

(Additional suggested changes provided by Justice Lee and LACSN)

PREAMBLE FOR RULES OF VIRTUAL ADVOCACY

The rules for Virtual Advocacy in the courtroom were promulgated by the Commission to Study Best Practices for Virtual Advocacy to promote effective and efficient hearings by all Nevada courts, utilizing virtual means for select and defined court matters. The rules' purpose is to create time and cost savings, provide prompt hearings, and heighten access to justice for all parties.

The rules are designed to provide guidance for which court proceedings may presumptively be heard virtually through audio visual means. Because attorneys, their clients and the public should **always** have the ability to attend court proceedings in person if they so desire, judicial officers should always be present in the courtroom for any court proceeding.

These rules should be interpreted with reference to the purposes of legal representation and of the law itself. When participating in virtual court proceedings, attorneys and all parties must adhere to the Rules of Professional Conduct and, conduct themselves in an appropriate and respectful manner as if they were physically present in court. A lawyer and their clients are also expected to always present themselves in a virtual court proceeding with the same standards, protocols, and guidelines as if they were physically present for the court proceeding. **No provision of these rules should be construed to conflict with existing Supreme Court Rule.**

REMOTE/VIRTUAL HEARING PROCEDURES

In accordance with court rules, should any party wish to deviate from the presumptively virtual or presumptively in-person hearing format, as outlined in the attached "Presumptive Appearance Case Type" lists (Exhibits A-C), please refer to the following procedures to request accommodation from the Court. And ~~thes procedures, a party or witness may appear using virtual technology after providing notice to the court and all other parties. After receiving a notice or request for a virtual hearing, the court has the discretion to require an in-person appearance under certain circumstances.~~

If a party intends to deviate from the presumptive hearing format, they are to provide notice to the Court and other parties 48 hours prior to the appearance. In instances where 48-hour notice is not possible due to exigent circumstances, a party is to provide notice as soon as practicable.

If a case type is presumptively in-person, it is expected that all necessary parties will appear in person unless good cause is shown to justify a virtual appearance.

(Include pro bono exception to presumptive case type lists?)

Where there are cases involving representation by a pro bono attorney, the Court shall defer to the preference of the pro bono attorney, except that evidentiary hearings and trials shall be presumptively in person.

The protocols to request, appear, and conduct virtual hearings will be managed according to ~~local court virtual hearing rules and/or~~ the following procedures:

1. Scheduling

- a. ~~For any virtual proceeding. Once identified for proceeding by way of a virtual hearing,~~ the Court will notify the parties of the date and time of the hearing and will provide hearing access information.
- b. Parties (or counsel if represented) are to provide the Court with their current contact information prior to the occurrence of a virtual hearing. ~~at the time the request for virtual hearing is filed with the court.~~
- c. When a Court issues a notice of hearing, the notice should further notify attendees of a virtual option if such an option is available.

2. Attendance

- a. Parties, counsel, and identified witnesses will access the virtual hearing by visiting the appropriate court's public website, or by contacting the Court and following ~~its the court's~~ procedures and/or guidelines.
- b. Prior to the hearing date, it will be necessary for participants to access to the appropriate remote platform on their electronic

devices (computers, cell phones, or laptops).

- All participants must test remote platform app functionality prior to their hearing date.
- c. Most judicial proceedings are presumptively open to the public. As it does for "in person hearings", the Court retains discretion to "close the courtroom" for the virtual hearing based on the applicable statutory justifications for doing so.
- d. Judicial Districts shall post virtual court links in a conspicuous manner on the Judicial District's website so that members of the public, including friends or family, who wish to attend a virtual hearing are able to do so. ~~are to make a request directly to the appropriate court as outlined by the court's applicable procedures.~~
- Family members, friends, and members of the public who "attend" the virtual hearing are considered non-participants just as they would be for in-person proceedings.

3. Conduct at Hearing

- a. If the Court authorizes a virtual hearing at which evidence will be presented, all exhibits to be referenced during the hearing must be presented in accordance with court rules and procedures, as applicable.
- b. All other pertinent statutes and court rules will apply to the hearing.
- c. Proper courtroom ~~Business-casual or business~~ attire is required appropriate for parties, counsel, and witnesses.
- d. All participants must be able to be seen and heard by all other participants. All participants must have their camera ON when addressing the Court, unless excused.
- e. All participants must identify themselves with court-appropriate screen names.
- f. During the hearing, parties that are not testifying should have their microphones muted unless they are speaking.
- g. Participants utilizing the chat function should do so professionally and respectfully.

- h. Witnesses should be in a room alone during testimony, without access to any documents or papers, other than copies of exhibits already provided to the Court and opposing parties.
- i. **When the Exclusionary Rule is invoked, all parties shall be admonished accordingly to follow applicable court rules.**
- j. Attorneys and parties who are in separate locations may communicate privately via text or email during the hearing, provided however, parties may not communicate with counsel while they are testifying.
- k. No one may communicate with witnesses privately during their testimony the hearing without the Court's permission.
- l. All participants must be in an office or room with proper lighting. There should not be any distractions (noise or other things) occurring in the background.
- ~~m. All participants must have their camera ON when addressing the Court unless excused.~~
- n. Participants will be allowed to speak only when prompted by the Ceourt.
- o. Participants should ask to sign off before signing off to make sure they do not have any other issues to resolve.
- p. Attorneys are responsible for advising a clients's and witnesses regarding appropriate behavior while participating.
- q. If a party's internet connection is poor and the Ceourt is unable to view, hear, or understand an attorney or litigant, the Ceourt reserves the right to hear from the party telephonically, continue the matter, ~~or~~ take the matter off-calendar, or pursue any other remedy that the Court deems appropriate.

4. Court Reporters

- a. Refer to local court rules and procedures for the use of court reporters during virtual hearings.

5. Court Interpreters

- a. Refer to local court rules and procedures for the use of court interpreters

during virtual hearings.