

## Law in the Time of COVID: How A Former Federal Judge-Turned-Mediator Is Making It Work (From Home)

By James Francis IV

**Editor's note:** This is the second installment in an ongoing series called "Law in the Time of COVID: How Are You Making It Work (From Home)?" In these columns, legal professionals will pen journal entries describing a day in their life as they navigate the ups, downs and odd little in-betweens of remote work. We hope you learn a few new tricks for coping with quarantine or at least find some comfort in knowing how everyone is improvising their "new normal" during this unprecedented time. If you're interested in sharing a day in your life with us, please reach out to Zack Needles at [zneedles@alm.com](mailto:zneedles@alm.com).

**July 30, 2020**

Working from home should be a snap for me. After all, I'm a mediator, arbitrator and special master with JAMS, so I'm accustomed to having a flexible schedule and receiving support from our staff. As I made the transition to working from home in March (like the rest of the country), I quickly discovered the challenges of virtual ADR. Here's a glimpse of a typical day.

**7:15 a.m.:** Rise and shine. This working-from-home business definitely has its advantages. In the pre-pandemic days, I would wake up two hours earlier than this in order to begin my two-hour commute. And my wife would rise even earlier to begin her own trek to the city.

**8:15 a.m.:** After breakfast, I begin my revised commute, which involves walking 25 feet down the hall to my office. Mind you, my wife began working at home before I did and laid claim to the better home office: a spacious unused bedroom on the second floor with a view of the woods behind the house. I have been relegated to a cramped space next to the front door that may have been intended as an office, but I wonder why they would design an office with French doors. Since I can't see the woods from here, I try to compensate with house plants, but I'm stymied by the lack of natural light in my burrow.

**8:27 a.m.:** I see a reminder for my upcoming virtual panel presentation on the challenges of settling Fair Labor Standards Act cases with



(Photo: Courtesy Photo)

**Retired Magistrate Judge James Francis IV of the Southern District of New York with his granddaughter Hadley**

multiple plaintiffs. I review some of the relevant articles and make a note to schedule a final prep session with the other panelists.

**9:39 a.m.:** As I'm preparing for a 10:00 conference call in a multiparty commercial case, I get my first visit of the day from Hadley, my 21-month-old granddaughter who presses her nose to the French doors and demands to see Pop Pop. Oh, yes, after my younger son and his wife became claustrophobic in their one-bedroom apartment in Manhattan,

they moved in with us, with Hadley in tow. Since I can't resist, I let Hadley in, and she crawls onto my lap. No, she's not being affectionate; she just wants to try on the headphones I often use to mask her noise. Satisfied, she goes on her way, and I go back to work. I soon hear her mother remonstrating with her: "I told you: no drawing on the walls."

**10:00 a.m.:** My conference call is about to begin; however, my wife is already using our only landline. That means I am forced to use my cell phone, which can have spotty reception. Sometimes I have to leave the office and wander down the driveway in search of a better signal, but today I'm lucky, so I can stay put. All is going well until someone flushes the toilet in the bathroom immediately above my office. Because of the plumbing, it sounds like Niagara Falls. I just hope no one on the call notices. Apparently, they don't, or they're too discreet to mention it.

**11:10 a.m.:** My conference call has ended, and I'm prepping for an afternoon mediation of an employment discrimination claim. Hadley appears again. This time, she wants to take a walk to get the mail and admire the neighbor's red truck. I demur. She whimpers.

**11:58 a.m.:** Check-in with my case manager to discuss scheduling of the initial conference in a copyright infringement matter.

**12:15 p.m.:** It's such a pleasure to be able to have lunch with my family.

**1:00 p.m.:** It's now time for the mediation session. While some lawyers have abandoned business attire for virtual meetings, I like to keep up appearances: I prefer a suit and tie, but shoes and socks are optional. Our JAMS moderator has set up the meeting flawlessly and given me technical control.

**2:10 p.m.:** Everything is going well, and I'm seamlessly moving myself and other participants between breakout rooms. One of the client representatives had a technical glitch with his laptop and was dropped from the meeting. Now he's back, but he's in the waiting room, and I'm not sure how to let him into the meeting. A quick call to our technical hotline solves the problem, and I'm back in business.

**3:47 p.m.:** Uh oh. My wife starts a load of laundry, and the washing machine happens to be on the other side of my office wall. The spin cycle sounds like an aircraft at close range. Luckily, it occurs while both sides are caucusing among themselves. Embarrassment averted.

**4:20 p.m.:** Well, almost. My wife urgently needs to print something, and our only printer is in my office. (Don't ask why. She's the one with the grand space.) So the printer chugs away in the background as I'm trying to convince one of the parties

to make that last concession. Why does it seem like she's printing the Gutenberg Bible in its entirety?

**5:13 p.m.:** Mediation successful!

**6:19 p.m.:** After handling some paperwork and previewing tomorrow's tasks, it's time to play with Hadley for a bit and get ready for dinner.

**8:27 p.m.:** I make the mistake of checking my email. Now that everyone is working at home, it seems the workday never ends. Fortunately, I don't see anything that can't wait until tomorrow.

There are plenty of challenges when working from home. And I do miss interacting with staff and clients alike. But there are lots of compensating factors as well. And, frankly, the boost in morale from being with my family has been great for productivity.

**Hon. James "Jay" C. Francis IV (Ret.)** is an arbitrator, mediator and special master/referee with JAMS in its New York Resolution Center. Judge Francis previously served as a United States Magistrate Judge in the Southern District of New York from 1985 to 2017.

