IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order 2020-42-Gen

**PROCEDURES FOR COURT PROCEEDINGS AND DEPOSITIONS HELD
USING WEB-BASED VIDEO CONFERENCING PLATFORMS**

(a)   Pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.

(b)   The Centers for Disease Control and the Florida Department of Health have advised people to take precautions in light of the Coronavirus Disease 2019 (COVID-19) outbreak, and specifically noting that the best way to prevent illness is to avoid exposure to the virus.

(c)   Because of the COVID-19 outbreak, Governor Ron DeSantis declared a State of Emergency on March 1, 2020, Broward County declared a Local State of Emergency on March 10, 2020, and the World Health Organization declared a global pandemic on March 11, 2020.

(d)   Since March 17, 2020, the Florida Supreme Court has issued various emergency administrative orders addressing the judicial branch's response to the COVID-19 pandemic.   The emergency orders can be found here: https://www.floridasupremecourt.org/Emergency.

(e)   On May 11, 2020, the Florida Supreme Court approved the Best Practices on the Management of Evidence in Remote Hearings in Civil and Family Cases ("Best Practices")[1] developed by the Workgroup on Continuity of Court Operations and Proceedings During and After COVID-19.

(f)   The Seventeenth Judicial Circuit is currently operating under temporary emergency procedures to continue all essential court proceedings and proceedings critical to the state of emergency and public health emergency, and all other non-

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[1] Although limited to civil and family cases, this Administrative Order is applicable to all cases.

essential court proceedings to the extent such proceedings may be effectively handled remotely using web-based video conferencing tools.

(g)   The development of procedures and guidelines for the use of web-based video conferencing platforms for all court proceedings, depositions, and sworn statements is imperative to maintaining the integrity of the judicial branch while continuing the court's operations in a fair, efficient and expeditious manner.

(h)   In accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, 43.26, Florida Statutes, Florida Rule of Judicial Administration 2.215, and to promote public safety amidst the current public health emergency, it is hereby **ORDERED:**

I.   <u>**GENERAL PROVISIONS APPLICABLE TO ALL COURT PROCEEDINGS, DEPOSITIONS, AND SWORN STATEMENTS**</u>

(1)   Nothing in this Administrative Order limits the discretion of the presiding judge to render appropriate decisions or to establish other procedures consistent with this Administrative Order and the Best Practices developed by the Supreme Court COVID-19 Workgroup. However, the presiding judge should ensure that any procedure independently established by the judge is equitable and does not result in an advantage to one party over the other. It is incumbent upon attorneys and self-represented litigants to inquire with the presiding judge to determine whether he or she has established additional procedures.

(2)   Until further order of the court, all court proceedings in the Seventeenth Judicial Circuit that are able to be effectively handled remotely shall be conducted using web-based video conferencing tools. Each judge may, in his or her discretion and where appropriate, utilize alternative technological means to conduct court proceedings (i.e., telephonic hearings). In all cases involving self-represented litigants, all efforts should be made to solicit a valid email address for purposes of service of pleadings and court orders.

(3)   In all instances, the presiding judge must consider the constitutional rights of all litigants, crime victims and criminal defendants, and the public's constitutional right of access to the courts.

(4)   All parties appearing remotely for a court proceeding, deposition, or sworn statement shall not engage in any unprofessional conduct.

(5)   **Oaths**

(a)   In all proceedings requiring testimony, oaths may be administered consistent with Florida Supreme Court Administrative Order AOSC20-23, *In Re: Comprehensive COVID-19 Emergency Measures for the Florida State Court (Amendment 2)*. No identification need be produced if the persons attending the deposition, sworn statement, or court proceeding stipulate to the identity of the deponent/witness.

(b)   The person administering the oath shall be a non-interested party, and is not required to remain on the video conference after administering the oath, unless such person is a court reporter responsible for recording and/or transcribing the proceedings.

(6)   **Witnesses / Deponents**

(a)   Unless otherwise permitted by the presiding division judge, witnesses/deponents shall:

(i)   Be alone in a quiet room during their testimony;
(ii)   Not use a virtual background; and
(iii)   Turn off all electronic devices except for the device enabling participation in the hearing and refrain from exchanging any electronic messages during their testimony. Any violation may be sanctioned by the presiding judge as permitted by law.

(b)   No document or other writing may be shown or provided to any deponent or witness unless such item is first shown to all other participants.

(7)   No party may use any electronic device to take photographs of any participant or to capture the audio or video of any court proceeding, deposition, or sworn statement that is held using web-based video conferencing tools without the express consent of all participants, including sworn law enforcement officers appearing for a deposition or in-court testimony. This provision does not prevent court reporters from digitally recording court proceedings, depositions, or sworn statements, when otherwise permitted, or members of the media from reporting court hearings, provided however, such member of the media complies with this Court's administrative order governing the media and any directive from the presiding judge.

II.   ADMISSION OF EVIDENCE

(1)   The following procedures and rules apply for the introduction of evidence in any court proceeding that is held using web-based video conferencing tools:

   (a) No later than two (2) business days prior to an evidentiary hearing or trial, all counsel and/or self-represented parties shall:

      (i)   Confer (via email, telephonically, or videoconference) to discuss the admissibility of evidence for the hearing or trial;

      (ii)   Pre-mark, in numerical order (*e.g.,* Pl. Ex. 1, Def. Ex. 1, etc.), all evidence, *excluding impeachment evidence*, that is to be admitted or offered and to upload such evidence to the 17th Judicial Circuit's Court Management System (Supporting Documents).[2]

   (b) Any party objecting to any evidence shall file a written motion setting forth the legal basis for the objection prior to the hearing.

   (c) The presence of an in-court clerk is required for any evidentiary hearing or trial held remotely. The in-court clerk shall create an evidence log of all exhibits admitted into evidence during the proceeding.

   (d) Any evidence log created by an in-court clerk may contain the following language: *This evidence log/exhibit list was created during the hearing/trial listed herein. The parties were ordered by the Court to file the evidence, consistent with this evidence log/exhibit list, subsequent to the hearing/trial.*

   (e) Immediately following the hearing, the in-court clerk shall email the evidence log to the judicial assistant for the presiding judge. Upon receipt, the judicial assistant shall email the evidence log to all counsel of record and/or self-represented parties.

   (f) *Filing of Evidence*

      (i)   No later than five (5) business days after receipt of the evidence log, the parties shall file all admitted evidence, together with a copy of the

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[2] A video tutorial on how to upload supporting documents to CMS is available here.

evidence log with the Clerk of Court. The filed evidence shall be marked numerically in the order admitted on the evidence log.

(ii) In cases where there is only one attorney of record, the attorney, as an officer of the court, shall comply with all provisions herein regarding the filing of evidence.

(iii) The Clerk of Court shall accept "paper" evidence from self-represented litigants.

(iv) If the presiding judge determines only the original writing, record, or photograph or other physical evidence is necessary to be admitted into evidence, after the hearing or trial, the moving party shall contact the Clerk of Courts evidence division (954-831-5537) to coordinate the Clerk of Courts' taking possession of the exhibit.

III. DEPOSITIONS

(1) *General provisions applicable to all depositions*

(a) All depositions should continue and shall be conducted using web-based video conferencing platforms in an effort to avoid substantial backlog and delays of pending and newly-filed actions.

(b) Notice

(i) The party taking the deposition is responsible for noticing the deposition in accordance with court rules.

(ii) The party noticing/scheduling the deposition shall be the "host" for purposes of the video conference.

(iii) The notice shall include the information regarding the web-based video conferencing platform to be used along with attendance details/instructions.

(c) Unless otherwise stipulated by the parties, no party shall utilize the recording capabilities of the web-based video conferencing platform to record (audio or video) any deposition.

(2)   *Depositions in criminal cases*

    (a) Depositions in criminal cases are not required to be conducted in the building in which the trial will be held.

    (b) This Administrative Order **does not** supersede or otherwise vacate the requirements of Administrative Order 2020-41-Crim (Electronic Recording of Criminal Discovery Depositions).

       DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 26th day of May, 2020.

/s/ Jack Tuter
Jack Tuter, Chief Judge