

# *Miami Judge Says More Remote Participation By Unrepresented Litigants 'Means Better Justice'*

*Ross Todd, DAILY BUSINESS REVIEW*



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## Miami Judge Says More Remote Participation By Unrepresented Litigants ‘Means Better Justice’

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By **Ross Todd** | March 11, 2022

Picture yourself as an unrepresented litigant in Miami-Dade County prior to the pandemic. The jurisdiction has about two-and-a-half million people and it can take you three hours to get from one end of the county to the other when the traffic is bad.

Once you made it to court, you’d have to navigate a mass calendar, wait for your case to be called, or possibly miss your chance in the hubbub. There’d be lawyers in the room who would seem to have a much better idea of everything going on than you or the others attempting to represent themselves.

Yesterday **Administrative Judge Jennifer Bailey** of the 11th Judicial Circuit of Florida in Miami-Dade County walked attendees of a forum on access to justice issues sponsored by the Legal Services Corporation through that thought exercise. Bailey, whom we’ve previously interviewed (<https://www.law.com/litigationdaily/2020/10/13/holding-court-with-miami-dade-administrative-judge-jennifer-bailey-i-need-trials/>) about remote trial practice, talked about the past to illustrate some of the advances courts such as her own have made to rethink customer service. Not only does her court now offer self-represented litigants the opportunity to appear remotely using their computer, tablet or smartphone, but they’ve developed ways to let litigants who aren’t even on the court’s digital filing system know about their upcoming hearings via text messages.

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“We’d hold mass calendars because that’s what was convenient for the court, without really understanding how inconvenient it was for the parties and the barriers and burdens that that represented,” Bailey said.

“The quality of justice, I would propose to you, may be significantly better on remote than it was in the good old days of the cattle calls. Let’s not compare what we’re doing with remote to anything but the reality before,” Bailey said. “I will tell you, full stop, showing up at a calendar call or busy motion or pre-trial calendar was not a rich justice experience.”

That’s not to say that the current system is not without its own flaws. Bailey said Monday that she worries that her court essentially has two systems of justice: There’s one for those who are on the court’s digital filing portal who get an order the instant she files it and those getting the text notifications. There’s another for those who aren’t on either the email or text system who get everything sent to them via the U.S. Postal Service — meaning that urgent notice about a Zoom hearing could arrive in their mailbox after the appointed date.

There's also this: Everything is taking longer. Texas did a recent study ([//www.ncsc.org/\\_media/\\_imported-ncsc/files/pdf/newsroom/TX-Remote-Hearing-Assessment-Report.pdf](https://www.ncsc.org/_media/_imported-ncsc/files/pdf/newsroom/TX-Remote-Hearing-Assessment-Report.pdf)) showing that remote hearings are taking about a third longer than in-person hearings. Bailey pointed to a separate study showing the rate of people failing to show up for eviction hearings in Arizona fell 87% (<https://scholar.smu.edu/cgi/viewcontent.cgi?article=1039&context=smulrforum>) when proceedings went online.

"It's taking longer because more people are showing up," Bailey said. She added that having more people telling courts their stories "means better justice."

**Dori Rapaport**, executive director of **Legal Aid Service of Northeastern Minnesota**, whose organization provides civil legal services to people across a 27,000 square mile expanse, said during Monday's forum that the move to remote court proceedings has allowed her largely rural organization to function "more as a cohesive regional firm." She and her colleagues previously had to pick and choose the court calendars they would appear at and spend hours driving to far-flung courthouses.

Especially in eviction cases, Rapaport said her organization has seen the benefit of remote practice, as courts in her region have created court calendars that cover multiple counties that are heard by one referee who is a subject matter expert. "We're able to actually be there where we could never have done that before if it wasn't virtual, and if the courts didn't have the opportunity to, to put everything in one," she said. She said according to an internal audit, 50% of the people her organization has been able to help in those settings are people who never had never contacted Legal Aid before. "So, but for our ability to be there, we wouldn't have been able to help those individuals in those housing proceedings," she said. "Virtual has been a total game-changer."

But **Leslie N. Powell-Boudreaux**, the executive director of **Legal Services of North Florida**, which serves the state's panhandle, cautioned that access to broadband internet service needed to make remote court appearances isn't universally available. Neither are the skills and tech tools necessary to make remote court feasible. "It's very easy to just throw up your hands and say, I can't get past this technology barrier," she said. "While we're opening doors, don't close any to anyone who can't use these resources and technology."

Before running off a wishlist of items that might help access to justice efforts moving forward, Judge Bailey noted both the Arizona and Texas reports call for adding technical bailiffs to help parties navigate the logistics of remote hearings. "Meet people where they are," the judge said, "so that we can best deliver justice to everybody in the best possible way that it suits them."

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