

A new meaning for cameras in the courtroom

Last year, the Missouri Press-Bar Commission completed its work on Supreme Court Operating Rule 16 – commonly known as the “Cameras in the Courtroom” rule. As a member of the Commission, I was well aware of how hard many commission members worked on this project, surveying numerous judges as to their feelings about cameras in their courtrooms.

The Missouri Supreme Court has been comfortable with audio recordings being made available, live and on its website, for some time. They have even, on occasion, allowed a live video feed. But it is not a regular occurrence, although the Rule does allow cameras in that Courtroom.

Courts of Appeal in Missouri don’t regularly do any of this, although the rule makes cameras and audio in the courtrooms possible, with the judges’ permission. Local trial courts allow cameras and audio, also, but their biggest complaint has always been that reporters only want to broadcast parts of the trial and the public doesn’t get a full look at all the intricacies of the trial of a case.

Frankly, what has happened in the last 30 days in regard to cameras in courtrooms in general has been astounding to me on a personal level. When we talked about cameras in courtrooms, we were talking about a camera located in a non-moving location. We watched what was shown on the video – no jurors, no lawyers’ notes, no up-close conferences

between lawyers and clients.

Now, faced with the difficulties of in-person hearings and state mandates of “social distancing,” our Courts are resorting to video teleconferencing the hearings or, at the trial court level, audio-conferencing many hearings. It is, at a minimum, an interesting peek into what could be the future.

To be honest, I cannot believe that the day is coming in my lifetime that all the Missouri Supreme Court cases will be argued with the Judges

and attorneys only present on individual video screens, or that circuit courts will resort to the bulk of the docket being handled through audio conferencing. Attorneys argue that they lose the nuance of seeing into the Judges’ eyes to determine whether statements are resonating and are clear.

But how would the public feel if given the opportunity to watch their court – not just listen – both local and on the state level, conducting the public’s business in real time? Don’t be silly! How many folks would take

time out of a day to watch something like this? Probably very few. But still, there are some cases that would draw a crowd.

Without a doubt, there are scholars who would love to have access, either in real time or online, to video of arguments before the State’s Supreme Court, for example. And when this is done via video-conferencing, having a recording is just a flip of the switch. It’s not like the technology isn’t already

present and easily available in terms of cases being conducted at the moment. In fact, the U.S. Supreme Court has announced it will soon begin electronic hearings via video technology of pending arguments before that body.

In mid-April, the Missouri Supreme Court heard an argument regarding a Motion for a New Trial for a convicted St. Louis murderer whose legal team believes they have evidence he is innocent. It was covered by a number of reporters in the State. Outside of the legal argument, reporters comments were interesting. One reporter, Rebecca Rivas of the St. Louis American, noted that the judges failed to introduce themselves. Everyone is learning. Lauren Trager of KMOV and Tony Messenger, columnist at the *St. Louis Post-Dispatch*, noted that attorneys for the inmate indicated to the Court that the inmate himself was sitting in front of a computer in prison, listening to the arguments.

Only Chief Justice George Draper sat in the Supreme Court’s courtroom. The room, which normally holds a few hundred, was mostly empty.

But compare that to an argument before the Kansas Supreme Court a few weeks earlier. It was the case regarding whether the Governor of the State had power to order churches to meet by video only. The Constitutional issue was the draw, of course. I watched that via Zoom, on a Saturday morning, at home. And as I watched, I realized the count of persons watching that argument exceeded 3,800.

I think that tells us something about the use of technology in the Courtroom and its future. And I’m excited by the thought!

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