

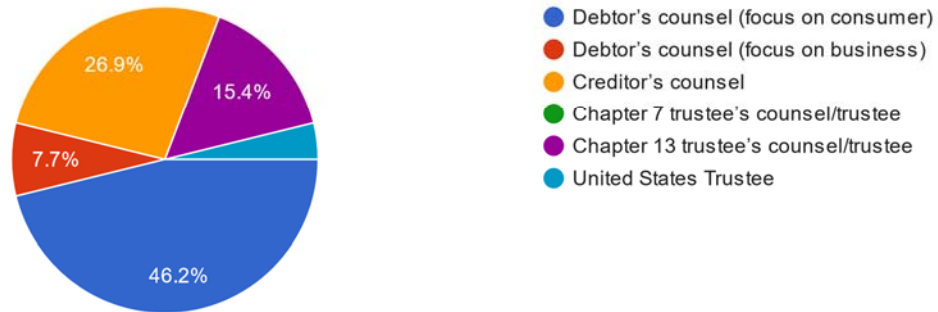
Remote Hearings Survey Responses

(as of April 22, 2021)

Question # 1:

The person completing this survey is primarily:

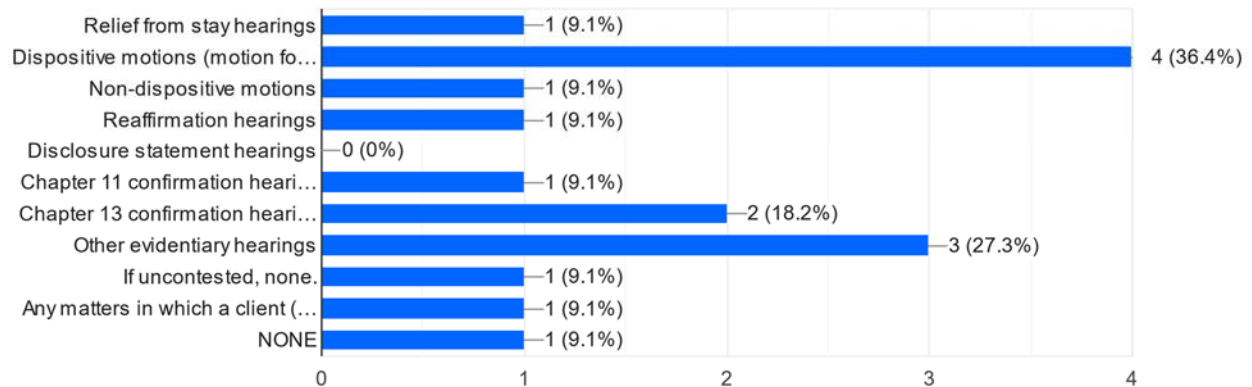
26 responses



Question # 2:

Post COVID-19 pandemic, which types of UNCONTESTED hearings, if any, should require in-person appearances? (You may select multiple options)

11 responses

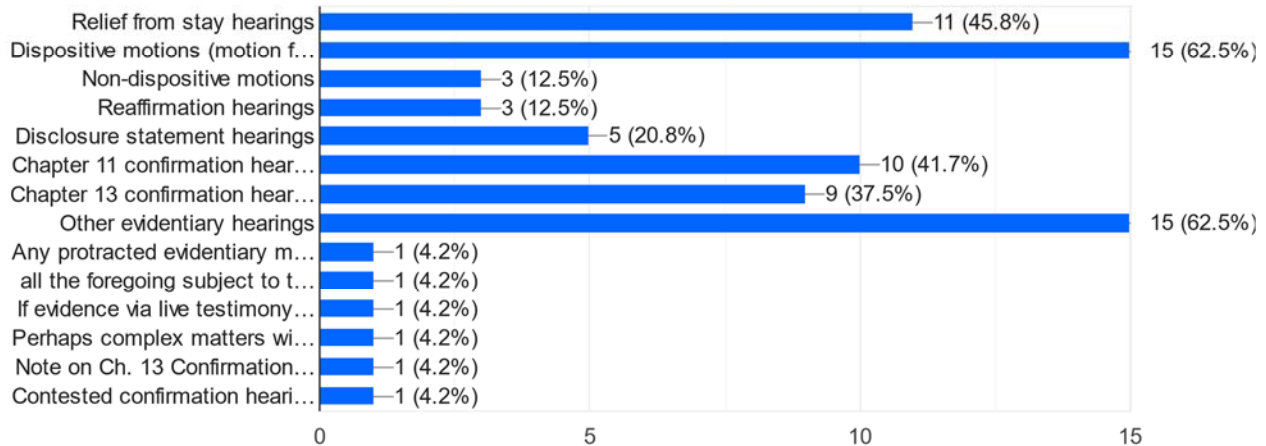


The fill in the blank "Other" response that is not readable in chart is "Any matters in which a client (debtor or creditor) needs to be present."

Question #3:

Post COVID-19 pandemic, which types of CONTESTED hearings, if any, should require in-person appearances? (You may select multiple options)

24 responses



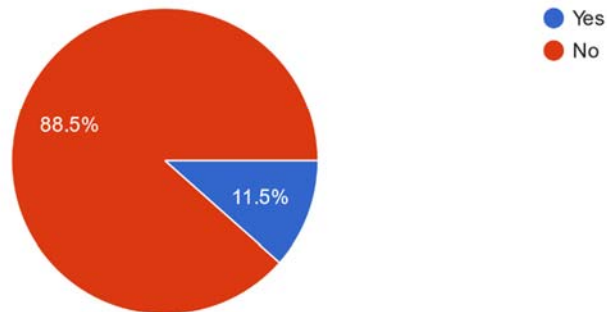
Here are the responses that were filled in as “Other” that are not readable on the chart:

1. Any protracted evidentiary matters where the Court determines an in-person hearing is required or appropriate.
2. all the foregoing subject to taking evidence remotely by agreement
3. If evidence via live testimony will be required [sic], then these should require in person hearings.
4. Perhaps complex matters with multiple witnesses and large volume of exhibits.
5. Note on Ch. 13 Confirmation hearings (contested): Every confirmation hearing is contested because the Trustee files a report, objection, Motion to Dismiss and show cause all in one pleading. This is confusing to a lay person and pro se debtors. If the Trustee were to properly file pleadings as separate docket entries - there would be less need for Ch. 13 confirmation hearings that are "contested" and that would require in person hearings. This note is for Beskin cases only - I don't know the practice for Micale. It is embarrassing that this practice is still allowed given the increased number of pro se debtors.
6. Contested confirmation hearings

Question #4:

Have you encountered technological difficulties with attending remote hearings?

26 responses



Question #5:

If you have encountered technological difficulties with attending remote hearings, please elaborate.

5 responses:

1. n/a
2. Zoom would not allow access for a hearing. It was a system-wide Zoom issue.
3. broke down during a trial, loss of audio in hearings
4. (None)
5. Slow, unreliable internet speed due to local infrastructure. Interruptions in evidentiary hearings. Not being able to hear/see the speaker/witness.

Question #6:

Please describe any court remote procedures you would like the court to implement.

8 responses:

1. All 341 hearings should remain remote as it is cost efficient for all parties.
2. Encourage interaction between attorneys prior to the start of hearings, including break out rooms, for social and/or business communications.
3. for uncontested dockets it is a significant time saver to have remote hearings
4. I think that the Chapter 13 docket has been managed brilliantly by the Court and the Trustees, so a notice of video hearing can be sent by the 13 Trustees for all cases that they do not think an in person hearing is required. Also the 341 meetings have been handled very well by remote appearances.
5. (None)
6. Make video appearances a permanent option.
7. Submitting confirmation orders prior to the hearing for entry.
8. I would like to attend hearings in locations other than my home base of Roanoke via Zoom if no evidence or testimony is required. Additionally, I hope the court will consider continuing allowing submission of confirmation orders for uncontested cases after the deadline for objection but before the hearing date. While I think evidentiary hearings are best in person, I think the use of the remote procedures can be extremely helpful if witnesses are not local.

Question #7:

Please describe any court remote procedures you would like to see eliminated.

4 responses:

1. Trials of Adversary proceedings and complicated confirmation hearings
2. (None)
3. none; the procedures in place work well.
4. None. I think this is a very useful tool.

Question #8:

At what point would you be comfortable returning to in-person hearings? In answering this please consider the following questions: (i) What factors do you consider? (ii) What standards do you think the court should require before returning to in-person hearings? (iii) Are there any steps that the court can take in order to make you more comfortable in returning to in-person hearings?

23 responses:

1. When the transmission rate has fallen to the WHO recommended level for lifting COVID-19 restrictions or the vaccines have been proven to prevent transmission of the virus by vaccinated persons to unvaccinated people such as young children, especially in the face of the growth of the B.1.1.7 variant which disproportionately infects children.
2. I will not be comfortable any time soon. I am very concerned about the possibility of contracting the virus even after vaccinations. The majority of hearings can proceed without the need for the parties being in person. There is very little that the court can do to make me more comfortable. I do not trust the public to be responsible. We have all experienced the parents who send their children to school when they are sick because the parent cannot or does not want to take time off of work. My fear is that people will treat and do treat COVID the same way. Evidence of this is seen with how it has spread. In addition, this is evidenced by the resistance and overt refusal to wear masks and maintain social distancing.
3. In person hearings should have already resumed. Masked required except where speaking at a podium.
4. Normal appearances with crowded courtrooms should be delayed until COVID is no longer a factor.
5. when the CDC guidelines indicate such hearings can be safely held. Ideally it would it would lessen concerns if all persons at an in person hearing who can be vaccinated were vaccinated, but I doubt such a policy could be implemented.
6. I would feel comfortable returning to in-person hearings at any time because I trust that the court would take reasonable precautions.
7. Personally, I am comfortable attending in-person hearings. However, some of my clients are not ready to be with groups of people, especially those in higher risk groups. Client-wise, I would continue my case-by-case approach and work within the bounds of their comfort.
8. I am comfortable at the moment (unless a 4th surge occurs) with mask mandates and certain social distancing protocols and adherence to the "questions" prior to entering the courthouse
9. Comfortable returning at any time, without additional requirements
10. Assuming the cases decline and vaccinations increase, I think the Court might return to in person hearings, of some kind, in the fall
11. When the area is below a specified positivity rate for the virus and as many people as desire to do so have had the opportunity to be vaccinated. Given the current location of the lectern in the courtroom and the number of parties that may appear in a contested case, there will need to be some accommodation that allows all parties to present their positions but does not allow them to congregate together in one location in the courtroom. There would need to be a determination made as to how many people can safely be in the courtroom and maintain the requisite social distancing. Similarly, the line to enter the courthouse will

create another bottleneck where social distancing could be an issue where there is adverse weather.

12. I think that once the vaccination level gets to 60-75%, we should be safe to go back in general, but for hearings with limited participants, as soon as all parties are vaccinated
13. I would feel comfortable returning to in-person hearings when the CDC has stated that such gatherings no longer pose a risk to the health of attendees, and when the Court has implemented whatever safety precautions (spacing, plastic dividers, improved ventilation, etc.) have been recommended by the CDC for such hearings.
14. I'm comfortable returning to in-person hearings now. However, remote hearings seem to be working fine, so I don't see the need to rush things, particularly if other people would be uncomfortable with in-person hearings.
15. Not before a majority of people are vaccinated; still require masks and social distancing. May also need to consider sanitizing podium between speakers.
16. At this time, I am comfortable returning. I think 6 feet apart can be accomplished within each court room. Counsel and witnesses could be directed to only remove masks when addressing the Court.
17. With Virginia opening up vaccinations to all adults, I would be comfortable with in-person hearings by the fall
18. In-person hearings can resume immediately. Masks and distance while awaiting speaking, and remove mask while speaking and maintain distance.
19. after the pandemic is over
20. I think June or July 2021 if there is no surge of variants. At that point, I believe most folks should have been vaccinated. I think the court has to limit the number of folks in the courtroom, and restrict seating to ensure spacing. I think the court must enforce masks and proper use of masks. I think if the court wishes us to not have masks on when we are at the podium speaking, we need to assure distance between parties in the front area. In terms of standards, I think the Courts need to follow the CDC guidance and that of the Virginia Dept. of Health.
21. When the COVID positivity rate for the state remains low for an extended period of time. When the COVID vaccine has been freely available to everyone for an extended period of time. When there is no longer a national state of emergency. When the Court implements a protocol to (1) test people for a fever upon entering the courthouse and have them respond to screening questions about exposure to COVID, (2) require everyone to wear a mask except when alone at the podium to speak (which podium should be 6' away from anyone else), (3) provide seating for everyone that provides room for 6' distancing while waiting for a matter to be called, (4) provide hand sanitizer at the entrance to the courthouse and in each courtroom, and (5) clean the courtroom and bathrooms with disinfectant before every docket.
22. Employer's requirements to protect employees during COVID are significant and penalties could be severe. Return to in-person hearings must account that in Virginia we don't look to OSHA but to VOSH which may have different requirements. Return to in-person hearings should also coincide with a significant rise in vaccinations.
23. When Virginia has 80% herd immunity.

Question #9:

What are the benefits of remote hearings?

25 responses:

1. For now, safety of the community. In the future, to reduce travel time for uncontested matters or possibly to be able to increase the availability of live testimony of witnesses that might be willing to testify remotely but who otherwise could not be compelled to appear before the court (i.e. would only be available by deposition transcript).
2. It is more cost effective. They are a time saver eliminating the commute to the court.
3. Less travel for attorneys - you will get better representation for Debtors if good attorney's can cover more ground.
4. Time/cost efficiency
5. convenience, cost savings
6. Obviously, a benefit is not having to travel to court, a savings for me of 2 - 8 hours. It also can be helpful to have easy access to my computer during a hearing.
7. I have only attended two remote hearings, but they are a much more efficient use of time, especially for counsel who must travel several hours to attend court.
8. Elimination of time spent traveling to courtrooms.
9. allows creditors attorneys (in particular) to manage hearings in multiple areas without the need of appearance counsel when a conflict arises. saves significant driving time and out of office time and increases efficiency
10. Saving travel time
11. efficiency, lower costs, attorney has access to all files, systems, etc.
12. The remote hearings reduce the time counsel must devote to travel and allows that time to be used on other matters.
13. they save a lot of time and they are very convenient for 341 meetings. Previously clients traveled great distances.
14. I must admit that I have been pleasantly surprised at how well Court dockets and hearings have been handled using the Zoom platform. Given the short duration and lack of evidence required for most Chapter 13 hearings, it has been my experience that the virtual dockets have proven to be as effective and efficient as in-person hearings for run-of-the-mill matters. On the other hand, virtual hearings (i) save the Court, attorneys, Trustees, and parties significant travel time and expense, (ii) avoid the possibility of mishaps on the road, (iii) allow the Court to see and hear from numerous creditor attorneys who would otherwise be appearing by substitute counsel, and (iv) allow attorneys charge their clients less for representation before this Court.
15. Avoids the need for extensive and time-consuming travel.
16. Reduced travel time and expense; convenience
17. For uncontested matters, it saves counsel considerable time and resources, particularly for those who must travel long distances. Counsel may work harder to resolve matters well in advance of a hearing if they are aware a remote option exists.
18. Less travel time
19. Less travel expense and time.
20. Extremely efficient use of time & elimination of travel
21. safety and eliminates unnecessary travel

22. Efficiency x 10. Our district is so large, that we can spend 4-5 hours on the road for one or two consumer cases. In my practice, we work hard to resolve hearing prior to the scheduled date and to have appropriate orders entered. But, some hearings need to remain on the docket and have a resolution addressed or approved by the Court. This does not mean the hearing is contested, but may be a notice issue. It seems unnecessary to drive round-trip 4 hours for such a hearing. I can use that time to better serve my clients and the court. And, I have to admit that with screen sharing, I think I can share some exhibits easier than in person.
23. Dockets are managed quickly and efficiently. Attorneys have better access to additional information during the hearing. Eliminates long travel for attorneys and parties.
24. Remote hearings makes consumer bankruptcy practice efficient and, if cases rise, could finally be a meaningfully profitable for both creditor and debtor bars. Remote hearings also make the pool of consumer attorneys larger as geography no longer becomes a bar to entering a market. COVID has taught us all that technology really can make processes more efficient and we should embrace this lesson and continue to develop hearing processes to be more efficient using technology.
25. Safety for attorneys, court staff, debtors and creditors and ease of access for same.

Question #10:

What are the benefits with in-person hearings that are not available in remote hearings?

24 responses:

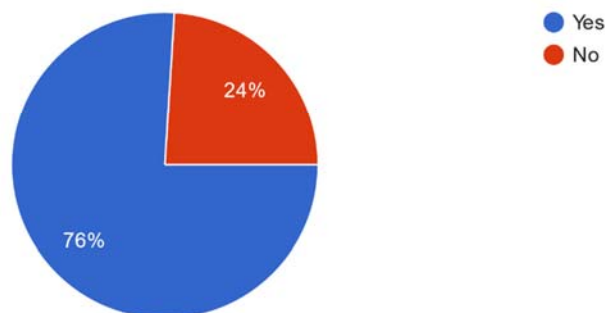
1. Helps insure a vibrant local bar, which is critical to the provision of competent legal services to the community, by reducing the ability of certain entities to take cases. It fosters interaction between the members of the bar which is important on many levels.
2. There is very little that in person provides. I believe that only evidentiary hearings need to be in person to evaluate a witness's credibility.
3. Evidentiary hearings are easier.
4. I believe credibility determinations are more challenging remotely.
5. familiarity with the process, ability to observe witnesses
6. The collegial in-person interactions between members of the bar before court are hard to replace with the current zoom format, and I think it shows respect to the court to appear in person.
7. In-person hearings emphasize the importance of the matter. It is also easier and more fruitful to examine witnesses in person than remotely, and it is often very important to assess the entire person, instead of viewing only their upper bodies via a webcam.
8. Communication with counsel prior to or after hearings; communication with clients off the record
9. you get to meet with the other attorneys and possibly settle prior
10. Opportunities to consult in person with other counsel about other matters
11. witness testimony more effective in person; allows for developing relationships with counsel; encourages settlement

12. The opportunity to negotiate, collaborate, and network with other colleagues is sorely missed. In addition, it can be difficult to specifically address the Court with comments when Zoom routinely shifts the location of the parties in the hearing.
13. Primarily the ability to hear testimony and the ability to get non verbal clues
14. I would assume that extended evidentiary matters may in some instances require in-person hearings in order to be efficiently conducted.
15. They provide an opportunity to get together once in awhile with other members of the bar, and interact directly with the judge and the trustees.
16. Seeing colleagues
17. Being able to interact with colleagues directly. It is much easier to fully question a witness in an evidentiary hearing in-person. Longer evidentiary matters are very challenging to follow remotely due to technology issues (sound breaking up). Presentation of evidence is difficult.
18. Ability to confer with client and opposing counsel, ability to listen (and learn) from other matters that are heard at the same time
19. Better opportunity for argument and response.
20. very few; perhaps presentation of evidence or exhibits
21. none - should only be for contested evidentiary hearings
22. Personally, I find it hard to read cues, whether it is a witness or the Court, on Zoom as compared to in-person hearings.
23. Live testimony from a witness may be the only thing that technology cannot support.
24. Evidentiary hearings are best in person.

Question #11:

If the court holds an in-person hearing, should the court allow counsel to appear remotely?

25 responses



Question #12:

Please explain your answer to the previous question.

25 responses:

1. Everything is situationally dependent, and circumstances could exist where it would be appropriate to allow this.
2. I have been appearing remotely for 12 years in other jurisdictions successfully. As noted, only evidentiary hearings truly need to be in person. Any other hearing can be completed remotely without issue.
3. All uncontested matters should either not require a hearing or have a remote option. All contested should require in person in the event that evidence is needed to be presented.
4. Yes by Motion for leave to appear remotely
5. If a lawyer and client believe that effective representation can be done remotely then that should be an option to be considered. There will probably be instances where the Court finds that remote representation makes a hearing too complicated. I will confess I am not on the cutting edge of technology so I don't know all the ways that any concerns may be addressed
6. If it is a simple matter such as an agreed continuance, it seems reasonable to allow a remote appearance during an in-person hearing.
7. If parties must appear in person, so must counsel.
8. If a matter is going to be conducted in-person, there seem to be many logistical issues in having some participants "live," but others participating remotely.
9. It allows attorneys in other states or farther away from court to still attend without additional expense, etc that potentially gets billed back to the debtor
10. Ideally, parties that wish to appear in person should be able to do so, and those who wish to appear via Zoom should be able to do so -- including court personnel, attorneys, debtors, etc.
11. All parties should be on an equal playing field
12. For a period of time (unfortunately unknown at present), the court should allow remote appearance of counsel in order to allow social distancing.
13. If one counsel is having to appear then all counsel should appear, or if they want to appear remotely, their ability to examine and cross examine should be limited.
14. As long as the Court is comfortable with the due process and efficiency aspects of remote appearance by counsel, such appearances will save time and money and allow more non-local attorneys to take part in hearings.
15. If the court holds an in-person hearing, counsel should appear remotely only for uncontested matters of a routine nature.
16. The court previously allowed counsel to appear by phone for certain matters and that practice worked well. Allowing appearance by video should be considered for the same reasons, as well as reduced travel time/expense, and health concerns.
17. My position is this should be allowable, but used only in exigent circumstances and very sparingly.
18. In my opinion this would need to be handled on a case by case basis, depending on the nature of the hearing. Certainly larger Ch. 11 cases benefit from remote hearings. In

addition, remote appearance by counsel that are not playing an active role in the matter being heard would seem reasonable to me.

19. One side can decide to do remote while the other appears; common in other courts around the country.
20. Qualified by the type of hearing and the discretion of the Court to require any appearances, but routine responses/ argument of counsel and even examination of witnesses can be conducted remotely. I think many Courts will expand the availability long after the pandemic is over.
21. though it depends how contested and in depth such a hearing would be
22. So, I do think it is fact specific. But, there are situations where this should be allowed. For example, if we have a confirmation hearing and counsel for the lender needs to appear, but perhaps all matters are resolved, I can see counsel from out of town appearing remotely.
23. Sometimes there are attorneys whose role in a hearing is minimal enough that attending remotely would be sufficient.
24. Unless live testimony is a component to a hearing, why can't the hearing be a hybrid in-person/remote for attorneys? This will make hearings efficient and economical. If a DC attorney needs to appear in an Abingdon courtroom, what is the benefit to any party or the bankruptcy estate to make someone pay for a DC attorney's travel time? If consumer cases can be done remotely, including the hearings required, won't the consumers based in Abingdon benefit from a larger pool of attorneys they may retain if they can now access Roanoke attorneys? If the Roanoke attorney doesn't have to drive to Abingdon for a simple hearing, surely they will be able to expand their practice.
25. If in person hearings are for evidentiary hearing only, I don't think counsel or witnesses should be allowed to appear remotely.

Question #13:

Please provide additional comments, if any.

11 responses:

1. Thank you for seeking input.
2. The goal - for safety - should be focused on less hearings overall - not necessarily remote v. in person. It is senseless to, for instance, have a Motion to Dismiss, Objection and Show Cause in every single Ch. 13 case that is filed. This makes the dockets longer and facilitates the need for a "hearing in every single case". In the Eastern District, for instance, there are many cases in which no objections or Motions are filed, and the case is simply confirmed without a hearing being "held". But, when they are filed, they are specific and laid out in a way that a lay person would know why their plan is being objected to or why someone is requesting dismissal.
3. It is unquestionably more convenient to have remote hearings, but I find value in interacting with colleagues prior to hearings and in appearing before the judges. I would prefer a combination of remote and in-person hearings. Thank you.
4. Overall I think the remote video hearings have gone very well and have appreciated the accommodations made by the Court to permit counsel to continue to practice in this are

5. I think that Covid has shown we can do a number of things remotely. The Chapter 13 dockets have been remarkably efficient, so that has allowed cases to move pretty well.
6. I have greatly appreciated the extensive and thoughtful steps the Court has taken since March, 2020, to ensure the health and safety of attorneys and parties while continuing to handle cases via Zoom. I would hope that the current procedures will continue until such time as the CDC and other relevant experts advise us it is safe to conduct our monthly dockets in person. Even then I would suggest that Zoom dockets may be an appropriate and more efficient option for the future.
7. My opinion is that we are at a time we can return safely. While many matters can be conducted virtually, virtual is not ideal for certain contested matters. Further, direct interaction with the bankruptcy bar, Judges, Clerks and personnel promotes better relationships among colleagues.
8. This Court has been on the cutting edge of advancing remote hearings and has made registration and hearings easy & efficient. I applaud the efforts and have appreciated the safety concerns for those who appear before it. I hope it is here to stay.
9. I think we can find a way to incorporate remote efficiency to help manage dockets and be more efficient. If we have a surge of cases, we will need the technology. If the current drop in cases continues, we need to be more efficient just to survive. But, the Court should expect counsel who wishes to appear remotely to be technologically proficient. We can all have glitches, but anyone appearing remotely should have the proper infrastructure and understanding of how to use that resource.
10. Thank you for implementing procedures that have kept us all safe over the past difficult year.
11. COVID forced all industries to realize that we don't have to do things the way we always did. A return to the way things used to be simply because we are afraid to embrace new technologies and processes will be another loss we suffered from this pandemic.