ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE ROSLYNN R. MAUSKOPF
Director

WASHINGTON, D.C. 20544

February 25, 2022

Honorable Gerald E. Connolly
Member of Congress
United States House of Representatives
Washington, DC 20515

Honorable Mike Quigley
Member of Congress
United States House of Representatives
Washington, DC 20515

Dear Congressmen Connolly and Quigley:

I write in response to your letters of December 8, 2021, to each of the Judiciary's thirteen Circuit Executives, requesting information regarding livestreaming of proceedings in the United States Courts of Appeals.

By way of background, since 1996, the Judicial Conference of United States has authorized each circuit court of appeals to decide whether to permit the taking of photographs and radio and television coverage of appellate arguments, subject to any restrictions in federal statutes, national or local rules, and any guidelines the Judicial Conference may adopt. This policy has also been applied to new communications technologies, such as livestreaming, that have emerged over the last 26 years. And as technology has advanced, particularly over the last decade, circuit courts of appeals have greatly increased the availability of remote public access to oral arguments.

As you correctly noted in your letters, before the onset of the COVID-19 pandemic, four appellate courts had exercised their discretion under the Judicial Conference policy to allow live remote access to oral arguments. Specifically, the U.S. Court of Appeals for the District of Columbia livestreamed audio of oral arguments, the U.S. Court of Appeals for the Ninth Circuit livestreamed video of arguments, and the U.S. Courts of Appeals for the Second and Fourth Circuits had authorized live media coverage of select proceedings. Importantly, before the onset of the pandemic, all thirteen appellate courts made audio or video recordings of oral arguments available to the public online, free of charge, and typically within hours of the proceeding.

While physical access to courthouses was restricted due to the COVID-19 pandemic, the U.S. Court of Appeals for the Ninth Circuit continued to livestream video

of its proceedings, and the other twelve circuit courts of appeals livestreamed audio of oral arguments. All thirteen courts have continued to make recordings of proceedings available to the public online.

Although each of the courts of appeals has now successfully livestreamed oral arguments, some have experienced technical issues with using remote technology (e.g., latency issues and loss of connectivity), and others found it necessary to purchase additional computer software and hardware to support livestreaming capability. Across the board, livestreaming court proceedings involves a commitment of resources – hardware and software setup, training and allocation of additional court staff to create, maintain, monitor, and provide technical support for, each livestream in real time. Despite these challenges, all but one appellate court have indicated that they would consider continuing to livestream oral arguments after the pandemic abates or have already decided to do so, however, many would need additional funding for staff and equipment to continue livestreaming of proceedings post-pandemic.

Thank you for the opportunity to provide this information. The Judiciary shares your interest in ensuring the transparency of, and public access to, federal judicial proceedings. Over the past two years, we have learned a great deal about the benefits, risks, and costs of providing live remote access to appellate court proceedings, and are endeavoring to determine whether, and under what circumstances, such access should continue post-pandemic.

If we may be of additional assistance to you, please do not hesitate to contact the Office of Legislative Affairs, Administrative Office of the U.S. Courts, at 202-502-1700.

Sincerely,

Roslynn R. Mauskopf

Roslynn R. Mauskopf
Director

cc: Circuit Executives