

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

In Re: Law Division Video Court Proceedings

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Standing Order for Participation in Court Proceedings by Video Conference or Telephone

This order is applicable to non-testimonial court proceedings and evidentiary hearings or bench trials where testimony is taken in the Law Division. The Circuit Court of Cook County appreciates the rapid adaptation to remote proceedings being made by counsel and parties. The Court appreciates and encourages the cooperation and ingenuity which has been shown by counsel in developing new approaches. Parties are encouraged to confer and propose specific alternatives to these protocols which may be appropriate to their particular case and continued developments in available technology.

Pursuant to Illinois Supreme Court Rule 45, a court may permit one or more case participants to participate in a proceeding remotely by telephone or video conference. In a proceeding where the court has determined that participants may participate remotely and where no sworn testimony is taken, the protocols herein shall be followed and constitute appropriate safeguards under Illinois Supreme Court Rule 45.

Pursuant Supreme Court 241, for good cause shown, a court may permit one or more participants in a civil trial or evidentiary hearing testify by video conference. In a proceeding where a court has ordered that participants may testify by video conference, including proceeding from remote locations, the protocols ordered herein shall be followed and constitute appropriate safeguards under Illinois Supreme Court Rule 241.

Pursuant to Illinois Supreme Court Rule 241 in compelling circumstances a court may permit one or more participants to testify in a civil trial or evidentiary hearing by telephone. This order does not authorize or establish protocols for testimony in a civil or evidentiary hearing by telephone. When such a proceeding is authorized, the court shall establish protocols by separate order.

Illinois Supreme Court Rules authorize the court to shift or apportion costs associated with a telephone or video conference proceedings and to take whatever action is necessary to ensure that the cost of remote participation is not a barrier to accessing the courts. Each party shall bear its own costs unless ordered otherwise by the court in separate order. Parties are to be mindful of cost considerations and they are asked to assist the court in identifying ways that remote access can be used to eliminate barriers of access justice.

It is hereby ordered:

1. Witnesses may appear and offer testimony remotely and by video conference. The video conference shall be initiated by the court or by a videoconference service. A video conference shall allow the court, counsel for the participants, the parties, the court reporter and any testifying witness, while testifying (collectively, the “Participants”) to contemporaneously participate in the proceeding, each from separate locations, which shall include the ability for each Participant to be heard and to hear the other Participants at all times.
2. A video conference or telephone proceeding may be observed by the public by contacting the Court for public access or by connection to a link or access protocol listed in the court order setting that proceeding.
3. No person may record the proceeding without an order of court, other than an assigned Court Reporter as defined by the Court Reporters Act (705 ILCS 70/1) and for purposes

permitted under Illinois Supreme Court Rule 46. In addition to violating applicable laws, persons who record the proceedings without an order of court are in violation of this order and have committed said violation in the presence of the court presiding.

4. Pursuant to the Illinois Supreme Court's Order dated March 17, 2020, M.R. 30370, at para. D.2., the Court shall consider as evidence any sworn testimony given remotely in the video conference trial proceedings as though the testimony were given live in the courtroom. Presence by a Participant on a videoconference trial proceeding is presence before the court and statements or actions taking place on the video conference when the judge is present are statements or actions in the presence of the court.

5. Persons authorized to administer oath including court reporters and certified shorthand reporters as defined by the Court Reporters Act (705 ILCS 70/1) and the Clerk of the Circuit Court of Cook County and her assistant clerks may administer oaths to any witnesses remotely, with the same force and effect as though the witness was appearing live in the courtroom.

6. The Parties waive any right they may have to be present in the courtroom and/or to present their witnesses by physical presence in the courtroom for the proceeding.

7. The video conference shall allow the Court to see all Participants simultaneously such that the Court and court reporter will know who is speaking. Each Participant shall mute his or her microphone if not speaking/testifying. Each attorney appearing remotely must have telephone available, for use in the event of technical difficulty.

Counsel shall ensure reasonable accommodations for Participants with disabilities which may affect their equal access to the proceedings and shall confer with the court for any assistance to accommodation.

8. The parties shall provide an email address from each witness to the court record to which any login credentials which may be sent to that witness. The witnesses shall participate in the

proceeding solely by using the credentials provided. No counsel shall provide a witness with other credentials, nor shall the witness access the proceeding using any credentials other than the credentials provided. A witness may be given notice to appear by subpoena pursuant to Illinois Supreme Court Rule 237 (b). Notice or subpoena shall include any videoconference credentials and the telephone number of the attorney who has issued the subpoena or notice.

Subpoenas to Third-Party Witnesses. Each subpoena to a third-party witness must state the following in the box for the “Place” to appear: “Testimony will be given by remotely by video conference.” A copy of this Standing Order for Participation in Court Proceedings by Video Conference or Telephone and any order of the court scheduling the proceeding must be attached to the subpoena and served on the witness.

9. The witness’s video and audio feed shall be contemporaneously accessible by each of the Participants. In the event that the counsel for any party becomes aware or suspects that counsel or any Participant may have been disconnected from the video conference, such counsel shall promptly so state on the record and all questioning shall cease. Parties shall cooperate with respect to any delays occasioned by connectivity issues or the need to ensure that all counsel of record for any Party is participating in the hearing and the effect that it may have on proceedings where the court has ordered time limitations.

10. Each witness shall be advised before his or her testimony of the following protocol for such testimony: the witness must be alone in a quiet room during the testimony, may not use a virtual background, and is ordered to turn off all electronic devices except for the device enabling participation in the hearing and to refrain from exchanging any electronic messages or other communication during their testimony.

Where a witness testifies from a remote location and no neutral representative or representative of an adverse party is present in the room with the testifying witness, care must be taken to ensure the integrity of the examination. The testifying witness may be examined by counsel for any party regarding the identity of all persons in the room during the testimony.

Prior to commencement of the proceeds, counsel representing a witness or producing that witness pursuant to subpoena shall instruct the case participant that (a) he or she may not communicate with anyone during the examination other than the examining attorney or the court reporter and (b) he or she may not consult any written, printed, or electronic information during the examination other than information provided by the examining attorney

11. Depending on the technology used by the Videoconferencing Service, witnesses shall remain in a “waiting room” or on “hold” until they are called to testify. During such time, the witness shall not be able to see or hear the proceedings. After the witness’s testimony is completed, the witness shall be disconnected from the Videoconference Service. If sequestration is necessary, the Parties agree to the use of a mechanism that ensures the witness is unable to view or hear the proceeding until such time as the witness is called to testify.

Counsel and Participants may not use chat features or other system features to communicate with the court in any manner that unseen by the other participants or is otherwise an *ex parte* communication.

12. A witness shall comply with any order excluding or sequestering witnesses which has been granted to the same extent to which it applies to a proceeding taking in the courtroom and in the presence of the Court. To the extent to which a person or member of the public is able to view or hear the proceedings, an exclude witness or party may not access the proceeding.

Counsel shall advise witnesses and parties of this order.

13. Any exhibits or other demonstrative evidence to be presented to the witness by any Party shall be provided to the all parties and the Court not less than 7 days prior to the hearing. The parties shall confer and determine which exhibits or demonstrative evidence shall be provided to the witness at his or her physical location prior to the witness commencing his or her testimony,

and which may be provided by the Videoconference Services in real time during the hearing. The parties shall advise the Court and seek a court resolution of any disagreement or objections to this protocol for presentation no less than 3 days before the hearing. This process regards the sharing of documents with witnesses and does not indicate a ruling regarding admissibility or waiver of arguments.

14. At the commencement of the hearing and where otherwise appropriate, the Court may make findings that: (a) all Participants have indicated for the record that they can all see and hear the proceedings; and (b) counsel, the Parties and witnesses are visible and audible to the Court.

15. No later than 24 hours prior to the proceeding counsel for each party shall test and ensure that technology to be used by their client and Participant appearing pursuant their request or subpoena is functional, appropriate for compliance with this protocol. Counsel shall ensure proper lighting and acoustics, such as to be visible to and easily heard by the other participants. Counsel shall ensure that any video conference systems or equipment are sufficiently understood by each Participant to allow participation. Counsel shall be responsible to ensure his or her own bandwidth, the proper functioning of equipment.

16. The prevailing party or such other party as the court shall direct shall submit a draft order of court in accordance with Illinois Supreme Court Rules 271 or 272 within one hour of the conclusion of any proceeding under this order, unless otherwise ordered by the court.