

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
VERMILION COUNTY, ILLINOIS**

**ADMINISTRATIVE ORDER NO. 2023-2
VERMILION COUNTY REMOTE PROCEEDINGS PROTOCOLS**

The Circuit Court for Vermilion County in the Fifth Judicial Circuit of Illinois, pursuant to Illinois Supreme Court Rule 45, adopts the following Administrative Order:

WHEREAS, the Illinois Supreme Court recognized that remote appearances may be used effectively and appropriately for both civil and criminal cases and, during May 2020, enacted Supreme Court Rule 45 governing the use of such appearances in the circuit courts;

WHEREAS, on November 30, 2022, the Supreme Court adopted amendments to Supreme Court Rule 45 (effective January 1, 2023) which further encourage and promote the use of remote appearances;

WHEREAS, the circuit judges of the Fifth Judicial Circuit have considered that all of its counties do not have the resources available, including the personnel, to implement all of the mandates of Supreme Court Rule 45 and that the case divisions and procedures within the several counties comprising the Fifth Judicial Circuit are vastly different, and therefore concluded that each jurisdiction within the Fifth Judicial Circuit should be allowed to craft its own remote appearance procedures based upon its particular needs, resources, demographics, and the details of a particular case type or proceeding; and

WHEREAS, the circuit judges of Vermilion County have considered its available resources, including personnel, and adopt the protocols and procedures contained in this administrative in order to best implement the mandates of Supreme Court Rule 45.

NOW, THEREFORE, IT IS HEREBY ORDERED:

- 1) Pursuant to Illinois Supreme Court Rules 45, 46, and 241, the following protocols shall apply in conducting courtroom proceedings remotely. Remote hearings in this context are either telephonic and/or video conferencing events intended to substitute for in-person, courtroom proceedings. While there are several platforms for conducting remote proceedings, this Administrative Order contemplates the employment of a standard telephone for telephonic proceedings and/or the Zoom platform for telephonic and video conferencing proceedings.

Except as otherwise specifically provided in this Administrative Order, a remote appearance or court proceeding shall be equivalent to an in-person appearance or court proceeding for all purposes.

- 2) **Definitions.** The definitions in Illinois Supreme Court Rule 45 apply to this Administrative Order.
- 3) **Eligibility for Remote Proceedings.** Illinois Supreme Court Rule 45 and administrative orders for the Fifth Judicial Circuit of Illinois, as amended from time-to-time, determine the case types and proceedings eligible for remote hearings. Eligibility does not depend upon whether a party is represented by an attorney.
- 4) **Remote Proceedings Eligibility Dispute.** If there is a dispute between the parties concerning eligibility under Supreme Court Rule 45 or administrative orders of the Fifth Judicial Circuit, as amended from time-to-time, for a hearing to be conducted remotely, the proponent of the use of a remote hearing shall file a motion to set a remote proceeding. The opponent of the remote proceeding may file a response but must do so within seven (7) days. After the time for a response is passed, and not along with the motion, the proponent shall upload a proposed order which allows for alternative forms of relief. The Circuit Clerk shall forward the order to the judge, who will determine the issue. **Note: The filing of a proposed order after the expiration of seven (7) days is the only trigger that brings the motion to a judge's attention. An order filed with a motion will not be seen, nor acted upon, by a judge.**
- 5) **Remote Proceedings with No Eligibility Dispute.** The parties shall file a joint motion to set a remote proceeding and an agreed order. Actual facsimile signatures on all documents, not typewritten signatures, are required. The assigned judge will then review the file and either approve the order or reject it and make a docket entry as to the reasons for any rejection. The judge may also schedule a remote proceeding on the motion. **Note: The filing of a proposed order is the only trigger that brings the motion to a judge's attention. A joint motion filed without a proposed order will not be seen, nor acted upon, by a judge.**
- 6) **Scheduling a Remote Proceeding.** After any eligibility disputes are determined, the parties shall cause the remote proceeding to be scheduled through the Court Administrator's Office (217/554-7830) or through the appropriate scheduling desk in the Circuit Clerk's office (217/554-7700). The steps required prior to any remote proceeding are as follows:
 - a. Obtain a hearing date, time and location from the Court Administrator's Office or through the appropriate scheduling desk in the Circuit Clerk's Office.
 - b. Prepare and send a Notice of Remote Proceeding, which includes email addresses and telephone numbers for all anticipated participants in the proceeding.
 - c. If an opposing party has not appeared and/or the party providing notice does not have an opposing party's email address or telephone number, the notice also shall inform the party that the party may participate in the proceeding personally in the courtroom at the designated time and place.
 - d. The Notice of Remote Proceeding must comply with applicable procedural rules and be filed with the Circuit Clerk, no less than 72 hours prior to the remote proceeding.

- e. Confirm the accuracy of the all e-mail addresses provided in the Notice of Remote Proceeding at least one day before the remote proceeding for the Zoom Meeting ID, Password, and Link information, contained in a Zoom invitation.
- f. Contact Court Administration (217/ 554-7830) or the Circuit Clerk's Office (217/ 554-7700) with any problems or questions.

7) Documents that Must Include Remote Appearance Information. All summonses, notices, and court orders setting court dates where case participants may appear remotely shall include the courthouse address and courtroom number and the following language:

“Case Participants wishing to attend this hearing may appear in-person in the courtroom or may attend remotely on Zoom video or telephone conferencing. Remote hearing methods should follow the procedures set forth in the court's Administrative Order found at its website: <https://www.vercounty.org/circuit-clerk/court-remote-hearing-information/>

8) How to Get Help Appearing Remotely. If you need help appearing remotely contact: The Court Administrator, Rita B. Garman Vermilion County Courthouse, 7 N. Vermilion Street, Suite 413, Danville, Illinois 61832, (217/ 554-7830) or through the appropriate scheduling desk in the Circuit Clerk's office (217/554-7700) between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. You may also visit <https://www.illinoiscourts.gov/self-help/court-by-phone-or-video> for remote court resources, including written instructions and short videos on how to Zoom from a computer and mobile device.

9) Behavior While Appearing Remotely.

- a. The procedures, manners, and methods by which a remote hearing will be conducted remain within the discretion of the court, within the bounds of applicable law, rules, and practice procedures;
- b. Remote hearings shall be conducted to the same standards as hearings in a courtroom and in accordance with the Illinois Rules of Civil Procedure, Illinois Rules of Evidence, Illinois Supreme Court Rules, and these Rules;
- c. All case participants must use and display their true legal names (not aliases, “user,” or “iPhone”) on the Zoom platform in order to gain entrance to and participate in a remote hearing;
- d. All case participants should ensure they have a good connection/signal to avoid a breakdown in connection during the hearing and that the device being used to access the hearing is fully charged. All case participants must have fully operative video and/or audio functions;
- e. If requested by a party and if technologically feasible, the court may, in its discretion, allow breakout meetings, private chats, or other private communications between attorneys and clients during a hearing; provided, however, that during the testimony of any person, that person may not communicate by private chat or otherwise with any other person;

- f.** The court, through its official court reporters and court specialists, will make and keep the official record of all remote hearings, and no case participant may record or photograph, screen shot, or otherwise capture an image or recording of any part of a remote hearing through the Zoom platform or any other means. However, unless pre-arranged with the court before a telephone conference, no verbatim record will be taken or maintained of any such conference conducted pursuant to this Rule;
- g.** Unless otherwise allowed by the court upon a showing of good cause, including a showing of exigent, safety, or security circumstances with appropriate safeguards, any person permitted to testify remotely must appear by both video and audio;
- h.** If a party intends to call a non-party witness during a remote hearing, that party is responsible for obtaining a hearing invitation for the witness through the remote hearing protocols enacted by the circuit court for the county in which the case is being heard;
- i.** Each remote witness must be alone in a secure room with the doors closed;
- j.** Each remote witness should ensure there will be no interruptions or distractions for the duration of his or her testimony;
- k.** When case participants are not speaking, they shall mute their microphones, and all electronic devices aside from those being used for the remote hearing must be turned off, or silenced, with notifications muted;
- l.** Any members of the public or media present for a remote hearing must remain muted and not interfere with the hearing unless permitted by the court to speak or otherwise participate;
- m.** Only one case participant may speak at a time, and case participants shall not speak over one another;
- n.** All case participants must be in an environment free of video and/or audio distractions;
- o.** All case participants appearing by video, should leave their video on unless allowed otherwise by the court;
- p.** Eating, drinking, or chewing gum by any case participant is not allowed without the court's permission, and the use of tobacco or vaping products is strictly prohibited by any case participant;
- q.** All case participants should use their best efforts to remain in one place while appearing remotely, and avoid moving around (for example, appearing from a moving vehicle or pacing) or stepping away from the hearing without advance permission by the court;

- r. No tangible exhibit may be used during a remote hearing unless it has been pre-marked and a copy provided before the hearing to all other parties and the court, all in conformity with the remote hearing protocols enacted by the circuit court for the county in which the case is being heard;
- s. Tangible exhibits shown through video or photographs through the Zoom platform's Share Screen feature must be viewable by all case participants present for the remote hearing;
- t. The court, in its discretion, may at any time terminate or suspend a remote hearing for technological or other reasons, and if the judge presiding over the remote hearing determines that a case participant is behaving in a disruptive or abusive manner, the judge may mute or remove the offending participant from the hearing and may order the participant to appear in person for future hearings;
- u. If a case participant requires the use of an interpreter, that participant is responsible for coordinating with the court how the interpreter will be obtained and participate in the hearing;
- v. All case participants shall be appropriately dressed and conduct themselves as they would in a courtroom, *i.e.*, being courteous, civil, and respectful to all other case participants;
- w. All case participants shall ensure that any Zoom platform backgrounds or filters used are appropriate and in conformity with courtroom decorum and standards; and
- x. Case participants should not sit directly in front of or behind a window or otherwise use lighting that interferes with the quality of the video.

10) Protocols for Remote Proceedings Involving Witnesses and Evidence.

- a. Not less than three (3) court days prior to a remote proceeding during which witnesses are sought to be presented, the parties seeking to present the witnesses shall file a list containing the names, email addresses, and telephone numbers of the witnesses. All case participants, including witnesses, must identify themselves pursuant to subparagraph 9c *supra* to ensure they are allowed entrance into the hearing.
- b. All participants for which email addresses were provided the court will receive a Zoom invitation via email one (1) day prior to the remote proceeding with access instructions. Leading up to and on the day of such hearing, it is the responsibility of the parties to ensure their witnesses are properly noticed, available, and ready to proceed at the appointed time.
- c. Not less than three (3) court days prior to a remote proceeding during which exhibits are sought to be presented, the parties seeking to present tangible exhibits shall exchange the exhibits they intend to introduce. Thereafter, the parties shall conduct a conference to identify those exhibit(s) they stipulate may be admitted into evidence. If a party fails to comply with this provision, the court in its discretion may deny the introduction of that party's exhibits.

- d. Not less than two (2) court days before a remote proceeding during which exhibits are sought to be presented, the parties shall prepare and email all proposed exhibits to the Circuit Clerk at exhibits@vercounty.org (and if appropriate an electronic bundle of authorities) as follows:
- i. A searchable PDF format shall be used;
 - ii. Each exhibit shall be a separate file. Each file name shall reflect the party offering it and the exhibit number *e.g.*, P1, P2, CPI, CP2, RA, RB, DI, D2, *etc.*;
 - iii. An index of all exhibits shall be included identifying the number of pages in each exhibit; and
 - iv. For exhibits greater than four pages, pagination must be generated and inserted electronically within the PDF (not handwritten). Pagination must be by exhibit number and page number, *e.g.*, P1-1, P1-2, P1-3 ... RA-1, RA-2, RA-3, *etc.*

The Circuit Clerk, upon receipt of the exhibit materials, shall forward all attachments to the judge presiding over the remote proceeding.

11) Public Access. The court, parties, and attorneys shall be cognizant that the courts are generally open to the public and that it remains highly desirable that the operations of the courts are as transparent as practicable. In this regard, parties should be aware that although hearing participants may appear remotely, the judge hearing the matter most likely will be in the courtroom and that the courtroom will be open to the public. The daily court schedule shall reflect that a hearing is remote and the date and time of the hearing.

12) Submission of Exhibits During a Remote Proceeding.

- a. The Share Screen feature of Zoom may be used to lay foundation, refresh recollection, and authenticate signatures. The court will not allow an exhibit to be shown through the Share Screen feature without permission.
- b. The court, having received the exhibits prior to the remote hearing, will display a requested exhibit on a party's behalf through the Share Screen feature, upon request. The court may disable file sharing and then only enable it after the participant receives permission to show the exhibit. This also ensures no one improperly or accidentally uses exhibits.
- c. Tangible exhibits may result in a matter being ineligible for a remote hearing. However, stipulations and photographs may be useful substitutes for tangible evidence by agreement. Parties may show tangible exhibits through video or a photograph through the Share Screen feature. Such items must be viewable by all case participants. Agreements regarding tangible evidence must be discussed in advance of the remote hearing.
- d. Parties may submit unanticipated impeachment or rebuttal evidence during the hearing through the Share Screen feature. All such exhibits should be numbered and labeled as provided above.

- e. Impeachment or rebuttal exhibits shall be emailed by the proponent to exhibits@vercounty.org prior to offering the same in the remote proceeding. Once emailed, the Circuit Clerk will forward said exhibits to the court. The Court may then allow said exhibits to be shown to the witness through the use of the Share Screen feature.

13) Attorney/Client Communications. The court recognizes that communication between an attorney and client is necessary and appropriate during a contested hearing and that remote hearings are no exception. However, there are certain restrictions that must be enforced during remote hearings as in live courtrooms. For instance, a client cannot communicate with his/her attorney while he/she is testifying. Also, a party usually cannot communicate with any other witness before, during, or after the witnesses' testimony. Those same rules apply to remote hearings. For this reason, the Chat feature in the Zoom platform will be disabled by the court during the remote hearing and allowed to be used only with leave of court.

14) Breakout Rooms. The court is able to move participants to separate Breakout Rooms for privacy when appropriate. The court may create Breakout Rooms during the hearing or assign Breakout Rooms in advance of the hearing when scheduling the meeting. The court may create one or multiple Breakout Rooms. The court may message the separate participants and may also be part of a breakout session. For example, the court may use the Breakout Room with the attorneys for a side bar to rule on objections or it may be used by an attorney to consult with their client. Interpreters and Court Reporters should be included in the Breakout Room when appropriate. Otherwise, the Breakout Room is not recorded. The court should remind participants to hit "return to main session" to exit the Breakout Room. Do not use "leave meeting."

15) Waiting Rooms. The court has the ability to create and manage Waiting Rooms within the Zoom platform. The court may utilize a Waiting Room to keep people out of the proceeding until the case is called. The court may return participants to the Waiting Room even after the court has admitted them. During an evidentiary hearing or trial, the court may use the Waiting Room to exclude witnesses prior to their testimony. Only the court is able to place people in and out of the Waiting Rooms. While in a Waiting Room, a person is unable to see or hear anyone else involved in the remote hearing.

16) Concluding a Remote Proceeding. At the end of the remote hearing, the court will conclude the matter in the same manner as if physically in court, except the court may reaffirm that the case participants were present for the entire remote hearing and that they were able to hear and/or see entire event.

17) Remote Proceedings in Criminal Cases. In Criminal proceedings, a defendant has a right to be present in court at every stage in the proceedings. The Court should make a record at the beginning of the hearing and inquire whether the defendant is aware of his/her right to be physically present in court and whether he/she is waiving that right. Victims have a right in criminal proceedings to be present in court. The Court should admonish any victims who are present regarding this right and obtain the waiver of that right on the record.

18) Miscellaneous.

- a. This Administrative Order is effective *instanter*.
- b. This Administrative Order, and any amendments to it, shall be filed in the Office of the Circuit Clerk of Vermilion County and be made available to the public.
- c. The Clerk of the Circuit Court shall post this Administrative Order, and any amendments to it, on her website.
- d. This Administrative Order and any amendments to it, shall be posted upon the County's website.

ENTERED this 30th day of March, 2023.



Thomas M. O'Shaughnessy, Presiding Judge