

FILED

JAN 11 2023

*Karla A. Pender*  
CLERK OF THE CIRCUIT COURT OF  
THE FIFTEENTH JUDICIAL CIRCUIT  
JO DAVIESS COUNTY ILLINOIS

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup> JUDICIAL CIRCUIT  
JO DAVIESS COUNTY, ILLINOIS  
ADMINISTRATIVE ORDER NO 2023-1  
(SUPERSEDING 2020-17)

ADMINISTRATIVE ORDER REGARDING REMOTE HEARINGS (VIDEO  
CONFERENCING/ZOOM) IN JO DAVIESS COUNTY

1. The Jo Daviess County courts have secured a Zoom license to conduct videoconferencing.
2. You can access Zoom through a PC (zoom.us) or a Smartphone (Zoom app).
3. The court reserves the right to order any hearing or motion (or portion thereof) to be conducted by telephone or videoconference, or not, as Illinois Supreme Court Rules (See SCR 45, 46 and 241) and 15<sup>th</sup> Judicial Circuit Local Rule (See LR 4.4) may allow. Complete copies of SCR 45 and LR 4.4, including website links, are attached hereto for convenience.

**HOW TO REQUEST A REMOTE HEARING**

4. Parties should file a Joint Motion if they agree to have a proceeding, which requires the approval of the presiding judge, held by videoconference.
5. If there is no agreement, then any party may request a phone or video conference as set out in LR 4.4(d).
6. The Motion will be forwarded to the assigned judge who will either: grant the Motion; deny the Motion; or set the matter for hearing. Such motions may be heard remotely in the judge's discretion.
7. When a discretionary remote hearing is ordered:
  - a. The hearing shall be scheduled by the attorneys and all self-represented parties through the Jo Daviess County Circuit Clerk's office, forthwith.
  - b. On the day of a scheduled Zoom hearing the attorneys, parties, and any witnesses will use the Zoom hearing link found on the Jo Daviess County Circuit

Clerk's web page (<https://jodaviesscountyl.gov/court>) to access the Zoom hearing. Instructions on how to use Zoom can also be found on the web page.

## **ADVANCE PREPARATION**

8. Advance preparation is the key to successful Video Conferencing.
9. Video or phone hearings take a little longer. Build that into the schedule.
10. Be prompt and ready at the appointed time. Before the start of the hearing, download Zoom software and test internet connections, cameras, and microphones.
11. Attorneys must ensure the internet signal at the physical location of the attorney, party, and any witness is functional for a video conference.  
Generally:
  - a. Rural locations do not have stable high-speed internet connections.
  - b. An ethernet connection works better than wi-fi.
12. Select a videoconference location that is free of background noise and distractions. Be mindful of the visual background, lighting, and attire; as well as any possible disruption by ringing phones, children, pets, etc.

## **THE RECORD**

13. Normal courtroom rules apply, even though some persons may not be physically present.
14. Other than by the official court reporter, there will be no audio or video recording of any part of the proceeding, just as if in a physical courtroom. There will be no live streaming or blogging during the video conference. Exceptions will be considered for authorized media outlets.
15. The official record is made by the designated court reporter.
16. Any person observing the video conference/call is required to identify themselves.

## **THE HEARING**

17. Mute your microphone to limit distractions and feedback until it is your turn to speak.

18. Only participants who would ordinarily be in the traditional well of the courtroom (such as attorneys, clients, and recognized witnesses) will have speaking roles.

19. Observers who would normally sit in the gallery may observe but may not interrupt the hearing.

## **WITNESSES**

20. At least 24 hours prior to any remote hearing, each party shall exchange, via email (with cc to [remotecourt@jodaviesscountyl.gov](mailto:remotecourt@jodaviesscountyl.gov) (an address shared by the court and clerk)), their list of witnesses who will be called during the hearing and the name of any party who will attend the hearing.

a. For security reasons, only parties, counsel, and witnesses on the list will be granted access to the video conference.

b. The party calling a witness during the video conference must ensure the witness is familiar with how to access the conference and see exhibits.

c. Attorneys shall have a cell phone and contact information to call/text any witness so such witness can be notified when to join the video conference.

21. An order to exclude non-party witnesses shall be deemed to be in effect. Non-party witnesses shall be excluded from the hearing until called to testify and will:

a. Remain in the videoconference "waiting room"; or

b. Be informed by call or text, or by notice from the videoconference host, when to join the conference.

c. Attorneys shall explain this rule to their witnesses and their client's family/friends/associates. If there is a violation, testimony may be barred.

22. The court must be able to view any witness in order to judge credibility. The burden is on the proponent of a witness to ensure that the witness is in a location with the proper equipment and internet connection for that to occur.

## TELEPHONE OPTION

23. In lieu of being visible to the court, a witness may testify by audio only if:
- a. All parties so stipulate and agree to waive the issue on appeal, or
  - b. The trial court orders audio only testimony, as Supreme Court and Local Rules may allow.

## EXHIBITS

24. Exhibits shall be exchanged by the parties by email prior to the hearing (cc to [remotecourt@jodaviesscountyil.gov](mailto:remotecourt@jodaviesscountyil.gov)). Such email must identify which party is tendering which exhibit(s). All attorneys shall approve any joint exhibit email submission.

25. Each exhibit must be clearly identified for purposes of identification on the record. Therefore:

- a. Exhibits shall be In PDF form.
- b. Each exhibit shall be a separate PDF document.
  - i. Each exhibit document file name shall start with exhibit number and then a brief descriptor of the document. Example: Ex. 101 - 2016 W-2
- c. Joint Exhibits are encouraged and are admitted into evidence by stipulation.
  - i. No further foundation is required, which saves court time.
  - ii. A party can still argue what, if any, weight to give a joint exhibit.
  - iii. The document name should start with "Joint Ex.", then the exhibit number and a brief description of the document. Example: Joint Ex. 1 - 2018 Lease Document
- d. Contested Exhibits
  - i. Foundation must be established by party offering the exhibit
  - ii. Plaintiff's contested exhibits shall be numbered 100-199.
  - iii. Defendant's contested exhibits shall be numbered 200-299.
- e. Additional parties should use a unique exhibit numbering sequence as specified by agreement.


26. Once an exhibit is admitted, the Clerk will upload the document to the court file.

27. If only a portion of an exhibit is admitted, then it is the responsibility of the party offering the exhibit to redact and upload only the admitted portion of the exhibit to preserve the record.

28. Although expected to occur rarely, the judge reserves the right to require an opportunity to physically view any tangible exhibit.

DATED: 1-11-23

Kevin J Ward, Presiding Judge

A handwritten signature in black ink, appearing to read 'K. J. Ward', written in a cursive style.

From: <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/f06d63ba-828e-40f2-8ae2-ef4b11c9c66b/Rule%2045.pdf>

#### Rule 45. Remote Appearances in Circuit Court Proceedings

##### (a) Definitions.

(1) The terms “remote” or “remotely” mean the participation of all or some case participants in a court proceeding by telephone, video conference, or other electronic means. Except as otherwise specifically provided in this rule, a remote appearance or court proceeding shall be equivalent to an in-person appearance or court proceeding for all purposes.

(2) The term “in-person” means the participation of all or some case participants in a court proceeding by being physically present in the courtroom.

(3) “Case Participant” means any individual participating in a court proceeding including, but not limited to, the parties, criminal defendants, minors, lawyers, guardians ad litem, guardians, youth in the care of the Department of Children and Family Services (DCFS), witnesses, experts, interpreters, treatment providers, probation officers, pretrial officers, DCFS caseworkers and contract service providers, court reporters, clerks of court, and the judge presiding over the case. This term does not include jurors, the public, or members of the media that are not a party or witness in the case.

(4) For purposes of this rule:

(i) “Civil Matters” shall mean the following case types as defined in the Manual on Recordkeeping, adopted by the Supreme Court under M.R. 1218, as most recently amended: Arbitration (AR), Chancery (CH), Eminent Domain (ED), Eviction (EV), Foreclosure (FC), Government Corporation (GC), Guardianship (GR), Law: Damages over \$50,000 (LA), Law: Damages \$50,000 or less (LM), Mental Health (MH), Miscellaneous Remedy (MR), Probate (PR), Small Claim (SC), Tax (TX), Adoption (AD), Dissolution with Children (DC), Dissolution without Children (DN), Family (FA), Contempt of Court (Civil) (CC), Civil Law Violation (CL), Miscellaneous Criminal (non-classified criminal actions) (MX), and Order of Protection (OP).

(ii) “Criminal Matters” shall mean the following case types as defined in the Manual on Recordkeeping, adopted by the Supreme Court under M.R. 1218, as most recently amended: Criminal Felony (CF), Criminal Misdemeanor (CM), Conservation (CV), Driving Under the Influence (DT), Domestic Violence (DV), Major Traffic (MT), Ordinance (OV), Quasi-Criminal (QC), Minor Traffic (TR), and Contempt of Court (Criminal) (CC).

(iii) “Juvenile Delinquency Matters” shall mean the Juvenile Delinquent (JD) case type as defined in the Manual on Recordkeeping, adopted by the Supreme Court under M.R. 1218, as most recently amended.

(iv) “Juvenile Abuse, Neglect, and Dependency Matters and Juvenile Intervention Matters” shall mean the Juvenile Abuse and Neglect (JA) and Juvenile (JV) case types as defined in the Manual on Recordkeeping, adopted by the Supreme Court under M.R. 1218, as most recently amended.

##### (b) General Provisions.

(1) A judge presiding over a case in which the option to appear remotely without any advance approval is permitted may, in the exercise of the judge’s discretion, require a case participant to attend a court proceeding in person for reasons particular to the specific case,

including the failure of a case participant to follow applicable standards of decorum. When exercising such discretion, the judge shall inform case participants on the record if they are required to attend a future court proceeding in person.

(2) When a circuit decides that in-person appearances are necessary for a particular case type or proceeding type, the Chief Judge shall by local rule exempt the case type or proceeding type from offering the option to appear remotely without any advance approval, in accordance with paragraph (b)(7). Case participants may then appear remotely in exempted case types or proceeding types only with the approval of the judge presiding over the matter.

(3) When a case participant testifies or otherwise participates in a trial or evidentiary hearing remotely, appropriate safeguards must be in place to ensure accurate identification of the case participant and to protect against inappropriate influences, including, but not limited to: persons communicating with the case participant without the court's knowledge and the case participant's inappropriate access to materials or information (such as documents or the Internet) during the case proceedings. The judge presiding over the matter shall confirm that such safeguards are available and operational prior to permitting the case participant to participate remotely.

(4) All summonses and notices for court proceedings that case participants are permitted to attend remotely shall include information necessary for a case participant to appear in person or remotely, including any information necessary for case participants to access the applicable technology platform to appear remotely.

(5) Where the option to appear remotely exists, courts shall not deny access to case participants who choose to participate by appearing in person or who cannot appear remotely without assistance and shall allow individuals who come to the courthouse to participate by appearing physically in the courtroom. If the courtroom, case type, or proceeding type cannot accommodate an in-person case participant, then courts shall inform case participants of this limitation in advance, if possible, and supply the appropriate technology and technical support for anyone who comes to the courthouse so that they may participate remotely.

(6) Courts shall ensure that any fees associated with the remote appearance technology platform utilized by the court, if any, are not a barrier to accessing the courts.

(7) Within 90 days of the effective date of this rule, the chief judge of each circuit shall submit to the Supreme Court, through its Administrative Office, a local rule explaining in plain language the option of participating in court proceedings remotely. The rule shall at a minimum address:

(i) How to join a remote proceeding, either by phone, video conference, or other electronic means;

(ii) Where to find information and assistance for remote proceedings;

(iii) What case types or proceeding types, if any, are exempted under paragraph (b)(2);

(iv) How to make the request to appear remotely, where applicable;

(v) What standards of decorum will be expected by the circuit for case participants in remote proceedings; and

(vi) How the above information will be made available to the public, case participants, and other justice system partners. This should include, but not be limited to: the circuit's website, posting in public areas, and/or any other easily accessible means.

Any amendments to the local rule must be submitted to the Administrative Office prior to

implementation.

(c) Civil Matters and Criminal Matters That Do Not Involve the Possibility of Jail or Prison Time.

(1) Case participants shall be permitted to attend court via the circuit court's available remote appearance technology without any advance approval, except for the following proceeding types, which shall require the approval of the judge presiding over the matter:

(i) Evidentiary hearings, except for ex parte evidentiary hearings (such as emergency orders of protection hearings);

(ii) Settlement conferences;

(iii) Bench trials;

(iv) Jury trials; and

(v) Any case type or proceeding type exempted from remote participation in accordance with paragraphs (b)(2) and (b)(7).

(d) Criminal Matters That Involve the Possibility of Jail or Prison Time and Juvenile Delinquency Matters.

(1) Case participants shall be permitted to attend court via the circuit court's available remote appearance technology without any advance approval for the following proceeding types:

(i) Initial appearances;

(ii) In Juvenile Delinquency Matters, initial or subsequent appearances at which continued detention of a minor will be determined;

(iii) Status hearings;

(iv) Waiver of a preliminary hearing;

(v) Arraignments on an information or indictment at which a plea of not guilty will be entered;

(vi) Presentation of a jury waiver;

(vii) Non-evidentiary hearings; and

(viii) Hearings conducted under the Sexually Violent Persons Commitment Act (725 ILCS 207/1 et seq.) at which no witness testimony will be taken.

(2) Case participants shall be permitted to attend the following proceeding types via the circuit court's available remote appearance technology only with the approval of the judge presiding over the matter. In addition, before the defendant or minor may attend the following proceedings remotely, the court must have accepted the defendant's or minor's waiver of an in-person appearance in accordance with paragraph (d)(3):

(i) Negotiated pleas;

(ii) Evidentiary hearings;

(iii) Sentencing hearings;

(iv) Probation revocation hearings;

(v) Arraignments or other proceedings or appearances at which a plea of guilty will be entered;

(vi) Hearings conducted under the Sexually Dangerous Persons Act (725 ILCS 205/0.01 et seq.);

(vii) Bench trials or stipulated bench trials; and

(viii) Any case type or proceeding type exempted from remote participation in



accordance with paragraphs (b)(2) and (b)(7).

(3) Waiver of defendant's or minor's in-person appearance at court proceedings.

(i) In proceedings where a waiver of a defendant's or a minor's in-person appearance is required for a remote appearance, the decision whether to waive an in-person appearance shall belong to the defendant or minor and not to defense counsel.

(ii) Whether the waiver of defendant's or minor's in-person appearance at court proceedings is made orally, in writing, in person, or remotely is exclusively within the discretion of the judge presiding over the matter. However, when made orally in person or remotely, the waiver must be stated on the record.

(iii) Before a waiver of the defendant's or minor's in-person appearance is accepted by the judge presiding over the matter, it shall be the judge's responsibility to ensure that the defendant's or minor's waiver is knowing and voluntary and has been discussed with counsel prior to the hearing. The judge presiding over the matter shall ensure that the record is clear that the defendant or minor understands:

(A) That the defendant or minor has a right to be physically present in the courtroom for the proceeding;

(B) That remote appearance means the defendant or minor, the court, or other case participants will participate via telephone, video conference, or other electronic means;

(C) That in matters open to the public, any remote appearance may be viewable by the public over the Internet or other method of streaming or broadcasting (if applicable);

(D) That a remote proceeding may result in the defendant or minor and his or her counsel not being physically present together during the proceeding;

(E) That the legal effect of the remote proceeding will be the same as an in-person proceeding; and

(F) That the defendant or minor has discussed the waiver with counsel.

(iv) If the judge presiding over the matter finds the waiver to be knowing and voluntary, the prosecution shall be given an opportunity to object and state the grounds for that objection for the record. The decision to accept a waiver of in-person appearance at court proceedings is exclusively within the discretion of the judge presiding over the matter, and the judge shall put the reasons for that ruling on the record.

(v) A waiver of in-person appearance can be revoked at any time.

(4) In Criminal Matters that involve a possibility of jail or prison time, jury trials shall not be held remotely, except that witnesses, in case-specific situations, may be permitted to testify remotely with the approval of the judge presiding over the matter and by agreement of the parties.

(5) Nothing in this rule supersedes or abrogates any existing rule or statute designed to allow for the remote testimony of a particular witness in an otherwise in-person trial so long as the statutory and constitutional requirements for that witness's remote testimony are satisfied.

(6) Nothing in this rule modifies or alters crime victims' rights under article I, section 8.1, of the Illinois Constitution (Ill. Const. 1970, art. I, § 8.1). The Illinois Constitution grants to victims the right to be present in the same manner as the defendant. If the defendant appears remotely, then the victim shall be afforded the opportunity to appear either in person or

remotely.

(7) Nothing in this rule modifies or alters any existing rules or statutes allowing remote appearances or requiring in-person appearances in Criminal Matters that involve the possibility of jail or prison time or Juvenile Delinquency Matters.

(e) Juvenile Abuse, Neglect, and Dependency Matters and Juvenile Intervention Matters.

(1) In Juvenile Abuse, Neglect, and Dependency Matters and Juvenile Intervention Matters, case participants shall be permitted to attend court via the circuit court's available remote appearance technology without any advance approval, except for the following proceeding types, which shall require the approval of the judge presiding over the matter:

(i) Evidentiary hearings;

(ii) Adjudication hearings;

(iii) Permanency hearings;

(iv) Disposition hearings;

(v) Termination of parental rights hearings; and

(vi) Any case type or proceeding type exempted from remote participation in accordance with paragraphs (b)(2) and (b)(7).

From: [https://www.15thjudicialcircuit.com/images/CourtRules/Part\\_4.pdf](https://www.15thjudicialcircuit.com/images/CourtRules/Part_4.pdf)

#### Rule 4.4 Remote Appearances

##### (a) Permitted Remote Appearances and Required Personal Appearances.

Except as otherwise set forth in this Rule, a person's opportunity to participate remotely in civil, juvenile, and criminal matters shall be as set forth in S. Ct. R. 45, 725 ILCS 5/106D-1, and 725 ILCS 5/109-1(f). Unless the Court has waived a person's appearance for a specific hearing or proceeding, a person not permitted by S. Ct. R. 45, 725 ILCS 5/106D-1, or 725 ILCS 5/109-1(f) to appear remotely must appear in person for the hearing or proceeding.

(b) Exemptions. Pursuant to S. Ct. R. 45(b)(1), Rochelle municipal court proceedings and all juvenile matters are exempt from the option in S. Ct. R. 45 to appear remotely without advance approval. Persons may appear remotely in these exempted case and proceeding types only with the Court's approval.

(c) Procedures for Appearing Remotely. Persons permitted to appear remotely should be aware of the following:

(1) All courts within the Circuit use Zoom for remote hearings. All persons desiring to appear remotely must be able to access and use the Zoom platform with devices capable of receiving and transmitting data without interruption.

(2) Zoom links to judges' courtrooms can be found on the Circuit's website, [www.15thjudicialcircuit.com](http://www.15thjudicialcircuit.com), or on each county's website:

Carroll County: [www.carroll-county.net/judicial/index.php](http://www.carroll-county.net/judicial/index.php)

Jo Daviess County: [www.jodaviesscountyl.gov/court](http://www.jodaviesscountyl.gov/court)

Lee County: [www.leecountyl.com/490/Judicial-Virtual-Courtroom-Links](http://www.leecountyl.com/490/Judicial-Virtual-Courtroom-Links)

Ogle County:

[www.oglecounty.org/departments/circuit\\_clerk/zoom\\_links\\_for\\_court.php](http://www.oglecounty.org/departments/circuit_clerk/zoom_links_for_court.php)

Stephenson County:

[www.stephensoncountyl.gov/government/circuit\\_clerk\\_and\\_court/zoom\\_courtrooms.php](http://www.stephensoncountyl.gov/government/circuit_clerk_and_court/zoom_courtrooms.php)

(3) Other information and assistance regarding remote appearances can be obtained from the websites identified above and from the Circuit Clerks:

Carroll County: (815) 244-0230

Jo Daviess County: (815) 777-2295

Lee County: (815) 284-5234

Ogle County: (815) 732-1130

Stephenson County: (815) 235-8266

(d) Procedures for Requesting Permission to Appear Remotely. Unless otherwise allowed by (1) an individual Court's own standing order or (2) a case-by-case exception made within the Court's discretion, a person seeking permission to appear remotely pursuant to S. Ct. R. 45(c) or (d) must seek that permission through a written motion filed, scheduled, and served as required by Local Rule 5.1.

(e) Conduct of Remote Hearings and Required Decorum. Unless otherwise ordered by the Court, remote hearings shall be conducted as follows:

- (1) The Court will host the hearing and control entry into the hearing;
  - (2) If requested by a party and if technologically feasible, the Court may allow breakout meetings, private chats, or other private communication between attorneys and clients during the hearing; provided, however, that during the testimony of any person, that person may not communicate by private chat with any other person;
  - (3) The Court is responsible for the official record of the remote hearing, and no party may record any part of the hearing through the Zoom platform or any other means;
  - (4) Any person permitted to testify remotely must appear by both video and audio;
  - (5) When a participant is not speaking, the participant shall mute her or his microphone;
  - (6) All participants must be in an environment free of video and/or audio distractions;
  - (7) No exhibit may be used during a remote hearing unless a copy of the pre-marked exhibit was provided to all other parties and the Court at least one full business day before the hearing;
  - (8) The Court shall be entitled to terminate or suspend the remote hearing for technological or other reasons at any time;
  - (9) 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 the Local Rules;
  - (10) The precise method in which a remote hearing will be conducted remains within the discretion of the Court, within the bounds of applicable law, rules, and practice procedures;
  - (11) All persons must use and display their real names (not aliases, "user," or "iPhone") on the Zoom platform to gain entrance to and participate in the hearing;
  - (12) If a party or a party's witness requires the use of an interpreter, that party shall be responsible for coordinating with the Court how the interpreter will be obtained and involved in the hearing;
  - (13) Participants should be appropriately dressed and conduct themselves as they would in a courtroom;
  - (14) Participants should ensure any background used is appropriate; and
  - (15) Participants should not sit directly in front of or behind a window or otherwise use lighting that interferes with the quality of the video.
- (f) Communication of Rule 4.4. To ensure persons desiring to appear remotely are informed regarding this Rule 4.4, a link to Rule 4.4 shall be created on each website identified in Rule 4.4(c)(3) and copies of Rule 4.4 shall be posted in each Circuit Clerk's office and available in each courtroom.