in front of in watching on a big TV screen, if you want to participate, you'd walk up to an iPad everything, of course, being socially distance, so that was one big thing we did upfront on the public interaction side, on the employee staff side our IT department was incredible at instantly pivoting and reassigning and resources so that everyone had the opportunity to work from home.

We had a tremendous amount of laptops that were either not being used for this purpose or procured in order to allow our employees to work from home.

So that and, of course, you have some positions that the jobs in person, the jobs, physical and we you know we put policies in place and make sure that the workplace with a safe as possible. As Alex spoke about a little while ago, I mean, our testing was, I think you know, second to none, especially once we started implementing this RT lamp process, and you know our employees are being tested daily, you really felt safe coming to work.

But we did everything we could to make sure that everyone was on the same playing field. If you didn't have access to a computer, you were given a laptop to work from home, so long as the job allowed you to do so.

*Dean Dykas:* Those are the two big things that point up the timeline, and Alex let me ask you now, knowing and I'll kind of close out now bring it back to Commissioner as well, would you change the rules on access to nursing homes, since you now found you know if that another pandemic were to come would you change those rules went to realize number one people were coming in to bring it in and number two the impact that you're now seeing in the cause of the mental health and people possibly dying just for lack of contact, would you change that.

*Alexander Falcone:* Yeah, so I'll answer that first, and then I'll hit on the economic disparities, so I don't think looking back, I would have changed what we did for our nursing homes. I think the visitation probably could have been changed. If I were to go back knowing what I know now, I think we probably would have changed some of the visitation procedures. But I think the most

impactful element of our emergency order specifically to coral springs was we brought in that disinfectant that PPE those levels of protection which.

We had instances where nursing homes were able to stop the spread, and we were able to stop the infection in one patient. So, I think that that was proven, and obviously, hindsight is always 2020, but so that's kind of my take on that. I will say so from the disparity point of view. There are two important things to mention here, so I'll start first with the employee side and then with the public side. So, on the employee side, absolutely right, we have individuals who could not work from home, so one of the first things we did is we actually extended benefits to all of our employees.

So, whether you were exempt, you were management, you were hourly, you were part-time, you got the exact same benefits, and what that means is those part-time employees got paid sick time, so if they didn't come to work, they got paid sick leave. Anybody who went out on COVID, whether we told them to go home, you need to get a test, or they were living with somebody they got what we call we call it one C code essentially what that is, is its admin leave with pay. That was applied indiscriminately across the board. It did not matter what your job title was.

Our hotel quarantine procedures, you could be a seasonal lifeguard, or you can be the city manager if you had somebody at your house that was COVID positive, you were offered this benefit, so we adopted a motto one team, one mission and really in order for us to live up to that we had to offer equitable benefits across the board to all of our employees, so that does not exist on a normal operating day that's something that we had to change up.

And the same thing with the monoclonal treatments, you know, the testing that was available to every single employee regardless of your pay class, regardless of what your job was so, and that

was well-received, we also in our cities, something very unique is, we have a clinic we have a – we partnered with CIGNA, and a company called care here. We actually have a clinic that is able to dispense medication and is able to provide treatment. That is something that came out of the pandemic that we've now made a permanent procedure. That is, all of our employees have access to it. Prior to this, part-time seasonal employees might have traditionally not had health insurance benefits. Part of the benefits of employment with the city is to have access to health care through a clinic 365 days a year. I think it just helps address some of the inequities on the employee side that was a benefit of the pandemic.

On the public-facing side, you had a couple of classes of individuals, so we had individuals who traditionally are disenfranchised, and then we had individuals that had never needed assistance and found themselves in a position where they did need assistance. They didn't know how to go about getting that, so one of the benefits of the ICM structures is that I can take employees from anywhere in the organization and put them on important problems, similar to what the Commissioner does with our staff.

We created a team, and we put a team together. We have our senior Center individuals, we had some folks from the police department, we had some folks from our community relations division, and we said we need you to fix the food and equity problem. We have folks who are going to need food. They lost their jobs. They're going to need assistance. That group coined themselves Food for the Soul, and they organized weekly food distributions that the city put on, and then they partnered and built an apparatus between several different faith-based organizations, and we had a schedule, so it came out to about six days a week. You could go get food somewhere in the city. There was some sort of food bank in the city. That, then, expanded to mortgage assistance programs, rental assistance programs, and then also connecting individuals to different, you know, other programs, federal-state county-based.

And then the final component of that is when we did get to the vaccine area, one of the things that that group actually identified to us is the web, the website issue. That that was a huge problem was that website issue, especially for folks who are not computer literate. So, what we ended up doing is we blocked spots every day, so I had 60 spots that were identified for individuals with access and functional needs or otherwise could not get an appointment through the portal, and that Food for the Soul team actually went out and identified those people. We have a couple. We have senior towers in our city. It's a low-income, you know, apartment complex for senior citizens. We actually took the vaccines to them. We said, don't worry about getting out, don't worry about coming, we're going to come to you, and we've vaccinated every single individual at that location. We did the same thing throughout the community. So, I really think it's up to us as leaders it's up to us to find ways to address those inequities, and it's really not that difficult to do so if you just kind of put your brain to it, so that's a that's kind of how we handle both sides of that.

*Commissioner Raquel Regalado:* Sure, thank you. So yeah, we took the vaccines to our affordable housing, you know there, I think we all learned a lot, and we were able to pivot, and I think our fire departments did an amazing job of taking vaccines to those residents. But you know, I'm glad that we're ending on the Assisted Living nursing home point because, for me, it was a very difficult decision that the state made. So one of the things we talked about earlier was that normally the state establishes the floor and the local government establishes the ceiling. And the reason for that is because the local government is responsible for the enforcement right, so we have to enforce these emergency orders, and that means sending our police out to make sure that people are wearing masks and are keeping a social distance. And that in and of itself was very difficult and complicated because that was not their job right. So we had to kind of retool what our employees did in order to enforce these emergency orders, and that's why limiting our emergency powers now and forcing us to, you know, not to enforce is a very complex situation, but when it came to the nursing homes, my concern was, and I brought it to my board we there are a lot of adults with disabilities in nursing homes and assisted living that is not elderly people. There are a lot of neurodivergent, there are a lot of people with Down syndrome, there are a lot of people with autism that for different reasons cannot live with their parents - in part because we do not offer them many options. And, they were trapped in these nursing homes, they were forced to be locked down, they could not see their parents, they did not understand what was going on.



You know, and it was so difficult to speak to those parents, day in and day out, because all they wanted to do was visit their kids or take their kids out of that center and take them home during this pandemic and they were not allowed to. And we tried to explain to the Governor, these were not, you know fragile people, they did not need this extraordinary protection. And in fact, they were suffering a lot of mental health issues, because of this decision. And we tried to fix it and I think one of the things that will come from this pandemic in terms of lesson learned, at least, at the county is that we got tremendous amount of support for housing for neurodivergent people and kind of separating this. And I'm actually working on an item where we're looking at deciphering a little this issue with nursing homes and ALS and figuring out, kind of within our code, right, what is what so that we can apply this correctly, because one thing is elderly and hospice, another thing is intellectual disabilities and then another thing is like drug rehab and all that other stuff which also happens in assisted Living facilities, right, which were also locked down.

So, you know I think it's going to force us to look at our comprehensive master plan and better identify things so that we can then work with our state partners and make sure that if we ever you know - if something like this ever happens again we could do it in a more thoughtful manner. But the last thing I will say is that we did provide a lot of technology to our assisted living and also to our hospitals so that people could communicate. And at the county we actually had the most emotional meeting regarding this topic, because we had one Commissioner who a former Commissioner had, had a sister die of COVID and he could not see her so he asked this, Commissioner, it was my colleague, to bring a board items, so that we would change our visitation rules at Jackson and it just so happens that 48 hours before our meeting our mayor, her father had died of COVID in a hospital and she had been unable to see him. So it was a very difficult conversation, but we all decided look, you know we have to do what's best for our healthcare workers, and we have to follow what our hospitals are saying, and this is difficult, you know for everyone involved, but we can't make exceptions, based on our personal emotional you know experiences. And that's the last like thing I want to say, because if there's one thing that I think we need to learn from this pandemic, is elected officials need to be very careful not to extrapolate their personal individual experiences in emergencies and codify them into law.

We saw that on several occasions, and I think that it's a pause for concern and something that we all have to learn and kind of step back and say you know why am I making this policy recommendation because of my experience? Or is this something that really is, you know, impacting everyone, and it is good public policy? So I hope you know next time around we're all a little bit more thoughtful because, unfortunately, we do have some issues that have been created by very personal experiences.

And, since you mentioned Tootsies, I will tell you this - there was a law passed at the state level during this legislative session. We don't have the emergency powers to do what happened with Tootsies anymore, but should we pass an ordinance in another emergency now if the county Commission passes an ordinance that impacts the revenue of a business by more than 15%, they can sue us.

*Dean Dykas:* That is incredible. I want to thank our panel, they have been wonderful, so thank you Commissioner Regalado, Nick Noto, and Alex Falcone.

And just a reminder, we will have lunch after this. And I want to thank our sponsors again, since we have folks coming in and out, MSP recovery Gray and Morin law offices and also the Gus Machado School of Business. So thank you and I'm sure you'll have an opportunity to chat with everybody.

### **PANEL 3: BUSINESS**

*Professor Clark:* Alright, welcome back everyone I'm looking forward to our next panel, and I have the distinguished honor of introducing my friend and colleague Professor Jennifer Martin. One of the things that I will say about her is, I'll share a quick story, since this is about a symposium about the pandemic - when the pandemic first sort of precipitated I had a conversation with our Dean and we were having a discussion about offering the additional courses that were centered around the pandemic and so the Dean knows that I teach contracts, you guys that have had me know that I love contracts and so the Dean said, Professor Clark, please come up with a course about contracting in a pandemic, and I was super excited about this right. Probably a day later I get a knock on my door, and its Professor Martin and Professor Martin says, Professor Clark, I will be teaching that course, and I said, Professor Martin, you will be teaching that course. And part of the reason that I was so willing to give the course to Professor Martin is because in looking out for the best interest of our students, she was the best person to put in that position. She is a phenomenal Professor, she's a phenomenal scholar, as you guys can see from her sort of her bio, she is actively engaged in a lot of the discussion related to commercial law in the United States and she's on the front end of it.

She works with the commercial law Amicus initiative. Which to me, is extremely valuable because they deal with cases that are currently pending in federal courts, and they provide Amicus briefs in support to those cases, and she's had a lot of phenomenal victories in that capacity and, more importantly, she works with students to facilitate that particular experience. So, I'm not going to spend too much time with her bio, but I also want to say, because you can read that, I want to say one last thing about her, one of the most compelling things about her is that, in addition to all of these great things she's a wonderful mother. Anytime you talk to her, the first thing that you're going to hear about, is her savant soccer son who is a phenomenal soccer player. You hear about, just her wonderful children and to me that's what inspires me as a professor, to know that I work with people that really care about the world around them, and that really are working hard to protect their families. So, without further ado I'd like to introduce Professor Martin.

*Professor Martin:* Thank you very much, Professor Clark. I am so excited to be here to talk with you guys this afternoon about business issues and for those of you who know me, yes I got a background in contracts and commercial law and so once we begin our discussion I'm going to throw in some cases, and some things that deal with COVID and in the contract and commercial

world. But what's really interesting is that each of our panelists today comes from, comes at business issues from a different perspective. And what I'm hoping we're going to hear is some of how what they say might be similar, like oh gosh you know, that's going across some of some of these genres of business or the large umbrella of business. But we might also hear how some of the things they're saying like those are not similar at all, and maybe there's something we can take away, so I want to just briefly introduce our panelists and invite them up here. I think we have amazing group of discussion and I'm hoping that I'll talk about my cases and each of them will talk for 10 minutes or so and then I'm hoping that they may have questions of each other. And maybe we'll have time for you guys to ask some questions as well because I'm always sitting up in the audience and think well, but "what about this" um so the "what about this" maybe we'll have a chance to have those discussions.

So, on our panel, today we have Luis Suarez and he is a long time practicing attorney doing complex commercial litigation. He is currently at his own law firm High Suarez Melville. He is a graduate of Villanova with a J.D. but also George Washington with an MBA and University of Florida, for his BA. And he's a member of the Cuban American Bar Association. He also works with the appointment of judges here in the state of Florida and he's going to talk to us about some cases involving insurance, involving hospitality and I think that's super, super exciting.

Our second panelist is Alexis Fernandez and she's actually a graduate of St Thomas University and she is going to be talking about from a completely different lens, she can talk to us about the healthcare business and how COVID has affected the things that they've done, did it change things, and things that didn't change. And so, she is going to be talking about, I guess, about really all of those things that are healthcare related and so I'm really excited. I had a chance to meet her and talk with her before we came in, and I was trying to figure out, yes, some of those business approaches that are in healthcare they're very, very super specific and so you have to be an expert in healthcare in order to do healthcare work. But, but at the same token, I was like yeah but is there, is there, are there some things that are similar about how businesses operate that those of us who are not in the healthcare arena, are you going to say yeah that there's some approaches to business that really makes sense.

And our last panelist is Frank Toral and Frank is actually a long-time practicing attorney he had his own law practice and now he is actually in the education realm he is working with two for profit schools and so he's going to talk about some of the things that they have done in terms of running the business of a school during a pandemic, so please welcome our panelists and then we can begin.

Alright, well, welcome to you guys. So, I did give them the cases and I am going to just kind of - I like to as those guys have me in class, I liked a lot of things out there and like to say you know - hey **Alexis** I know this da da da da, so what do you think about it? And so, they really didn't have a lot of chances to really take a look at these but I'm going to, a lot these things, anyway. Because I think there might be some overlap between some of the things that you guys are going to talk about on that'll make this a maybe a hopefully really, really interesting, um discussion. So of course, with COVID, um one of the things that I started looking for in these

cases and these meeting cases that have gone all the way through to the judicial system Which in some ways, I have a lot less than those that I might think, I would have had to read and because maybe business leaders are working on to the keep them from being litigation, or maybe we just haven't seen them yet. But one of the cases or a couple other cases, I saw I might put them into the bucket (maybe more than or to) a business opportunism.

So, there's a case called Steve & Sons v. JELD-WEN and this comes out of the eastern district of Virginia in 2020. And essentially, this involves a company, who is making these doors skins the interior of doors that sold, that they're sold to contractors and then it might be in your home right. So, so this company is making these doors skins has these long-term contracts with its buyers and then COVID comes around and they decided they wanted to increase the cost on everybody. And I guess just because they could make more money and say, well you know you're not getting buyer one you're not going to get as many, and we want more money from you. And this ends up in litigation, where the buyers wanted an injunction against all of this kind of thing, and of course the seller says, but COVID but COVID it is caught it, yes there's COVID here and what's interesting is the judge in that case denies, they deny thae motion for the injunction because, they concluded that COVID had nothing to do with their business and had not impacted their supply at all, at least at the time that the seller was trying to hike prices on people so maybe that's a little bit of business opportunism that the courts were certainly happy to jump in and say, well, you can't use COVID in a way to exploit your business partners, right.

So, so that's case number one, that's the Stevenson's case. Case number two is Volga versus Boeing and so another sale of goods case and in this case the Volga people ran cargo planes, and so the cargo aircraft business had really been tough from a profit-making standpoint before COVID.

And so they were going, they had essentially repudiated their purchases of airplanes with Boeing, um prior to COVID.

But, as we all know what happened when COVID hit is that we all wanted stuff delivered to our houses, so the Volga people all of a sudden wanted to retract their repudiation and demand that Boeing yes indeed, sell them the airplanes and, of course, by that time airplanes were now in short supply, because everybody needed, everybody needed the cargo ships, and so they were using maybe COVID as a reason to renew a business relationship and the court in that case was also not very sympathetic. Because they really had repudiated, it was too late to retract and despite the fact that "we really, really need those cargo ships aircraft" was not enough for the Court to perhaps disturb that the repudiation. So again, maybe another case of opportunism.

The third case that I want to mention is really, really new and it's a straight up contract case, rather than a sale of goods case on and so maybe of the cases I have this might be the most interesting of all of them, this is a case called A.B. Stable versus Maps Hotel and this comes out of the Supreme Court of Delaware in December of 2021. And so, those of you guys, who had

me for BA and probably Professor Clark as well, I always say you know we watch what Delaware does because the expectation is that the judiciary is very sophisticated when it comes to business issues.

So, so this case involved the sale of a hotel. The seller was still operating the hotel, the buyer had not bought the hotel yet and in the contract, they had a material adverse changes clause which meant the buyer had some risks of certain changes. And it also, what I think that from a business perspective, that might impact the panelists, had a consultations clause. The seller was supposed to operate the hotel in basically the same, the roughly the same manner, and that there was a covenant of the contract that the seller was supposed to respond, the seller supposed to respond to the buyer's reasonable request for details before they make drastic changes to the business. That sounds really sensible right, that you know what we don't have the whole contract well what's interesting is we might think in from a contract perspective generally and I'm hoping what we hear from you guys about this is that business partners really when something like COVID comes up there is an expectation of perhaps consultations and oftentimes we work with our business partners. But in this case the contract actually had a covenant, which is a promise to do exactly that the seller, in that case, though does not respond to the buyer refuses, the consultation, the business suffers poorly and then the seller wants to go to court and demand that the buyer buy the hotel anyway.

The lower court, I think, very correctly in this in the state of Delaware says: no seller we're not going to make the buyer buy this and, moreover, even though the buyer had some risk allocated to them in the contract that you seller had not done your part with your business partner, so we weren't going to give you relief, this goes up to the Supreme Court of Delaware which affirms that decision. Yeah so, I find that there's another case about settlement agreements, the Coronado case and it also says: hey you make a deal you got to stick with it right. So, but, but I find these are really, really interesting cases in terms of what we think about business and what we, how we expect parties to behave. And so that's my little bit to kind of maybe get us started and thinking about these things, and I would like, for us to turn to Mr. Suarez who's has some cases that come at these business perspective from another angle and I'm hoping, by the time that we're done we'll have kind of spun this into some interesting observations that we might make about business practices so Mr. Suarez.

*Luis Suarez:* Thank you, by the way, I'm not smart enough to turn on the microphone before I speak. So, I I'm kind of jazzed because I can tell that both Professor Clark and Professor Martin enjoy what they do, and they enjoy it tremendously, and that makes for a better experience for everybody, so I applaud them for doing this and for approaching it with the proper energy. And while I'm applauding people, let me just get them all out of the way, then we'll have a little fun. I applaud Alexis and her firm and MSP if you haven't googled it, Google it. They're doing wonderful things both Alexis, John and Frank Quesada are doing wonderful things, very clever and very exciting, very exciting that it's happening here in South Florida. Um, it's new, it's novel, it's very interesting. And no, I do not represent them so it is a genuine, genuine compliment. And one more applause, which is to Mrs. Fernandez, who has been a constant support, since I

was a very young lawyer and you see her in the Community, doing the best that she can for St Thomas for promoting St Thomas so.

Now that we've gotten all of that out of the way, I'm going to embarrass some people here, including my relative who's sitting right there. How many people here have been to Café La Trova? Okay that's pretty good size, everybody else reads on a Friday night.

How many people have been to Norwegian Cruise Lines? Norwegian Cruise Line? Everybody. Okay so, so far we're having fun. Carrot Love, a health restaurant? Carrot Love, anybody Carrot Love? I don't like healthy food either so we're good.

Okay, the last ones, embarrassing. I'm not going to ask anybody to raise their hand but how many, but how many, have heard of a restaurant called Tootsies? It's an establishment apparently, it's nearby I've never been. But, when they asked me to talk about COVID and how it is impacting, at least what I do in my daily life, for me the assignment was pretty simple. Because, if you've been paying attention to the Southern District, and the Third DCA in the last two years, a bunch of stuff, very interesting stuff, happens. Stuff that I'm not smart enough to process at times, so I'm just going to give you a couple of examples of things that I'm not smart enough to process but that impact the law.

So, the first one, you know, how many of you, and I'm going to read you a section of a policy and we're going to vote, and it's like Aspen, which is an insurance company said, they will pay for direct physical loss of or damage to properties covered by the policy. And they will pay for actual loss of business income sustained due to necessary suspension of your operations during the period of restoration. So COVID hits you're covered by that policy. How many of you think that they should provide COVID coverage? Anybody?

This is Mrs. Fernandez, right? Your mom? Alexis's mom is saying that she votes, yes. Who else, who else? Yes, anybody else vote yes? Sir what's your name?

*Byron Acosta: Byron*

*Luis Suarez: Byron. Why?*

*Byron Acosta: Inaudible*

*Luis Suarez: Okay, give me a little bit more on that.*

*Byron Acosta: Inaudible*

*Luis Suarez: Okay that's fair. Now help me, help me, with the argument that I didn't come up with it and I honestly didn't come up, I read it. Byron, help me with the argument, how do you get around direct physical damage.*

Anybody? Direct physical damage. I didn't come up with it either, but these people, sir?

*Audience Member: Inaudible*

*Luis Suarez:* That's fair but we're still at the prior step, which is, you have to prove that your property suffered direct physical damage as a result of COVID. So how do you do that Sir in the back?

*Audience Member: Inaudible*

*Luis Suarez:* That's what I would have said to. But no, we're both wrong. You because you're skipping this step, the analytical step that you're skipping is you know, damage to a property. I take a two by four to one of these seats, I physically damaged the property. Of course, you have a claim, right? So how do we get around direct physical damage? And these people, I give people credit, and this is one of the reasons I like doing this, is the lawyers here, and they lost, but I thought it was clever where some people from The Feldman firm, they said hang on a second. And they didn't convince Judge Scola unfortunately they said, if you put COVID on a table that is a physical attribution to the table. The table is condemned, contaminated and therefore you, Sir, I right, you sir are losing money on the situation. They took it to the Court, they got poured out on motion to dismiss every almost every Court in the country has ruled against anybody bringing COVID claims for business interruption because they can't get around direct physical loss.

I'm not going to go through that Café La Trova case because I don't want to hog all the time. But it was also equally interesting, Judge Altonaga said: hey you cannot get around that direct physical loss. These attorneys but I actually do know that Krinzman, Lubetsky firm they came up with a different and more clever argument. They say all right, all right judge. You, you've gotten rid of the argument as there's direct physical, a lot that direct physical loss okay I got one better for you and they say judge the policy has exclusions and you would think that if you have 27,000 pages of exclusions you wouldn't include the word pandemic. And they didn't exclude pandemic, and I thought that was clever and I commend the Feldman firm for coming up. Judge Altonaga still poured them out and said you don't have direct physical loss so that's the second case.

Now let's move on to the last two cases that I want to talk about and then I'll be quiet and pass it to my friends. The Quinn Emanuel firm, which is a very, very famous litigation firm in America, and my friend Olga Vieira sued. That's not this case it's the next one. They sued on behalf of Norwegian cruise line and Norwegian cruise lines had a problem, and this was their problem they're like listen DeSantis passed a law that says you can't ask for documentation right. That's he's like you can't do that. And they're saying wait a minute, I need to provide documentation to provide, you know, to protect my passengers it's very simple. And they brought, and this is genius, and I am if you don't know Olga Vieira, she's Francis Suarez's sister, she did a wonderful job with this case and they won, and you can tell her, I said that.

They brought a constitutional challenge to the Statute, based not only on the first amendment, it's really clever stuff. I mean I wouldn't have guessed not one of these. They brought a constitutional challenge, based on the first amendment because they're saying you're interfering with the right to communicate with a passenger. Genius, genius whoever came up with that argument is genius. They brought another argument that says you're violating the dormant commerce clause, because Congress regulates commerce and they won, and they won on every single one. Judge Williams wrote the opinion. Take a look, it's really impressive work. And then, because I don't want to get in trouble with my wife, I'm not going to talk about the Tootsies case and I'm going to run out of time, so we will move on and I'll pass it to Alexis. Thank you.

*Alexis Fernandez:* Thank you, Luis. Thank you for everyone for your time. My name is Alexis Fernandez, I'm an attorney at MSP recovery law firm. I focus primarily on healthcare data and analytics so I figured why not talk about how the COVID pandemic has impacted the delivery and access of health care across the country.

For example, we know that the supply chain was impacted. We're talking about personal protective equipment, medical supplies medications that were put under an enormous stress due to the increase in demand. We had a number of, in person office visits that were postponed because of COVID or changed to Telehealth visits.

And then I'll conclude with the bright side, which is patients, now have the ability to access their medical records in real time through a third party mobile application. They could actually gather that information, they can aggregate it and they could share it with the individuals and the providers that they trust the most. That was crucial coming out of the pandemic, because how long did you wait for your test results coming out of the pandemic when it just first occurred. You probably waited a week or so and you were trying to figure out, well should I stay at my house, should I be you know quarantining, should I not speak to my grandmother because I don't want her to get potentially infected. So the 21st cures act, really brings a bandage to the intersection of information sharing. So let's go back to the supply chain, right. How do we as individuals overcome a traumatic event? Well, it largely depends on resilience right. What is resilience? We have to overcome difficult situations, we have to move forward, and we have to adapt and sometimes we may even grow from the experience. So COVID, was that moment in healthcare, that really put a test to the system. Health care facilities and companies had to change the way that they operate, they had to suddenly track supplies, they had to collaborate with bigger healthcare facilities to have the large purchasing power, they had to incorporate utilization, so it transformed the healthcare industry.

When it comes to the supply chain, you also had a lot of counterfeits. 3M, I want to say that the tally on their website on N95 counterfeits that they collected, it was about 56 million counterfeits that they collected. As a result of fraud investigations, 41 lawsuits were filed by 3M or their legal partners about 220 cease and desist letters were sent out. So, they're dealing with counterfeits, on top of the supply chain disruption, right. That was one area. Then you have



Telehealth medicine right. All of a sudden, you're seeing your provider through a computer how many of you have experienced telehealth?

Wow, well that's telling because that's exactly what the surveys are telling us. You have about, a 3,000%, um claims review by fair health, that will tell you that in the past year, there have been - that many Telehealth visits compared to a 0.18%. When they were doing it in 2019. So in just the claims in the building itself, you're seeing how providers have had to now bill for Telehealth medicine. I don't know if you guys know when a provider bills, they have to submit a form a CMS 1500 form or a UOV form.

There are national codes. They had to create, a code for Tele health medicine - it didn't exist right. Then you have HIPA compliance. How do you know that the person that you're seeing is really the patient, right? You can't disclose health protected information to an individual that it's not them. So then healthcare organizations are scrambling: well do we use zoom, do we use teams, what's the most secure platform, because there are cyber-attacks occurring every day in this country and healthcare is the most vulnerable system. During the pandemic, there was about a 9,000% increase in cyber-attacks so that's another facet. And then the last I'll conclude because I think it is the bright side of COVID. Because like I mentioned, the passing of the 21st cures act allows individuals like yourself to download a third party mobile application and access your medical records - that's a game changer even for plaintiffs' attorneys that do personal injury work. They typically have their paralegal contact a company that will obtain the medical records, but if you have four different insurance companies, they have to go to the four different insurance companies or they have to go to the providers. Now all you have to tell your client is download a mobile application. There's a number of them. MSP recovery has developed one called, Life Wallet, all it but there's other ones called like One Record, Be Well, you could download the mobile application and you could obtain your medical record in real time. So if you go see a doctor and you had a COVID test, in real time within 30 minutes to an hour, you should be able to get those results - that occurred all as a result of the COVID pandemic. So, those are just some of the things that have impacted the healthcare industry. I'll pass it on to Frank now.

*Frank Toral:* Can we give these two panelists a hand. Professor I believe I've got a quick video.

I hope that kind of encapsulates what we're talking about here, how COVID disrupted not only business but disrupted our lives and so I've titled my short talk here COVID from disruption to opportunity. And when I think about COVID, and when I was thinking about this topic, I thought about my past and being a lawyer here in South Florida for quite a long time.

You know pre COVID delivery on a dime or getting what you want, when you want it is something I think that we all took for granted, I certainly did. You know, as a lawyer leading a law firm, in South Florida for over 20 years, I could never imagine COVID having been a thing. I mean, who would have thought that that was a thing.

But, as a leader of a preschool system in Palm Beach County Florida, I can tell you that our faculty, our students, our moms and dads live with the reality of the disruption of COVID. And as an early education provider we've seen demand for services skyrocket it's been unprecedented for us. And it's not just us it's everyone in the early education space nationwide.

So, when demand goes up what do you think happens. When demand for services goes up in any sector, particularly ours, the competition for talent increases. That's good for you guys looking for a job soon. Competition requires us to pay more, to be able to attract talent, that is aligned with our culture. And that cost, translates to higher tuition to our parent student families, but you can't continue to price hike your way to profitability that's disruptive and it's not a sustainable growth strategy.

So, this was a peculiar moment in the life of our of our school. We have four campuses in Palm Beach County, opening up a fifth, and for us this was less of an Aha moment and more of an Uh-Oh moment what do we do. And although I didn't know the answer to that question, I knew what I believe. And I believe that I have a God given potential, and I believed in the dream of creating a remarkable brand in early education that would one day impact this nation and the world, for good. And so as I thought about that I'm thinking okay, what are the lessons that I've learned, as a result of that experience. It was this: maybe I need to go back to practicing law - I made a lot more money back then. But, in all seriousness, I thought about where we were, where we were going, and I realized that we needed to find a new way to compete.

We had to have a shift in perspective, and so we started to look at the disruption caused by COVID as an actual opportunity for us. And we began to explore the possibility of franchising our schools. And now that was a thought, that two years ago it would have never crossed our mind because I remember April 2020, we shut our schools down.

And we had hundreds of families that relied on us in Western Palm Beach County so I didn't know, shutting the school down in April, when or if, we would ever reopen. Nevertheless, we stepped into the unknown with a little bit of faith and a whole lot of courage and we began to put together a team of: subject matter experts and franchise consulting, legal finance, real estate and marketing, and this consortium of consultants challenged us. Challenged me, to think about who we are as an organization, who we are as a leader and where we want to be. And through that process, I began to realize something, that it's about culture.

And I began to see that the secret sauce of success, of any organization, whether it's a law firm, a consulting firm, a preschool franchise, it's about culture. It may be focused on the importance of culture and fulfilling our mission and I wasn't just thinking about culture in the future, I was thinking about culture today. I was asking myself the question, what can we do today to improve the lives and experience and environment of our students, our faculty and our parents. And, as I thought about that aspect of culture, I came up with this I'm using this – does anyone I came up with this - I'm using this, does anyone know what a remarkable is? So it's like a tech thing it's like what do you call it, it's a tablet right, it's a tablet. I graduated law school a long time ago, this is a tablet, my wife would be proud.

But you know culture in all candor is not something that I ever thought about. I mean culture is something that you know, you take a course it's a book that you use online. But I was never focused on it until I realized how important it was, but we began to adapt and see culture as a competitive advantage.

Chick-Fil-A is one of the most successful franchise companies in America. How many of you, this is it, this is a softball, how many of you, I should ask who doesn't like Chick-Fil-A but I'm gonna ask how many of you like Chick Fil A. All right, so, is it the shakes? Come on, is it the shakes? Is it the french fries or is it the chicken sandwich?

All the above, I could use a strawberry shake right now.

I realized something about Chick-Fil-A, Chick-Fil-A isn't successful because it sells chicken, Chick-Fil-A is successful, because it sells culture. And it's more difficult to be awarded a Chick-Fil-A franchise statistically than it is to be accepted, to Harvard University. It's all about culture.

And COVID caused us to start focusing on the right things, one of which was culture and the disruption caused by COVID was a defining moment in the life of our schools, we would either adapt or we would meander in mediocrity, we chose to focus on the former and I think that is making all the difference, and I say, is making because the story of the life of our schools is still being written. I couldn't have imagined even a year ago, thinking about franchising our schools and we're a Christian preschool that doesn't exist in America, a Christian preschool franchise.

But I'm honored and humbled to say to you that, and I'm a South Florida Miami guys, since I was seven years old, and that was a long time ago. That this summer, we'll be launching Neighborhood Kids Franchise Solutions bidding beginning right here in South Florida. And hopefully we'll have some locations, right here in Dade County and what I've described is something that you're very familiar with, it's a case study. You learn it in MBA school, you learn it in a lot of graduate schools and you certainly you have to know that well in law school.

It's a case study and the facts to this case study our mind, but the response to the disruption in our lives in our careers in our organizations caused by COVID that response belongs to all of us. So, I want to close by saying to you that, through any disruption with your career, with your life, with your business, I believe, with faith and perseverance there's always a way forward with hope and opportunity, thank you.

*Professor Martin:* All right, I think we have time for some questions and commentary. So, I'm going to take the prerogative of the moderator, though, to ask the first one, but I'm hoping that you guys are going to have some questions as well, so.

Listening to you guys speak, I was reflecting upon the hotel case from Delaware and how it was important to the courts determination the language and agreements that the parties had and the relationship that they were expected to have with their business partner so it's gonna be

really the same question to each of you guys, but I was also thinking about Luis, you have the case involving the insurance that also turned on the language, I guess, of what how the Court interpreted that the insurance policy to read, but I was thinking is there something that you're advising either your clients now or your business partners that you might not have been as specific about before COVID that now, it has become part of the way that you're interacting in your business dealings? So same question to each of you but maybe start with Luis.

*Luis Suarez:* So yeah, I'll tell you. For two years COVID since February of 2020 more or less COVID has been essentially a get out of jail free card for a lot of different things in life. Anytime you have a problem COVID and you just blame COVID right. So, this morning, for example, you know, there is a, I got a call saying, will you they - we have a default, we had a clerk's default because somebody didn't respond to the complaint. They said, will you will you agree to vacate the default and I said well tell me why, they're like COVID, I said okay send me the affidavit that said that for the entire 20 days, the person was quarantined. And they did something very clever and this morning I was talking to Anthony about it, they said, well, he was quarantined for the first day first 10 days but I was unaware of the suit so that's my excusable neglect.

And the problem is that we live in America and now everything is in a text message, and we have a text message from a guy saying "I can't believe you sued me" to my client so I'm willing to take that up on the up to the Third DCA and say COVID is not an automatic get out of jail free card stay tuned if you, if I see you on the street I'll tell you what happens I'm not sure what's going to happen.

But the other thing that I guess, I agree with you, is, if you are, if you are having genuine legitimate consultation issues related to COVID, we're all human beings, we understand, particularly in your business right and certainly in your business but COVID, it is no longer going to be just a free card that you keep you know, even though, according to the Financial Times this morning it's coming back with be too and we're going to get yet another surge in a couple of weeks so that's my vantage point.

*Alexis Fernandez:* For healthcare, the healthcare industry segmenting of key relationships was extremely important. Everybody will remember how you react in a crisis right, they'll never forget that moment. So, in healthcare you build a relationship with your provider network if you're a big pair let's say a Humana, Cigna. Your business is to partner up with providers, you also have key relationships with pharmacy benefit managers, which it's a consolidation. They are a big monopoly they run the health care industry when it comes to drug pricing. So, these are highly coveted agreements that from the pair perspective they're always looking to work things out have that consultation, they don't want to file suit just because they didn't get their product within the 30 days that they were supposed to.

So just remember that, as a young lawyer as well, when you're in a moment of crisis, remember that your boss, is looking at the way that you are going to react and that's cementing of relationships is key.

*Frank Toral:* And I would just add simply you know in my emerging line of work, a franchise ORs, the company that like McDonald's is a franchise OR they can, they could sell franchises.

The consultancy's huge and the training between a franchise OR and, ultimately, a prospective franchisees are lot of training involved, and I would say, as young lawyers, the most important thing from a credibility standpoint, not just with the people that you work with in your colleagues, but when you're at a hearing. And it doesn't have to be a dispositive hearing like a motion for summary judgment motion to dismiss, but when you're at a hearing it's all about following through it's doing what you say you're going to do, even if it's disadvantageous in the moment and hurts your pride a little bit, it's making a concession. If you say that you're going to do something provide the document, make sure that you do what you say you're going to do, because your adversary today might be your employer tomorrow.

*Audience Member:* So I actually have a question regarding the ones you were making off and Mr. Toral for the rest of the panel of culture or regarding culture, what is the number one thing you see bringing people into the same mentality and culture within a structure and what is the thing that most separates them or divides them or breaks That apart, so the pros and cons, the biggest and the worst.

*Frank Toral:* Mission, that's what brings people together it's a mission, you know, and for us it's our mission to partner with parents to develop kids academically socially and spiritually. Parents come to our schools for that, teachers come to our school for that, if they're not about that then they're going to self-select out. They may say that in the interview, but if it turns out that that's not who they are, that's not what they embrace then it's not going to work so culture in a word, for me, is mission it's, what do you believe.

*Professor Clark:* You guys were amazing, this is just a great panel, we met wonderful panelists today and I wanted to direct just two quick comments.

Luis about that, you made some excellent points, I need to have you come and speak to my contract class when I get to the parole evidence rule and principles of interpretation. So, I think you just did a wonderful job like really getting students to think critically about interpreting language in a contract and you know it got me to think about you know if you are advising – let's say the insured, the person that entered into the contract for the purchase of the insurance, you know.

I think it's really important from a student and future lawyer perspective to explain what the policy does and does not cover right. I think, Professor Martin was getting at like, how do you, you know deal with these types of issues and make sure that the client understands this as direct physical damage, so it does not include things like changes in market conditions. Do you want the policy to include changes and market conditions typically insurance companies may not do that, but if you're willing to pay enough, somebody will insure you for that right, so I thought that that was important.

And then, with respect to Frank, I love your comments about culture. I had a really life changing experience a couple of years ago, I had a chance to kind of help Google develop a program to recruit minority law students and so, I got, they flew me out there and I had some time and I'm on the Google campus right and so I'm sitting there with the chief of Google compliance for the entire world and then I'm sitting there with their chief patent counsel for the Americas right, these are really high ranking people at Google. And what I realized very quickly about their culture is - the highest ranking people realize that they're not the smartest people in the room. They recognize that all of the people that work for them are smarter, so they don't manage people they manage the workflow. And when I really got a chance to understand that, it made me think about what would a law school like that operates on that model and that's it's a really dynamic sort of sort of thing to do to really look at the way people do business and extract things from those businesses in order to grow your so I appreciate all of your comments.

*Luis Suarez:* I just go back to your question real quick and I'm going to invite you to look at something that there is a one of the some of you may have heard it, there's a guy that's a thought leader and he speaks a lot on YouTube he was a professor at MIT, young guy, his name is Simon Simonac if you haven't if you haven't googled him, Google him, his message is unbelievable. But anyway, I mean he consults to big companies, I don't really know his background, but he's very clear and what he's developed as a matrix on culture they asked him that question it's a very simple matrix so I'm giving proper attribution to the person that developed this right. And he's like look put on the X axis trust and put on the y axis, or vice versa, whatever you, however, you like to logically organize your brain, but on the Y, X axis capacity. Right and so when you're picking your partners on who to work with you're always going to say I need 10 in capacity, nobody wants to work with a 2 right that's obvious and then he's like okay, the differentiators where you rank that person in the trust component and if you can get a 10 and a 10 on trust and capacity. That's the best and they he presented that concept to the navy seals and it was adopted in the seal program so it's - the guy is unbelievable you gotta mean you gotta listen to the guy so that's the answer your question someone.

*Audience Speaker:* You know, I'll just preface, I am a law professor so I'll just give that away but I'd like to drill down in one particular point. COVID definitely revealed disparities in technological proficiency right, not only with what we thought that students' children understood about technology, but certainly what their parents did not. As well as individuals in your individual offices your workforce clerks or other individuals you're engaging in, so I'd like to know how each of you confronted the reality of those technological gaps as you were trying to be proactive and creative in adjusting your businesses to adapt to the realities of COVID and the impact, did you have any special education programs, I mean what did you do to sort of you know realize that everyone in your office did not have the same technological proficiency and the people you are trying to engage with.

*Alexis Fernandez:* Sure, so our motto in our office is trust the process we actually have an MSP training.com website where we provide all of the training materials for our employees. Online videos, so from the inception we're trying to make sure that everyone is at the same playing field because we seem to run kind of like a manufacturing plant because it's data analytics legal

components so it's very methodical it's been documented and we try to provide as much training, as we can, so I think that's key going forward with other organizations, not just healthcare, legal should definitely do that. Because someone may not know how to manage you know the relativity of the world's for e-discovery and when it comes to litigation, so definitely start creating tutorials and especially for our younger demographic of students that learn in a different way that it's more video audio those are definitely key things that should be implemented in practice, now.

*Frank Toral:* I would just expound on that we, we had to make a determination, if we were going to have and to give you a sense of our students, when I say students they're infants so eight weeks to four years old, so we have a lot of little ones, I thought that I was done with two and God gave me hundreds and hundreds more, but so it's the issue for us post-COVID was - do we have cameras in the classroom? And if we have cameras, do we have audio in the classroom? And it was really a debate back and forth, because we wanted the moms and dads to know that their kids are safe in our care, but if we have Professor to your point, sometimes too much technology is not a good thing, I know that because I have teenagers and snapchat and Tik Tok driving me crazy and so you'll get there you'll see it'll be called something else, when you get there. But so we decided against that technology we had cameras for security purposes, if something happened we were able to every second every minute that that teacher. Maybe a child gets hurt we use technology for that purpose it, but it was a balanced approach we didn't use it so parents could continually monitor their child. Because what happens the doorbell rings dad goes to the door he comes back and all of a sudden. You know Mikey's on the ground, well what happened to Mikey, well bro you left the room you know you weren't watching the whole thing you know he just tripped kids trip so. Technology for us post-COVID was a balancing test and we opted, it certainly from a video standpoint to measure to use a measured approach to that technology and families appreciated that.

*Luis Suarez:* I understand. I understand the spirit of your question. What it caused me to think about is COVID has been for us and what we do, because we are blessed and privileged in what we do it's been a blessing. It really has, we are more efficient, more able to communicate at a different level than we have ever before zoom whatever it is, all the obvious, but going to your question, which is how, what are you doing to reach out to minority populations Hispanic, Black that may not have access to that technology and may not be able to do that? The only concrete example I can give you is, whereas before somebody had to come to our office to work, you can now send a computer to West Palm Beach, and we had several law clerks that are just working from home, I don't like it, because I think it's a different experience, but that is how you do it. I'm not in the education field, so I can't really answer that question but that's my thinking.

*Professor Martin:* Did a really great job I really enjoyed it and I get asked questions, but thank you to Alexis, Luis, and Frank.

Thank you.

Panelists please stay around for a quick picture and everyone else we'll have a five minute break before returning for the next panel, thank you.

That was a great job.

#### **PANEL 4: COURTS**

*Isabella Otruba:* Everyone can start making their way to the front.

Alright, good afternoon, I have the honor of introducing you this afternoon to Judge Rodolfo Ruiz II, of the Southern District of Florida. Judge Rudy Ruiz is a District Judge of the United States District Court for the Southern District of Florida. Prior to his Judicial Commission in 2019, Ruiz was a circuit court judge for the 11th judicial circuit from 2014 to 2019 and a Miami Dade County Court Judge from 2012 through 2014 Ruiz also served as an assistant county attorney with the Miami Dade County's attorney office and as an associate with White and Case. Judge Ruiz received a bachelor's of science and economics from Duke University and his Juris Doctor from Georgetown university. After graduating from law school, he was a law clerk to the Honorable Federico Marino of the United States district court for the Southern District of Florida. Judge Ruiz currently serves as an adjunct professor at St Thomas University College of law, where we are so lucky to have him. As a professor in the advanced complex litigation, where he teaches us about class action lawsuits where he has a few of his students in the audience and I was one of his students myself, so please welcome the Honorable Judge Ruiz

*Judge Rodolfo Ruiz II:* Thank you Isabella it was a pleasure, having you in my class last year and getting to know you and I know a couple of my students are here today. It's good to see you all, we do the class on zoom so it's wonderful to see everybody live and in person.

For those that stayed up late last night to watch Duke university knock off Texas Tech you saw that's where I went for undergrad so I'm in a wonderful mood today. So that's going to make for a great panel, but I have the honor of introducing an unbelievable group of folks that I've been fortunate to know, several of them have been colleagues for a while. I've gotten to know Mitch and I've known Chris for some time, so I'm gonna introduce them to all of you at this time.

Judge Gayles, he's the United States district judge for the southern district of Florida, and following his 2014 nomination to the District Court by President Obama the United States Senate unanimously confirmed Judge Gayles, his nomination by 98 to zero vote making Judge Gayles this nation's first openly gay African American man to serve on the federal bench. Judge Gayles previously served for more than 10 years as a judge of Florida's 11th judicial circuit. He's a graduate of Howard University in the George Washington University School of Law, and he has been a leader an active participant in South Florida's legal and civic communities for many years. He has been the recipient of numerous awards and go to the national bar association's 2019 judicial service award the Dade County Bar Association president's award and the lawyers and leadership award from the University of Miami Center for Ethics and public service. Judge



Gayles is an adjunct Professor as well at the St Thomas University School of Law. And he serves on the teaching faculty for Harvard Law School's trial advocacy workshop, so we can all clap and welcome Judge Gayles.

Now my other former colleague and friend, Judge Diana Gonzalez-Whyte who's here as a judge of the Miami Dade County Court Civil Division. She was the first Colombian-American person to be elected a judge in the state of Florida. After receiving a B.A. in sociology from Northeastern University in Boston, she completed her J.D. from St Thomas University College of Law and, before becoming a judge, Diana practiced law at private firms specializing in family law, domestic violence and immigration cases. She has also worked as an assistant public defender in Miami-Dade County and we could all welcome Judge Gonzalez-Whyte.

Then we have Chris Lomax, he is the Managing attorney at Lomax legal and he began his career with a civil rights division of the United States Department of Justice over a decade ago. He's very well known in our Community for handling very complex cases in jurisdictions across the nation. He investigated and successfully prosecuted, law enforcement officers who violated people's constitutional rights, as well as individuals who committed hate crimes and human trafficking offenses. Following his tenure with the Department of Justice, Mitchell Lomax clerked for Chief Judge Carl E. Stewart of the United States Court of Appeals for the Fifth Circuit. And he then went on to practice at Jones Day, a well-known and prestigious law firm in town. And during his time at Jones Day, he worked and represented numerous fortune 500 corporations in high stakes complex litigation and white-collar investigations. In addition to his full-time practice Chris serves on the teaching faculty for Harvard Law School's trial advocacy workshop and he has served on numerous occasions as a guest lecture at his Alma mater the University of Miami school of law, we could welcome Mr. Lomax.

Last but not least, we have Mitchell A. Chester. He's a civil trial lawyer proxy here in South Florida he works in the Florida State courts and has also been admitted to the American Board of Trial Advocates known as ABOTA, which focuses on the preservation of the American jury trial. He has received numerous accolades at ratings from Margo Hubble he was named trial lawyer, of the year by the ABOTA for local chapter in 2016 and again in 2020. He's a graduate of the Ohio State University School of Journalism and Nova southeastern Shepherd Broad College of Law. He's been in practice for over 43 years, his practice devoted to motor vehicle accident litigation, insurance coverage disputes, contract controversies, merchant agreement disputes, complex commercial litigation, business interruption cases, mobile housing and representation and climate and sea level rise litigation. He was also the first house counsel manager in the state of Florida, and the third in the nation when working for Progressive insurance for approximately 13 years. Importantly, for purposes of today's panel since 1999 he has been an early and proactive voice in integrating technology with the practice of law. He actually is one of the founders who helped our 17th judicial circuit with their online docketing system, and when we got hit with the COVID19 pandemic. Since March 2020 he's been helping our State courts advanced remote virtual motion calendar and especially set hearings non-jury trials and calendar calls, he's also serving the 17 circuits virtual jury trial initiative. And as collaborate

extensively with the New York University Civil Jury Project, we could all go ahead and welcome Mr. Chester.

So obviously it goes without saying that we have an unbelievably distinguished panel this afternoon joining us here and the topics that we're going to cover today really are how our court system and our legal profession has managed to handle and adapt really to the pandemic.

As you guys have covered throughout today's presentations, there's been a lot of change over the last two years, and our goal today is to cover a little bit about how the court system and the practices of our lawyers here, adapted and managed the pandemic when it started, when courts reopened, how did they handle that reopening, what did we put in place procedure wise, to make sure that we could reopen safely and securely. And then, of course, what is the vision for the future, what are we looking at, as we head, hopefully, into the other side of the pandemic, and if we were to be hit with something like that again or God forbid, have some sort of another covid issue raise up in our positivity rates or our numbers, whatever it may be, or another variant, how will we be ready to handle that?

So, we're going to begin with Judge Gayles who's going to share with us, if you could Judge, some of the initial procedures that are core to sort that Florida implemented when the pandemic began.

*Judge Darrin Gayles:* Okay, much better. So, for those of you that don't know, the southern district of Florida runs, well, there are three federal districts in Florida. The northern, middle, and southern districts. Southern district of Florida runs from Fort Pierce all the way down through Key West. We are one of the busiest districts in the country and for the last 23 years, 21 of those years, we lead the entire country in the number of jury trials that were conducted, and that all came to a grinding halt because of Covid in early 2020.

And so, we were faced with this difficult situation, as were other courts, the good thing for our Court was that our IT department was already proactive, and so everyone already had laptops and we were able to transition into remote proceedings fairly seamlessly because we were already prepared for that. And we were able to do, basically everything that judges do except for jury trials.

We still had substantive motions in both criminal and civil cases, pursuant to the Cares Act. We were able to conduct significant criminal proceedings remotely which ordinarily we wouldn't be able to do, including change of plea hearings, and sentencing hearings and, as time went on, I mean it's much easier to do the civil proceedings remotely but that also included doing non-jury trials, as pandemic wore on.

All of us understood the gravity of the situation. We tried to be proactive, understanding that at some point we were going to reopen. We enlisted Eileen Marty, a noted epidemiologist here in South Florida, as a consultant to the Court and what we tried to do as a Court is to make decisions about how to proceed in an evidence-based manner. And that included everything

from how people came into the courthouse, so we set up a procedure for initial screening right at the door by the Court security officers. We created a process for fore signage, to explain to people, the importance of keeping a safe distance.

When we did start resuming jury trials, we provided members of the jury panels with packets, which included hand sanitizers, plastic gloves, everything else that they would need to do this work safely, so we were very proactive. We made our decisions in an evidence-based way, and it worked out very well for us and also, we tried to ease the anxiety of the people that were coming into the courthouse. Our former Chief Judge, Mike Moore, created a video explaining the steps that we were taking to protect everyone, and I think that worked out pretty well.

*Judge Rodolfo Ruiz II:* Thank you Judge, and on that same vein, Judge Gonzalez-Whyte, as a state court Judge, and both Judge Gayles and I, having been stakeholders as well we're acutely aware of the volume and some of the dynamic that impacts, the Eleventh Circuit. What steps did your court take, in particular, as the pandemic started really disrupting the system?

*Judge Diana Gonzalez-Whyte:* Okay well, first I'd like to, you know, thank everybody for having me here and I feel honored to be in the presence of such a distinguished panel. I'm a Saint Thomas law graduate and I think this is the first time I'm here speaking to my Alma mater, and I feel so privileged so I'm a little giddy.

So, I'm in the 11th Judicial Circuit, we're a State Court and our funding comes differently than for the Federal Court and our guidance and mandates come from Tallahassee in the Supreme Court, as well as the legislature, so we did do a lot of the same things that the federal courts did. Just you know, in some ways a little different. We were able to get into the zoom platform almost immediately, so I think we only literally shut down for two days, and that was impressive and amazing, and I was, you know, we moved at the speed of light, we had a lot of catching up to do with technology, though we had some of it already going on, so it was a little bit more difficult in setting up the remote hearings for criminal and I'm sure you probably saw some of the press that was going on about that in the criminal cases, and being able to bring the inmates to be present in their hearings, and that has evolved and I think that what we have now where we have remote hearings, where we can have them with the presence of the defendants and where we can have hearings without the presence of the defendants and with their Councils presence, you know, that's able to happen. In bond hearings, it is remote, in the sense that the defendants are over at the TGK building, the judges are present, the public defender is remote, on some occasions, I've had an occasion where they are there in the actual courtroom and the State attorneys. In the civil side we went right into hearings as normal, I mean honestly, it was so quick.

Now there's been changes, there's been administrative orders that have made changes and have, you know, laid out the procedures for conducting the zoom hearings and you know that, you can't videotape them, you know how to conduct yourself during the zoom hearing and those have also evolved, to the point now, last week I had my first jury trial, since the beginning of the pandemic and it went really well and we are doing evidentiary hearings now in person, as

well as some pre trials and jury trials and some non-jury trials, but there's still a lot that's going on remote, I think one of the biggest concerns you know that was at the forefront in the planning of what procedures we were going to put in was the health and safety of the judges and the staff, so again some of the same procedures, you know, checking people out the door, and taking their temperature and the wearing of masks and now we're maskless but you know, we did try to do, I think, as best as what we could, with what we had to work with and I'm actually really proud about how they did that.

*Judge Rodolfo Ruiz II:* So, moving to the practice of law, especially for the students that are here, Mitch and Chris I'm gonna turn to you guys, to talk a little bit about how the pandemic disrupted or altered your practice on a day-to-day basis, your client contact, your appearances in court, Chris I'll start with you, if you want to let us know a little bit about - how did you adapt, to the pandemic in your daily and weekly schedule? How did it impact you in terms of your advocacy?

*Chris Lomax:* Sure, thank you Judge, so I don't want to assume that you all know what I do every day. I'm a litigator, so I spend most of my time fighting with people about things and advocating, on behalf of my clients, so a typical day, I would say, involves some time spent talking to new clients and onboarding people who are going to represent our companies. Part of my day involves going into the initial phases of litigation, either preparing a lawsuit or preparing responses to lawsuits that have already been filed. Then there's discovery which involves depositions preparing my clients for depositions or taking other people's depositions. And then, if we get to the end, there's a trial right, so all of those things changed most significantly, there was just no more in person face to face aspect of any of that. I've picked up clients that I've never met a day in my life to this day, from start to finish, of a case only on zoom, on a telephone call, I never saw them in person one time, and we resolved their entire case throughout the pandemic. There were cases that I had, where we had hearings that were never in person for the entirety of the case. Depositions, one case, I think I took about 20 or participated in either defending or taking about 20 depositions all over zoom, never in person, and so we progressed throughout the pandemic to a point where we did go back to an in-person model. It was actually my first trial before Judge Gayles, a jury trial in person, last year, where we were there, but we were still in pandemic mode, so we were required to wear masks other than when we were up at a podium speaking, the jurors all wore masks. Even Judge Gayles would wear a mask at certain times, but we would take them off when we were able to present, so we progressed through this, you know, sort of fully remote thing into having an opportunity to do a jury trial, while still being safe and thanks to, you know, the leadership of Judge Gayles and his staff.

We were able to complete that trial in a way that was fair to everyone on all sides, I think we all felt like it was a great experience and it just shows, you know, what you can do when you're innovative and you're able to adapt to the you know, whatever is presented to you at this moment, so we've just evolved in every single way.

*Judge Rodolfo Ruiz II:* Thanks for that Chris, and Mitchell I'll turn to you, by that same token, if you could speak a little bit, not only on the way it impacted your client relationships and your

practice but, you worked as I stated in the opening remarks a lot on the technology front with the 17<sup>th</sup> Circuit, if you could maybe expand on that a little bit and talk about the movement to Zoom and how you felt that went for you and your practice.

*Mitchell Chester:* It's like the profession woke up. For many years, I felt that the practice of law was stuck in the 1950s and 1960s, I have nothing against the 70s, or 80s, but that's what I felt. We advanced like Star Trek going when lightspeed, what you said, your honor, this was an amazing time, it was a terrible tragic time but Covid and the lessons it teaches all of us, are a guide for the future, for what's going to happen in the future. We became interested, I wanted to communicate with Chief Judge Jack Tuter an amazing leader and I did it through another wonderful judge, Judge Levinson, our ABOTA group said, we like your ideas, so I did a video I didn't do one of these things, because who wants to read my writing, I hope you read it when I send you a memo.

So we did a video and the video had old clips of video conferencing, and we said, this was on March 2<sup>nd</sup> of 2020 and it got elevated to the Chief Judge within days, he said, "go with it", got his IT people down here and we were able to train judges that were not conversant with Zoom.

Your honor, with hearings and they said "well we'll do special set hearings first, because, there's fewer of those, not as many as motion calendar", and within weeks, they were doing hundreds and thousands and all of the judges in the Circuit Civil Division in the 17<sup>th</sup> and we converse with our group in Palm Beach, in Miami Dade etc., but what we found was that, we use Zoom and I wrote up a list of things that could be done and I advocated for something called Zoom for the courts, we had Zoom for government, but not Zoom for the courts, and so we wrote this up, Judge Tuter liked it a lot, he wrote an email to Eric Yuan, everybody, you know who Eric Yuan is? He's the guy that started, he's the guy that started Zoom. Eric Yuan wrote back Chief Judge Tuter with all the millions of people that probably send them emails. They wrote him back and he said, I like the idea, I like your list and so he said Judge we'll put you on a Zoom conference, not a Teams conference. We'll put you on a Zoom conference with one of our project managers and we did that for about 35 minutes and we talked about little things like moving the squares around it's like Hollywood squares frozen, you know, and all that and, and so we were able to get a level of comfort for judges that were older or not conversant with technology, they became enamored with Zoom. They became comfortable with it and the practitioners did too.

And I found, and I'll give you one example, I won't talk too long here, but give me one example, I had a hearing in Tallahassee in a climate change case was filed in the Leon Circuit Court. I never had met the judge, I had never been in his courtroom, four and a half hours on motion to dismiss it, a little extra time there. And I got to sit in front of my screen and I saw the judge closer and studied his body language closer as we were advocating our respective sides, than I would have, if I was 20 or 15 feet away in the courtroom. I got to see when he would, for example, open his mouth a little bit, I said Judge do you want me to stop, he said no, no, keep going, we had a psychological connection through Zoom that I would not necessarily have had in the courtroom.

And so what I would say to you is that I've been thinking about video for courts for a long time way before Covid, way before the situation started in China.

Don't ever restrict your ideas, let your ideas break out because, eventually, they will get through if they're good ideas and that's what happened. And I'm very proud that the system worked with that and I love Zoom, I'm not a stockholder, and I love where it can go. It's not quite there yet, but I love what you all can do with it. So I'll stop there, unless you have other questions.

*Judge Rodolfo Ruiz II:* Let's go to one thing Mitch, but when you're finished finishing that point, as a major contributor to ABOTA, which our whole real mission is to preserve the jury trial, right? Do you have any concerns with Zoom and its impact on the jury trial, do you think jury trials and institution is still safe post pandemic? We heard Chris and Judge Gayles, because I talked a little bit about trying cases post pandemic, can you speak on that really from the ABOTA perspective because there were leaders in trying to get us back to court.

*Mitchell Chester:* Yeah, your honor, the 7<sup>th</sup> amendment to the US Constitution is what a ABOTA is all about the, preservation of the American Civil jury trial. A lot of people don't talk about that amendment, I would argue that, if we do things with practice and with innovation, that the jury trial can have a greater than 3 or 4% of all cases being tried by juries because of the experience that we had in actually conducting virtual mock jury trials with jury selection. Through Judge Tuter and ABOTA and so forth, so I would argue that, as we see the, and I hope the numbers are correct, as we see the number of cases going down, that are actually tried to a jury because arbitrations or costs, lawyer's fees, and all that stuff or even time.

What I think Zoom allows or what the other technologies, Webex or Teams allows, is an opportunity to bring back the American Civil jury trial to at least, maybe, let's be aspirational, 10%, 15%. Because it can be done, and we've proven it. So I'm very- I'm not negative about the future of the jury trial, I'm very proactive and positive about it.

*Judge Rodolfo Ruiz II:* Now let me turn, we talked a little bit about trying cases, and Judge Gonzalez, which you mentioned trying your first one down the most post pandemic world. What was your takeaway from that, in terms of comfort of jurors, Judge Gayles talked a little bit about procedures in place, you did as well. What was your overall impression as people come back to the courthouse and how the lawyers were able to handle it? You heard a little bit about Chris doing it with a mask on and all that. Can you share a little bit with our students how that went, so they can be prepared for their chance to do something similar?

*Judge Diana Gonzalez-Whyte:* So, I thought it went really well, I was impressed with the quality of jurors that we had, I think that they felt comfortable, they were allowed to wear a mask if they wanted to, some of the attorneys didn't, would have preferred that they didn't because when we're reading somebody's face during voir dire, we want to see that, but I think only like two or three people, wore masks that I can remember. It was crowded, and I felt that we could have spaced them out more, the courtroom itself is a small courtroom at the Justice Center but

it honestly was the smoothest jury trial I've ever had, it was a civil case, and it lasted the whole week.

I felt that the jurors were very engaged, they were paying attention and maybe it has something to do with that you know with that some of the speech that we give do at the beginning about how this is the most important thing, and you know just the understanding the judiciary has and justice has been, in the spotlight over the last, two years quite a bit, and I think people might feel a little bit more invested when they're coming to court for a jury trial, and you know seeking justice, so I felt that it went really, really well and I was really happy to do it.

*Judge Rodolfo Ruiz II:* Judge Gayles, what was your similar experience, you've tried a couple of cases now in our district, since the pandemic, criminal and civil. We were just talking that you had almost four weeks in a row, where you were in trial recently, have you walked away from that feeling like the procedures that we have in place are working in our district, the comfort level of the jurors, what's your sense of post pandemic trial practice?

*Judge Darrin Gayles:* Yeah I've had like six trials now, since we resumed in our district. And just kind of thing, what Mr. Chester said a moment ago, we should not be afraid of innovation and trying new things, I mean sometimes, we do things just because we've always done it and there really isn't a reason not to try different things, and so one thing that ABOTA has been involved with, and there was also a civil trial institute out of NYU, to talk about ways that we can foster more jury trials and also do it in a way that benefits everyone involved, like, for example with juries, I now read the instructions before closing arguments, so that the jurors have a better understanding of what they do and in civil trials, jurors were not always allowed to ask questions, and now they do, there are different things that we can do to make the system work for everyone, and so what I've endeavored to do and Judge Ruiz and I'm sure Judge Gonzalez-Whyte, we talked to the parties to ask them what works and, in particular, because I was a state judge and now a federal judge, you know the federal judges in particular, were more hesitant about doing remote proceedings, even for simple status conferences, whether it be by telephone or by video, and once we were forced to do it, we realized "well wait a minute, this is working out pretty well" and the task for all of us is to figure out how to best do it, so for example the judges aren't involved, but and for the attorneys I'm sure Mr. Lomax and Mr. Chester dealt with this, the lawyers were hesitant to do depositions remotely initially. We weren't necessarily involved with that, but I think for a lot of the lawyers have realized well, that can work out pretty well and be a big cost savings, but it depends on how you do it, just like remote court proceedings so, for example: Someone seated at a conference table where you can't really see them well from a distance over the video, that probably doesn't work.

But as Mr. Chester was saying a moment ago, when you were face to face in Zoom or Microsoft Teams, or whatever the format you're using, you really see the person a whole lot better, I know I do, then I would in that big courtroom that I'm in. And screen sharing, that has eliminated the need, really, to be in in person. And even the use of technology, even when we're in the courtroom we really don't need to be in close contact with one another in many

respects, like in the Ferguson Courthouse and I know the newer state courthouses. Like, for example, we've got monitors all the jurors have monitors, I have a monitor so you can show a witness an exhibit from on the ELMO or from the computer, you don't need to approach the witness, the witness can draw on the screen with his or her finger and make notations. There's an overhead camera, so if you want to see what the witness is writing down, they can show you that way. And what I'm getting at here is the use of technology and being innovative has really helped us do the work that we all do in a better way, and I think there's still more to come.

*Judge Rodolfo Ruiz II:* Pick up on that Chris, your experience as we transition, Mitch talked about it a little bit, how have you felt that itself, especially as you left kind of big law, started your practice and really, I don't think it had been up and running too much up until when the pandemic hit, right? And you were able to have so much success going through that with the clients you didn't see, do you feel that some of these things are here to stay and in a positive way? For example, Zoom, motion calendars, things that are saving time and trips to the courthouse, what do you think about it?

*Chris Lomax:* So, I was absolutely and inadvertently sort of blessed, lucky, whatever you might call it, to start my firm during the middle of the pandemic. Because, when you're in big law, unless you are like the Managing partner on the Executive Committee, you don't really care about the incidental costs of litigation that you incur on the front end, you know, not necessarily that you'll recoup from the client later, and you can sort of write it all off, but when you're out there on your own and you're trying to start up, every dollar matters, so every minute that I can avoid spending on the road, driving to court, and sitting in motion calendar for two hours, waiting to be called last at the end, which is completely beyond your control, is time that I can spend billing and working on other client matters, right there at my desk, never having to leave, which has been amazing and has been sort of I would say pivotal to the growth in developing my firm. The fact that I could work with other lawyers remotely, and have them involved in my cases and speak to them and not have to get office space to pack everybody in and have enough room for everybody to meet has been amazing. The fact that I can conduct depositions and not have to fly to California or New York or Chicago and not spend time on airplanes and spend money on airplane tickets, buying gas, there's so many little costs that you save by being able to work remotely that I would have otherwise incurred when I started my firm, so I'm grateful for the pandemic in some ways, despite all of the calamity, it has been for me personally, a nice way to start off and get my feet under myself as I build this this law firm.

*Judge Rodolfo Ruiz II:* That's a great point I mean, I think you and Mitchell should, perhaps students expected it to be kind of a calamitous reaction to it, but both of you have pointed out that there was so much silver lining and, if anything, you've actually had some practice. Mitch, I wanted to follow up with you on that, and we talked about this with Chris as well, in preparation for today. You know, those of us who grew up exactly what Chris said, sitting in the back of the court room with the motion calendar going, some of the best learning was done when you sat in court and watched the motion calendar, and now we were discussing perhaps students can actually build themselves as sitting in and watching Zooms or public proceedings,



students can watch, can learn, what do you think this means for young lawyers coming into the practice?

*Mitchell Chester:* Wow it's an incredible opportunity, the other day I've been practicing 43 years, but it seems like 42. I was in a hearing the other day, motion calendar getting ready, one of the advantages, you have all your notes in front of you, you don't have to worry about a tiny little podium, sides that you can't fit everything on, and someone brought up a point in a case that I had not thought about, but it was relevant to one of my other cases and I learned, it was like going to a seminar I didn't get CLE credit for it but boy, it was really helpful. So I'm a big fan of and, by the way, just want to amplify what Chris, you said, you also save greenhouse gases by not being on the road, and the risk of being on the road in South Florida. You also expand a geographical reach of your practice if you want to if you're licensed in the appropriate jurisdiction, so whereas I would never take a case in North Florida or except that one or Central Florida now, that's okay, I'll do it, and it's because of what Zoom offers. So yes, you can learn a lot on Zoom, and you can learn from other lawyers, and you can learn from our experiences on Zoom, I was in a calendar call the other day, four and a half hours, I was one of the last ones called, and yet there are different ways that calendar calls where you have all your cases listed and the judge says, you're going to go number one, you're going to go number 50 but number 50 really is number one, and what happens is you can shorten that by doing online calendar calls. There's a lot of different things we can do, but I want to emphasize this, in terms of the future and learning, you learn not only the law by listening to cases when you least expect to get a lesson, out of a case and somebody you think someone said just do something else, while you're waiting, no, no, listen.

Understand the judge's style, understand the rulings that you could expect under similar circumstances but understand their limitations, you are advocates, you're there to represent your clients, you're there to convince everybody, the jury, the judge, etc. Don't overdo it, if you have a jury trial take a trial director, not the software, you can do that too, but take someone to be your technical trial director to trial. I've been lucky enough to have two since we opened up back in July in Broward, and each one I had a trial director. For example, that person does all this incoming Zoom, can help with the exhibits, have everything arranged etc. But during the last trial we weren't able to deal with deposition objections until we were right in front of the judge, and we had to edit the videos that were done, well the trial director did it for us. And we were able to continue doing our jobs, so don't overdo it, don't overload yourself, know what technologies out there, like On Cue as a software that's very cool or others for evidence presentation.

But you can learn not only the law, you can learn from the technology and then you can see what the next step of the technology is, which is why I said, we can improve on our experience technologically and be even better at presentations virtually then, we are now.

*Judge Rodolfo Ruiz II:* And, Judge Gonzalez-Whyte speaking of the motion calendar a little bit, especially in our circuit and county courts, it's such an instrumental part of how we manage the

dockets, have you felt that going to a Zoom based motion calendar has made it easier for you to prepare and manage and get through those long sets of hearings?

*Judge Diana Gonzalez-Whyte:* Absolutely, I think that having Zoom in the courtroom is been just a life changer for, a game changer for everybody. One, standing in the back of the courtroom waiting for your case to be called, and not being able to do anything not do work, but the fact that your quality of life, greatly improves when you're not stressed out that you're running late for a hearing, only to get there, and have to wait a few hours, I mean we forget how important our quality of life is when we're practicing in this profession. How many people like really get so stressed out? You see them come in and they're in the courtroom and they're just flustered and you can change that for people like we have been able to change that by doing motion practice over Zoom, by doing special sets over Zoom, I think that that is a substantial added bonus, not only that, it's true what my colleagues said, we can learn so much by being present in those Zoom hearings and watching the attorneys practice because you're not as distracted by all the other talking, there can't be other talking.

If you're not paying attention during the Zoom hearings because you've chosen to do something else, right? Everybody has to have their microphone muted, only one person really can talk at a time, and whoever's there is just the center of your attention, the judges attention and we are able to communicate so much better, I think that it's an overall addition to making the life of attorneys and people in the judicial profession more efficient, without adding to the stress that does induce a lot of, premature issues, and I think it's just for so many people, even as a woman, a mother, being able during the pandemic to work remotely from my home, I have a daughter, who was premature, she has lung issues, she has been homeschooled since the pandemic. To be able to be at home, know that she's there, she's doing her homeschool and not have to worry like, what am I going to do about childcare, my husband works, I work, and all of a sudden, how many Zoom hearings you had somebody apologize "oh I'm sorry that's my child" one time I had an attorney who was like, "I'm sorry, my child's having a really bad day we're trying to manage it", he had a special needs child. And not having to run out and run to the to the courthouse in Miami Dade County where even if you go out right now in the middle of the day, for no reason there's going to be traffic it's the reality, pay for parking and all those things.

To me there's health benefits from it and in mental health and there is an overwhelming amount of benefit and just being able to get through these hearings without that commute.

*Judge Rodolfo Ruiz II:* Judge Gayles, generally when we're we've been reopening, and this is really for everyone on the panel how have we been able, I think now we're looking at maybe the last 18 months starting to kind of turn the corner, maybe in the last year, six months since variants have come through, are we at a point that you believe that backlogs are being addressed in terms of our district and just generally the fact that we couldn't try anything for a while, what's your sense of us getting back to the baseline that are (inaudible).

*Judge Darrin Gayles:* Yeah, we absolutely had a backlog not being able to try cases of the Florida, the 3 Florida districts, we were the last to resume trials, and again I go back to the fact that we had a scientific evidence based decision process on when we were going to resume. Part of that was the state of the pandemic in the local areas so in the Northern District, where they were not as affected by Covid or even in the parts of the Middle District, because the Middle District crosses east to west of the state, Covid wasn't as much of a problem as it was in the Southern District, so they were starting with trials before we did but when we did, had a huge backlog of cases, and I think we've been working pretty well to clear that up.

We have tried, since we resumed, we started with a pilot trial in May of 2021 just to kind of shake off the dust, so to speak. That was conducted by our former colleague Ursula Ungaro and then we gradually started increasing trials, but since we started in May we've now tried over 120 jury trials in the Southern District. And once we started trials many cases that had not settled started settling because, once we tell parties "all right, your case is coming up" that miraculously seems to help move the cases along. But it is a challenge, I think, specifically for civil trials, because the parties have to understand our criminal cases where the defendants are in custody, they have to have priority and we had a number of defendants that were in custody throughout the pandemic because we couldn't try cases.

So those have to have priority so even, civil cases that have been lingering around for a while they had to kind of sit to the back, but I will say our judges as we've always done, we are very trial active we move our cases along and so while there has been a backlog, I think we've done an excellent job in moving our cases along.

*Judge Rodolfo Ruiz II:* And I was going to ask you just following up on that, have you had any experience as you resumed trials, where you felt that the pandemic has either interrupted them, or we heard a little bit about the temperature in the attitude of jurors where you felt the need to pause or proceeding or anything like that? Or has it been pretty smooth in the resumption of proceedings that we haven't had to worry about? For example, a juror falling ill or something to that effect.

*Judge Darrin Gayles:* I think it's been pretty smooth, I think it's really important what we've done is to not just throw jurors into the courthouse or to require they come in, but also to explain what we're doing to keep them safe and that begins the moment they walk into the door having their temperatures checked, when they get to the jury room, they watch that video regarding the steps that we've taken. And then also in our courtrooms I explained to the jurors once they come in, that we've got those two big air filters that are designed to help purify the air we had been using Plexiglas to separate the witness that is sitting closest to the juror. That the lawyers are required to keep a distance from the other jurors and why we require masks.

So we explain to them why we're doing what we're doing and I really haven't seen like I said and I believe six or seven trials I've done so far, the jurors seem perfectly fine and I talked to the jurors after the trial and I always ask them, not about the case just about how was everything,

make sure and see if they had any complaints or suggestions and I asked about our Covid protocols and they all seem fine that they felt like they were safe.

*Judge Rodolfo Ruiz II:* Chris Let me turn to you, two things we've seen in the trial sphere and also, I think, in the mediation sphere is other technologies helped us a lot. I know I personally don't think I've had a trial since the pandemic started that wasn't what I would call a hybrid trial, almost every trial now seems have a witness remote, records custodian in California or expert in Omaha. What's your take on having this kind of hybrid trial proceedings going forward, and I would presume you've also had mediations that are almost exclusively I spoke to me yesterday and said, "this is a new era for me, I have a shirt on, and I have basketball shorts on and I sit in front of my computer, and I can do five mediations today and I don't have to go into the office." And he was just going on about how it's, the best thing that's ever happened to him.

What's your sense about is that helpful for your practice, cost effective some folks might say, you know you have clients that sometimes it's better to have them face to face, especially difficult case what what's your sense.

*Chris Lomax:* Right, I think it's helpful because, having options is always helpful right, and so, in certain circumstances, you want to be near a person your deposing you want to be in a room with a mediation, I have a case right now where my client told me he does not think we're going to be able to settle the case in a mediation, unless you can sit across the table from the other guy look him in the eye and explain to him how he's feeling about this entire situation.

And so I think that some clients and some parties will be better served in person, but the vast majority of these things can be handled remotely. If a person has to travel from California, to give 30 minutes testimony I'm not sure that's the best use of anyone's time. And if there's a way for us to do things in a more efficient fashion. All right, you guys hear me? Yeah okay so.

For this passion I'm all for that, I guess, one of the things that motivated me to go to law school was to be a trial lawyer, because I just thought it was the coolest thing works for stand up in front of a jury and present my case, going back to your earlier question judge, I do get a little bit nervous about that, not being one of the things that I can do this is one of the things I love most about being an attorney. So losing that as a feature of the process is not something I look forward to, but I think there are a lot of other things that we do in person that just don't need to happen. Especially everyone to be on the same page and agree that they don't have the judges, lawyers and parties, we can all be on the same page I think that's beneficial.

*Judge Rodolfo Ruiz II:* Mitch, what do you think going off Chris's point and you've done some work with voir dire and that space, in particular, any concerns in terms of preserving the jury trial that, we want to get back in a court, see the jurors faces whether they're pulling down a mask when they answer? As opposed to maybe going to virtual trying to find a happy medium, if you will, but what's your sense of that?

*Mitchell Chester:* Well, we had an experiment in the 17th where we had jurors at home. We had a debate, do we give them if they don't have the appropriate devices do we send BSO out and give them laptops or can they do it on their iPhone's or whatever device they were using. And I will tell you that that was around November of '20, roughly, and the engagement of the jurors was amazing. After it was over, they didn't want to stop talking to the judges and the panelists the judges and lawyers that weren't doing this thing, they loved it! Actually almost in Broward County if you get about 30 or 40% of the people that have been summoned to go to jury trial to be perspective jurors, you're lucky. Just about everybody showed up as I recall, for that virtual trial and they loved it. Now, there were challenges, was somebody else in the room, were they doing something on another device, and so we took special care to address that but, listen, there's nothing like being in a courtroom.

I had a case once in Miami Dade Circuit Court Judge (Barbara) Areces, it dealt with an injury to a lady who claimed that she did the "Zumba" so when my opening statement, I did the "Zumba". And I told them and the evidence will show that I have no rhythm. You can't do that on Zoom with the current technology, actually, you can there's different cameras, you should be aware of the different types of cameras that you have. But you get so much out of it and talk about backlogs I'm probably off on this number, but the Florida Supreme Court in late '19 early or '20 projected by or late '20 projected that by July of '21 there would be about a million cases that were backlogged in Florida.

We advocated not successfully that they should follow the model of New Jersey. And that is don't require consent of the parties; this is 2021-2022. Do jury trials to help with that backlog, and a lot of those cases that are now being rushed to trial because, the courts are trying not to the Supreme Court is trying to get these cases done quicker, a lot of those could have been resolved or ready and Justice delivered already one way or the other. So, there's a lot in person, that you can do, but there's so much more you can do with technology and someone sitting in the audience right now, that will try a case by hologram one year, think about that, you'll be able to see through their case, but you'll try a case by hologram or through other technologies. So there are benefits and there are detriments but if technology can speed up the court system, the process, the delivery of justice. The lawyers, and this is the one more point on this when Judge Tuter put us together, Chief Judge Tuter put us together, we were a lawyer out of West Palm Beach very, very famous and a little old fashion and his thinking and then there was Chester who was like who's that who's that and, and so what happened was they said no, we got to be in the courtroom we got to be in the courtroom, we got to have jurors in the courtroom.

But I think they're coming around to the fact that you can deliver justice big cases have been tried around the country with large verdicts that's not good if you're a Defense attorney, but with large verdicts and it was done on Zoom. So, in Illinois they're picking juries virtually, or they were, I don't know if they're still doing it, and I think it's a state system and in New Jersey they're saying you don't have to have consent just go to trial and do it. So there's so much advantage with technology. It's not infallible it's not perfect, but there's so much advantage.

*Chris Lomax:* So I think a lot of it is on us as lawyers, because we set the tone for a lot of what happens in these different proceedings, specifically in depositions, right? So if you were to go to any law firms database right now you're going to find a bunch of outlines for depositions and the first page almost all look the same. It's going to have a list of questions that you need to ask the person their name, where they live, asking they've been, under the influence of any drugs or alcohol, do they feel comfortable and able to testify, if they're going to tell the truth, and so that's based on the old model. Now what happened, what I learned doing depositions via Zoom is that there's some new questions that you need to ask, to the witnesses based upon what happens when people are in their homes or in an office away from you. So, for example, I saw a lot of this when I was taking depositions of the witness. I saw a lot of the top of people's heads when you're on the screen, you know what that means, right? They're looking down at something and not listening to you. Here's another thing, so I would say, we need to ask, will you agree to not look at any devices or other information, while you're providing testimony during the course of this deposition? There was a guy who I was deposing, and I was asking him some questions about his background and I saw him looking over and answering my questions he had a dual screen and was reading from his resume all of his prior jobs with a great deal of specificity, which we would not allow if we were live and in person we wouldn't allow that witness to refer to the notes, unless we were going to collect them late. And so, how do you do that? If someone's referring to materials during a deposition and they're remote then, what do you do in that situation? So, we have as lawyers have to be thoughtful and innovative too and evolve with the technology and not just go back to our old outlines that we've been using for the last 10, 15, 20 years.

*Judge Rodolfo Ruiz II:* That's a great point and to that point I'll turn it to Judge Gayles do you want to jump on this, did you have any of that similar fear, for example, when you were presiding, because I know in the beginning, I personally had a couple of evidentiary hearings and the ability to control the environment of the witness is very limited, unlike when we're in court, and if you're looking at something they're right next to us and it's to Chris's point they could be looking at something else looking down coaching things like that that made me a little nervous. What is your sense of if there's a way to manage that what we can do about that.

*Judge Darrin Gayles:* You know one thing to keep in mind is there's no one size fits all approach you know deciding on how you're going to proceed, it depends on what the proceeding is, is it a really complex case, is it relatively simple, are there witnesses that you really need to worry about because it's really acrimonious I mean, these are all considerations in deciding how you should proceed and it's really important to what Mr. Lomax is talking about you have to set some ground rules from the beginning, what can and cannot happen not just witness, but the attorneys and. Etc., and also how the proceedings should look, you know that you have to be up in front of the camera you can't be at a distance you can't look at anything else, while you're testifying things like that to make sure that there's a uniform set of rules that the witnesses are aware of in the beginning.

I will say, I mean, I had a really complex important non-jury trial over zoom and I thought it went remarkably well because we had talked about all of those issues in the beginning. Because

the witnesses were up close I could I could see them and hear them very well the witness it, I mean the attorneys had gone through the process to make sure and advanced make sure that they were well versed in the technology, so we didn't have any hiccups.

So I say you know it depends on the proceeding, but as long as the parties are prepared and you've set those ground rules in the beginning, I think it can work very well, but it's not for every single case and, and I think that's goes back to the earlier question that you had for Mr. Chester you know that the jury system should be preserved, that in person jury trial, and so we may be able to deviate in some cases, but in other cases, we probably cannot.

I want to add to that point Judge Gonzalez-Whyte as a county court judge and I remember it vividly also serving on the county court, it is a people's court in that you really are the front line of the judiciary.

*Judge Rodolfo Ruiz II:* That's a great point and to that point I'll turn it to Judge Gayles do you want to jump on this, did you have any of that similar fear, for example, when you were presiding, because I know in the beginning, I personally had a couple of evidentiary hearings and the ability to control the environment of the witness is very limited. Unlike when we're in court, and if you're looking at something they're right next to us and it's to Chris's point they could be looking at something else looking down coaching things like that, that made me a little nervous. What is your sense of if there's a way to manage that? what we can do about that?

*Judge Darrin Gayles:* You know one thing to keep in mind is there's no one size fits all approach. You know deciding on how you're going to proceed, it depends on what the proceeding is, is it a really complex case, is it relatively simple, are there witnesses that you really need to worry about because it's really acrimonious I mean, these are all considerations in deciding how you should proceed and it's really important to what Mr. Lomax is talking about. You have to set some ground rules from the beginning, what can and cannot happen not just witnesses, but the attorneys and. etc., and also how the proceedings should look, you know that you have to be up in front of the camera, you can't be at a distance, you can't look at anything else while you're testifying, things like that to make sure that there's a uniform set of rules that the witnesses are aware of in the beginning.

I will say, I mean, I had a really complex important non-jury trial over zoom and I thought it went remarkably well because we had talked about all of those issues in the beginning. Because the witnesses were up close I could see them and hear them very well the witness it, I mean the attorneys had gone through the process to make sure and advanced make sure that they were well versed in the technology, so we didn't have any hiccups.

So I say you know it depends on the proceeding, but as long as the parties are prepared and you've set those ground rules in the beginning, I think it can work very well, but it's not for every single case and, and I think that goes back to the earlier question that you had for Mr. Chester you know that the jury system should be preserved, that in person jury trial, and so we may be able to deviate in some cases, but in other cases, we probably cannot.

I want to add to that point Judge Gonzalez-Whyte as a county court judge and I remember it vividly also serving on the county court, it is a people's court in that you really are the front line of the judiciary.

*Judge Rodolfo Ruiz II:* Have you felt during this pandemic that it is negatively impacted access support, maybe it's been better. You heard Mitchell was saying that some folks are able to get on their phones, I mean we always hope people have good Internet connection, people can get on, you know that that's not always the case in Miami Dade County. Have you felt or walked away from the pandemic feeling like you know what, actually this helps people get to court, as opposed to you know having everyone drive downtown and find the courthouse especially unrepresented or pro se litigants. What's your sense of how this is going to impact that segment, which is a huge part of the legal community.

*Judge Diana Gonzalez-Whyte:* So I think it has positively impacted people's access to the Court.

So, as you said, you know the County Court is you know the people's court, so our baseline was a backlog, you know we already had a backlog going on, and now we have you know, even more. I love the fact that more people were showing up for the pretrials, they were able to take their lunch breaks and come on, even if they were working. I mean before you'd have a pretrial, as you and Judge Gayles also know that would last easily three to four hours for literally maybe a two second to maybe less than a minute conversation with a judge and these people who are trying to seek justice, you know are having to take a day off of work or a half a day. And again, you know this impacts, the everyday person's life, some people need those three hours because if they don't get those three hours of work they're not going to be able to pay the rent and so that access having them, you know, be able to you know show up remotely I think has been great.

Now on the side of the attorneys who are showing up for some of these hearings remotely and how Mr. Chester and Mr. Lomax said, they set the tone and be prepared. The biggest problem that I have encountered with the remote hearings, is the fact that there are procedures put in place for an evidentiary hearing that don't get followed, you have to upload the evidence through the evidence submission to the Clerk of Courts.

And I will tell you that eight out of ten times it's not done and we have to reset because remember that, when we were in person if you had evidence, whether, if it's for your fee hearing or for your non-jury trial, whatever it is, you would bring your evidence and you would hand it to the Clerk right, they would mark it, they would stamp it, they would admit it, they would take it, how are you doing that, if you're doing it remotely.

And then there's other procedures that were put in place, you know, like the doing away with the invoking of the rules of civil procedure on the insurance cases right, their automatically you know, invoked where you're still getting attorneys sending in their invoking of the rules and then that causes us to have to turn around reject them and do extra work that we probably



wouldn't have to do if all we did was go to the judicial you know the circuits web page and look at their orders or you know even call the judges office or, more importantly, I think it's just look at the judges web page.

So technology works but you can't walk in like "oh I've never done this before what am I going to do", no, you know I wish that they would do what they do in Federal Court where they checked out the technology. I mean when I have those hearings, where the attorneys are screen sharing their evidence and they're like you know judge their motion for summary judgment and they're like the policy here says this and they're doing all that, I mean that makes it for so much smoother.

It helps us because we're pretty much paperless now, at this point where I used to maybe have your summary judgment motion that would be the size of this binder. Now I'm trying to follow along on one of my other screens and you're not directing me to it. Where if you were in person, you would do the same thing you would say just look at the policy you know it says this, and this, so it takes the attorneys to be prepared to present their cases, their arguments by knowing what technologies in place and what administrative orders or rules of civil procedure or criminal procedure apply at the time. So definitely more access for indigent people and whatnot and also they can sit there and watch, just like the attorneys do I've had plenty of people show up early. I just want to watch how you do this because my case is at X time and that I think that is so beneficial.

*Judge Rodolfo Ruiz II:* So I want to end just with a couple final questions to all of you, the first one really being what you hope stays, what you hope is now a fixture in the way in which you do business that we learned from the pandemic. Perhaps if there's something you hope goes back to the way it was as well, and then what advice would you offer our young soon to be lawyers coming out of law school. We've heard a lot of different tips and tricks to help them manage and navigate the new normal in terms of preparation technology, etc. But it'd be good to kind of sum up for them what they should be looking out for when they enter the practice and again what would you hope stays in practice, now that we've learned these lessons, these valuable and sometimes costly lessons from the pandemic so I'll start with Judge Gayles and we'll go down the line.

*Judge Darrin Gayles:* Well, I think, technology is here to stay. We've learned that we can be efficient and we can handle substantive matters remotely, but there is still the need for a courtroom, some parties some cases need to be in court, and in a physical setting for variety of reasons, and I think it's important for you, who, as you have clients once you graduate that you explain to your clients, that the proceedings are no less formal because they are remote. That means, if you have a hearing do not do it while you're driving your car or that you are dressed appropriately and that you don't have, I mean understand emergencies happen, but find a room where you have some privacy and there are not people walking around back and forth, because there is that formality of court that should not be lost through remote proceedings and again don't be afraid of being innovative and discuss with opposing counsel ways, you can best

handle the case in a cost effective way, and a time efficient way and suggest it to the Court, they may go along with it.

*Judge Rodolfo Ruiz II:* Judge Gonzalez-Whyte.

*Judge Diana Gonzalez-Whyte:* So I obviously want you know zoom to continue or those remote platforms, because I think that it's incredibly convenient and efficient. But one of the things I think that I really desire for to continue going forward is to recognize the importance of the judiciary. I think that there was this sort of like lackadaisical attitude towards the judiciary prior to the pandemic, I think, when people sort of realized, oh no our courts are shutting down what's going to happen.

You know I'm hoping that they'll recognize how important it is not only to staff it appropriately, but also to fund it appropriately.

There's definitely a different attitude, and I know because I practice in Federal Court I practiced in State Court, when you go to Federal Court, I mean it's totally different you know attitude and there's so much reverence for the sanctity of the procedure of where you are. In State Court it's different you know there there's unfortunately people who show up I had one time, a person show up in a bath towel on her hair and a sarong. And it's you know I've had attorneys where they literally look like they rolled out of bed and put on a Gap shirt. And, I'm like what's going on, you know, like and I don't like to say things to people about their dress and whatnot because I don't like to embarrass people. You know, but at the same time, you know we cannot forget like Judge Gayles said this is a formal proceeding and what is at play is justice, we are not making chiclets, we are not making combs and one of the concerns I have is this pressure with the backlog. On top of a backlog that we become a factory and we're not, we're dispensing justice and each case should be looked individually and the facts, you know and the procedures that apply to it and the law that applies to it.

So I'm hoping there's more of an appreciation for our judicial system, and you know the work that us judges do I'm so proud of all of my colleagues, we work really hard and you're in in your federal courts and in your state courts. And I'm hoping that, yes, technology will increase and whatnot but let's not lose you know the importance of this equal branch of government that we have.

*Mitchell Chester:* I think what they're saying is when you go to court virtually or in person, wear your law suit. We've seen so many, I've seen examples of that as well, it's very disturbing. What I would like to see is yes I'd like to see the technological component that dimension of advocacy expanded and greater education on it. I think the CLE requirements for technology in Florida should be broadened even if you have to go to 40 hours, whatever it is, because people need to know that that is the future.

What I would also like to see is frankly to preserve the integrity of the system. I would like to see greater funding of the courts, I would like to see more assistance in terms of magistrates,

interns, whatever for both the state and the federal system, I learned today that the federal system could use a few more too, that's good and the state system clearly does need that but I would like to see that what is efficient and delivers justice and makes our practices more efficient and makes it easier for the judges, I like to see all these technological connections on zoom preserved.

I would also like to see that nobody forgets the art of in person advocacy and the things that you can do with it. So we're now in a hybrid legal world and it should never go back to the 50s or 60s I don't think it will but I'd like to see all of you look at a trial, look at a case in a way that lawyers five years ago, four years ago, did not even think was possible with the technology and the advantages of being in person before Judge Ruiz or Judge Gayles or Judge Whyte, it's just incredible the opportunities, you have now to be the producers, ethical producers of your presentation.

*Judge Rodolfo Ruiz II:* Thank you so much. Chris.

*Chris Lomax:* Judge if I could just adopt the motion that he's made, but if I had anything to add, I would say, you know time saving and efficiency, anything that helps us to get more done throughout a day is I'm all on board. And my advice to you really is along those same lines, my dad used to recite a poem to us and I'll try not to butcher it. He said "I've only just a minute only 60 seconds in it, forced upon me can't refuse it, didn't seek it didn't choose it, I must suffer if I lose it give a count if I abuse it just a tiny little minute, but eternity isn't it."

You guys have minutes that are already expired for all of us up here. You're sitting there in those chairs, with the whole thing in front of you, and I would encourage you to hold sacred each one of those minutes, I will give a lot to go back and spend more time learning, building relationships, focusing on the things that are going to be important to my career, my future there's so many of those things, and so I encourage you guys to take every minute seriously. It's a great career and it's a wonderful journey, good luck to you all.

*Judge Diana Gonzalez Whyte:* Can I say one thing. I'm actually looking for interns for summer and spring so just if anybody's interested, I will leave my business card. And it's a really great opportunity I mean Judge Ruiz, interned and clerked for a federal judge, and you know you can just expand your knowledge and experience so don't forget to apply.

*Judge Rodolfo Ruiz II:* Thank you for that.

*Mitchell Chester:* Your honor if I could just add one more thing. It's a very dangerous time, ladies and gentlemen, your offices, whether you're associates, become partners, work for Chris or you're an intern, be ready for technology disruptions, we talked about this briefly in last week's cyber-attacks on the court system.

What can you do if you have your if your whole office is basically dependent 90% of the time on the Internet, what can you do to back it up, think star link, that's Elon Musk I don't have any stock in that either but those are the thousands of satellites he wants to put up there, and

others. Think about that for the courthouses as a backup in case our land lines go down and our cell towers go down and all the other stuff, think about how you can make your, it's interesting, how you can make your offices, your courts resilient. This week we heard about the word perseverance, what a great lesson, persevere in your quest for understanding how technology can help you, but how you can safeguard technology in these dangerous times.

*Judge Rodolfo Ruiz II:* Thank you, because we didn't get a chance to cover a little bit, your knowledge is quite vast in preparation for whether it's a pandemic and other one or hopefully not or just looking across the sea at how star link has helped people in the Ukraine without Internet and without other functions technology so I'm glad you added that because you've pointed out that we may not be ready. We've learned from the pandemic, but there are other things that could easily disrupt our system, and we need to be getting ahead of that so.

I don't know that I could add much more to Chris's poem as a perfect ending into the invitation to try to apply for an internship with Ms. Judge Gonzalez-Whyte and go back and, as you practice make sure that you're aware of that, because of technology that we're gonna have to navigate, so I would ask you another round of applause to our fantastic panel.

*Isabella Otruba:* Thank you again all of our panelists and thank you again Judge Ruiz for moderating.

So thank you everyone again for attending and please join us for our reception right outside by the staircases and panelists please stay for photo.

Thank you everyone again.