



YOUR 50 STATE PARTNER®

Trials During The Pandemic: Observations From Three Trials

Franz Hardy, Greg Hearing, and Andrew Lavin
December 17, 2020

GORDON&REES
SCULLY MANSUKHANI
YOUR 50 STATE PARTNER®

Introduction



Franz Hardy



Greg Hearing



Andrew Lavin

Summary of Trials

Covid-19 Trial Themes

- Safety/Security
- Adaptability
- Communal Goals
- Hardship
- Runaway Juries

3

Changes to Discovery in Preparation for Trial

- Video Depositions:
 - Challenges with Preparation of Witnesses
 - Exhibits
 - Objections

4

Trial Preparation

- Find Opportunities to Ask Questions to Presiding Judge
- Review Guidelines
- Visiting Courtroom
- Prepare to Assure Safety
- Assess Technology Needs
- Determine Alternative Plans for Evidence Presentation
- Consider Whether Trial Fundamentally Unfair

5

Voir Dire

- Masks
- Social Distancing
- Limited Jury Pools
- Jury Selection Seating Chart
- Communication with Co-Counsel and Clients
- Questions Related to Covid-19

6



Lay and Expert Witnesses

- Complications Presented by Masks
- Alternative Methods of Presenting Witness Testimony:
 - Venue Specific
 - Subpoenas
- Exhibits:
 - Presentation
 - Demonstrative
- Limitations on Movement:
 - Standing vs. Sitting
 - Podium
 - Approaching Witnesses/Bench

9

Opening and Closings

- Openings:
 - Address Impact of Covid-19
 - Acknowledge Sacrifice
 - Hedging
 - Location/Connecting
- Closings:
 - Application of Covid-19 Themes
 - Technology
 - Increased Importance

10

Conclusions

- Many Aspects of Trial Remain the Same
 - Near Term
 - Permanent
- Safety Must be a Focus
- Know Your Venue/Judge
- Be Ready for the Unexpected
- Utilize Technology to Your Advantage

11

Contact Information

- Franz Hardy; fhardy@grsm.com; 303-534-5153
- Greg Hearing; ghearing@grsm.com; 303-200-6898
- Andrew Lavin; alavin@grsm.com; 303-200-6883

12

GORDON & REES
SCULLY MANSUKHANI
YOUR 50 STATE PARTNER®

www.grsm.com