

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

*Administrative Order 2020-42-Gen (Amendment 2)*

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

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(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) 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”)<sup>1</sup> developed by the Workgroup on Continuity of Court Operations and Proceedings During and After COVID-19.

(c) On June 23, 2021, the Seventeenth Judicial Circuit exited Phase 2 operations, transitioning to more in-person court proceedings. However, some court proceedings are able to be adequately conducted using web-based video conferencing tools, and the development of procedures and guidelines for the use of web-based video conferencing platforms for such court proceedings, depositions, and sworn statements is imperative to maintaining the integrity of the judicial branch.

(d) In accordance with the authority vested in the Chief Judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, Florida Rule of General Practice and Judicial Administration 2.215, it is hereby **ORDERED**:

**I. GENERAL PROVISIONS APPLICABLE TO ALL COURT  
PROCEEDINGS, DEPOSITIONS, AND SWORN STATEMENTS**

(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

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<sup>1</sup> Although limited to civil and family cases, this Administrative Order is applicable to all cases.

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. It is incumbent upon attorneys and self-represented litigants to inquire with the presiding judge to determine whether the judge has established procedures in addition to those set forth herein.

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

(3) **Oaths**

(a) In any court proceeding requiring testimony, oaths may be administered consistent with Florida Supreme Court Administrative Order AOSC21-17, *In Re: COVID-19 Health and Safety Protocols and Emergency Operational Measures for Florida Appellate and Trial Courts*, June 4, 2021. No identification need be produced if the participants stipulate to the identity of the deponent/witness.

(b) The person administering the oath shall be a non-interested party, and shall not be 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.

(4) **Witnesses / Deponents**

(a) Unless otherwise permitted by the presiding judge, witnesses or deponents testifying via a web-based videoconferencing platform shall:

(i) Be alone in a quiet room during their testimony. Counsel for the witness or deponent may be physically present with their client, provided he or she is also visible to all participants.

(ii) Not use a virtual background.

(iii) Turn off all electronic devices except for the device enabling participation in the hearing and refrain from exchanging any electronic or written 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 witness or deponent unless such item is first shown to all other participants.

(5) Except as otherwise provided herein or by applicable court rule or law, 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 required, or members of the media from recording and/or reporting court hearings, provided however, such member(s) of the media comply with this Court's administrative order governing the media, Florida Rule of General Practice and Judicial Administration 2.450, and any directive from the presiding judge.

## **II. ADMISSION OF EVIDENCE**

(1) The following procedures and rules apply to 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 video conference) to discuss the admissibility of evidence for the hearing or trial; and

(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).<sup>2</sup>

(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.

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<sup>2</sup> A video tutorial on how to upload supporting documents to CMS is available [here](#).

- (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 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 may be conducted in-person or using a web-based video conferencing platform.
  - (b) Web-Based Video Conferencing Depositions.

- (i) The party taking the deposition is responsible for noticing the deposition in accordance with court rules.
- (ii) The party noticing or 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 or instructions.
- (iv) Any deposition taken using a web-based video conferencing platform may be recorded without leave or court or stipulation of the parties, provided the deposition is taken in accordance with Florida Rule of Civil Procedure 1.310(b)(4).

(2) Depositions in criminal cases

- (a) Depositions in criminal cases may be taken using web-based video conferencing tools in lieu of physically appearing in the building in which the trial will be held, or such other location as agreed to among the parties.
- (b) Nothing in this Administrative Order supersedes or otherwise vacates the requirements of Administrative Order 2020-41-Crim (Electronic Recording of Criminal Discovery Depositions).

**DONE AND ORDERED** in Chambers, Fort Lauderdale, Florida, this 29th day of June, 2021.

/s/ Jack Tuter  
Jack Tuter, Chief Judge