

State of Illinois
Fourteenth Judicial
Circuit

CLARENCE M. DARROW
CIRCUIT JUDGE
ROCK ISLAND COUNTY COURTHOUSE
1317 THIRD AVENUE
ROCK ISLAND, IL 61201

COUNTIES:
ROCK ISLAND
HENRY
MERCER
WHITESIDE

MEMORANDUM

FROM: Clarence M. Darrow, Presiding Judge, Civil Division
TO: Rock Island County Bar Association
RE: Contested Telephonic/Video Hearings in Civil Cases
DATE: April 15, 2020

In light of the global coronavirus pandemic, remote hearings may be scheduled for contested civil matters pursuant to the attached administrative order. Initially, only cases in which all parties have attorneys and agree to the hearing being conducted remotely are eligible to be scheduled. As the use of remote hearings matures it is the intent to expand their use during the pandemic, to include cases with self-represented litigants when possible.

General requirements and procedures for remote hearings are spelled out in the attached order. Your assigned judge may exercise his/her discretion to establish additional parameters around these hearings. (For your convenience, please find Judge VandeWiele's standing order. If another judge decides to issue a standing order it will be distributed to the bar.) A clerk and court reporter will be present during remote hearings to ensure a record is made.

Video hearings will be conducted using the Zoom platform. The Zoom application is free to download and free to use for these hearings. It is your responsibility to ensure each participant (including witnesses) on your side of the case is prepared to operate Zoom via an appropriate device with sufficient internet connectivity. If you are not Zoom user, please use one of the many free online resources to familiarize yourself (and your client/witnesses) with Zoom to ensure hearings go smoothly. Telephone hearings will occur through conference calls to the courthouse.

Thank you in advance for your cooperation and persistence during these challenging days.

APR 15 2020

James R. ...
Clerk of the Circuit Court

STATE OF ILLINOIS
CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
ROCK ISLAND COUNTY
CIVIL DIVISION

CIVIL DIVISION ADMINISTRATIVE ORDER NO. 20CA-40

Protocol For Remote Hearings in Civil Cases During COVID-19 Pandemic

WHEREAS the Supreme Court of Illinois has issued order M.R. 30370 dated March 17, 2020, and the Governor of the State of Illinois has issued a disaster proclamation in response to the COVID-19 pandemic, this administrative order allows telephonic and video hearings on contested civil matters.

It is Ordered:

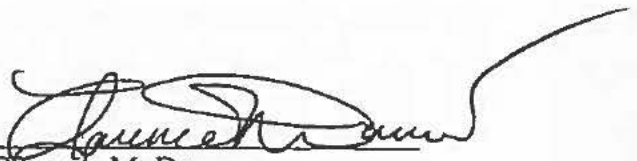
- 1) At the discretion of the assigned judge, arguments on contested civil court hearings (non-evidentiary) may be undertaken by way of remote hearing either telephonically or via the Zoom platform, and contested civil evidentiary hearings may be undertaken via the Zoom platform.
- 2) Notwithstanding the foregoing, if the parties file a consent that includes an appeal waiver on the issue of telephonic testimony the assigned judge may in his or her discretion approve a request to take witness testimony via telephone.
- 3) Eligibility for a contested remote hearing is limited to cases wherein all parties are represented by attorneys and in which all parties consent to the hearing method. These limits will be frequently reviewed and modified when possible in an ongoing effort to expand access to justice.
- 4) Except as otherwise provided for in this order, hearings conducted pursuant to this order shall be conducted to the same standards as hearings in a courtroom and in accordance with the Illinois Rules of Civil Procedure, Illinois Supreme Court Rules and the Rules of Practice of the Circuit Court, Fourteenth Judicial Circuit.
- 5) The precise method in which a remote hearing will be conducted remains within the discretion of the judge assigned to the individual case, within the bounds of applicable law, rules, and practice procedures.
- 6) Holding a hearing remotely requires proper preparation and planning. Steps required to be taken prior to any contested remote hearing are as follows:

- a. The attorneys shall e-file both a joint motion to set a telephonic or video remote hearing, consenting to the remote hearing, and a proposed order granting the motion. Actual facsimile signatures, not typewritten signatures, are required. Sample forms are attached as Ex. 1 and Ex. 2. The assigned judge will then review the file and either approve the order, or reject it and make a docket entry as to why. The judge may also conduct a telephonic hearing on the motion. Note: the filing of a proposed order is the only trigger that brings the motion to a judge's attention. A motion filed without a proposed order will not be seen nor acted upon by a judge.
- b. Upon entry of an order authorizing a hearing, counsel shall place a joint telephone call to the Court Administrator's Office (309-558-3260) to schedule the hearing.
- c. Three court days prior to a hearing the parties shall file a list containing the names and email addresses of the attorneys, parties and witnesses (if any) who will attend the hearing. All persons must use their real names (not aliases) while online to ensure they will not be prevented from entering the hearing.
- d. Three court days prior a hearing the parties shall exchange exhibits they intend to introduce into evidence and thereafter conduct a conference to identify any exhibit(s) they stipulate can 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.
- e. At least two court days before the hearing parties shall prepare and email to the circuit clerk at exhibits@co.rock-island.il.us proposed exhibits (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, CP1, CP2, RA, RB, D1, D2, etc;
 - iii. An index of all exhibits shall be included that states the number of pages in each exhibit;
 - 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.;

- v. The assigned judge may also require a courtesy copy of all exhibits and/or authorities either in electronic or paper form, and in such order and/or format as the judge otherwise directs.
 - f. On the day of a telephone hearing, it is the responsibility of the attorneys to coordinate a joint telephone call to Court Administration (309-558-3260) five minutes prior to the scheduled start time to ensure final necessary steps can be taken by court staff to start the hearing on time.
 - g. Attorneys of record will receive a notice via email a day prior to a video hearing with access instructions. On the day of a video hearing, it is the responsibility of the attorneys to ensure their clients and witnesses are available and ready to proceed at the appointed time.
- 7) Once an exhibit is admitted into evidence during the hearing, the clerk of court shall upload the exhibit into PCJIMS so that it becomes part of the record. Upon conclusion of the hearing the clerk shall not be obligated to maintain any proposed exhibits that were not made part of the court record and may delete them at the clerk's convenience.
- 8) Where the case is one that involves the use of an interpreter, early and careful consideration should be given as to how best to facilitate this involvement in the context of a remote hearing, to include coordination with Court Administration.
- 9) Where a witness attends the remote hearing, the witness will be sworn or affirmed by the judge prior to commencement of their testimony. In addition,
- a. The witness is to be alone, in a secure room with the doors closed. A record will be made by the judge of those conditions.
 - b. Witnesses and parties should wear appropriate attire and present themselves as they would if they were appearing in a physical courtroom.
 - c. The witness is to ensure that there will be no interruptions or distractions for the duration of their appearance at the remote hearing.
 - d. The witness should have recently read all affidavits, statements, and documents before the remote hearing and have a copy of those documents with them and identified in the same manner as the documents are filed with the clerk. This provision is not mandatory for materials to be used in cross-examination or in the examination of adverse witnesses.
- 10) The court reporter is the only person authorized to record the remote hearing by electronic means, stenography or any other method. Any recording by a party or other person of a remote hearing without the permission of the court is strictly forbidden.

- 11) American courts are generally open to the public and it remains highly desirable that the operations of the civil courts are as transparent as possible. Within this context, the court and the parties must consider how the press and public can have access to the remote hearing. The daily court schedule shall reflect that a hearing is remote and the date and time of such hearings. Members of the public and/or media who desire to observe a hearing should contact Court Administration for directions on how to attend. Observers are prohibited from speaking to witnesses or potential witnesses concerning any testimony or evidence until after the evidence has closed.
- 12) All parties attending the remote hearing should ensure they have good connection/signal to avoid a breakdown in connection during hearing. An Ethernet (wired) connection is recommended over a Wi-Fi connection. A poor video connection of a party or their attorney is not grounds to continue a hearing.

ENTERED this 15 day of April, 2020.


Clarence M. Darrow
Presiding Judge, Civil Division
Rock Island County

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
ROCK ISLAND COUNTY
GENERAL DIVISION

_____,)
Petitioner/Plaintiff,)
)
and) Case No: _____
)
_____,)
Respondent/Defendant.)

SAMPLE
Joint Motion For Leave to Schedule Remote Hearing

Now come the parties to this cause by and through their attorneys, _____ and _____, and move this Court for leave to schedule a remote _____ (insert either telephonic or video) hearing in the above captioned matter for _____ (insert requested time allotment). All documents required by statute, court rules, and administrative order have been completed and filed with the Circuit Clerk, and the parties consent to the requested hearing format.

Petitioner/Plaintiff

By: _____
I. M. Good
Attorney at Law

Respondent/Defendant

By: _____
I. M. Good
Attorney at Law

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
ROCK ISLAND COUNTY
GENERAL DIVISION

_____,
Petitioner/Plaintiff,
and
_____,
Respondent/Defendant.

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)

Case No: _____

SAMPLE

Order Granting Leave to Schedule Remote Hearing

The Court, having reviewed the Motion for Leave to Schedule a Remote Hearing and having reviewed the court file hereby orders that the motion is granted. The parties are authorized _____ (insert time allotment) of court time to schedule a _____ (insert hearing type (video or telephonic)) hearing.

All parties shall coordinate among themselves to place a conference telephone call to Court Administration (309) 558-3260 to schedule a time for the hearing. All necessary parties must be on the line when the call is made to Court Administration.

Entered: _____

Judge

Standing Bench Order for Video Conferencing
Judge Mark A. VandeWiele
April 15, 2020

1. The 14th Circuit has secured a limited number of Zoom licenses to conduct videoconferencing at the discretion of the assigned judge.
2. You can access Zoom through a PC (Zoom.com) or a Smartphone (Zoom app).
3. The court reserves the right to order any hearing or motion (or portion thereof) be conducted by telephone or videoconference as Illinois Supreme Court Rules may allow. (See SCR 185 and 241.)

HOW TO REQUEST A VIDEO HEARING

4. Parties should file a Joint Motion if they agree to have their hearing held by videoconference.
5. If there is no agreement, then a party may request a phone or video conference under SCR 185.
6. The Motion will be forwarded to the assigned judge who will either: grant the Motion; deny the Motion; or request a phone conference to discuss further.
7. If the Motion is granted:
 - a. The hearing is scheduled through Court Administration.
 - b. Attorneys of record will receive a notice via email a few days prior to the video conference with access code instructions.

ADVANCE PREPARATION

8. Advance preparation by attorneys is 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 insure the internet signal from the attorney's desired location (and your 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 your attire; as well as the disruption caused by ringing phones, children, and pets.

THE RECORD

13. Normal courtroom rules apply, even though some parties may not physically be present.
14. There is no audio or video recording of any part of the proceeding, the same as if a person was standing in a physical courtroom. There is 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. In most cases, the court reporter will serve as the video conference host.
16. Any person listening in on 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 from 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. Seventy-two hours prior to the hearing, each party shall upload their list of witnesses (if any) that will be called during the hearing with a brief non-argumentative listing of topics to be covered with that witness. Also indicate the name of any client(s) who will attend the hearing.

- a. For security reasons, only witnesses on the list will be granted access to the video conference.
 - b. The party calling a witness during the video conference must insure that witness is familiar with how to access the conference and see exhibits.
 - c. The attorney shall have a cell phone number to call/text the witness so that a non-party witness can be notified when to join the video conference.
21. An order to exclude non-party witnesses is 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 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 the witness in order to judge credibility. The burden is upon the proponent of that witness to insure that 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 telephone if:
- a. All parties so stipulate and agree to waive the issue on appeal. Or,
 - b. The trial court orders testimony by phone, as Supreme Court Rules may allow.

EXHIBITS

24. Exhibits shall be exchanged prior to the hearing and emailed to the Circuit Clerk at: exhibits@co.rock-island.il.us Identify to the Circuit Clerk which party is tendering which exhibit(s). All attorneys should approve the joint exhibit email submission.
25. Following a uniform numbering system eliminates the need to add plaintiff/defendant to the exhibit name and permits easy sorting within the exhibit file. Therefore:
- a. Exhibits shall be in PDF searchable form.
 - b. Each exhibit shall be a separate PDF document.
 - i. Each page within that PDF exhibit shall be numbered sequentially by the computer.
 - ii. Each exhibit document name shall start with the exhibit number then a brief descriptor of the document. **Ex. 125 – 2016 US Income Tax Return**
 - 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 to that 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.
 - iv. Representative exhibit name: **Ex. 225 – 2018 W-2**
 - e. Additional parties require additional numbering blocks to be allocated 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. This judge reserves the right to require a tabbed 3 ring binder containing paper copies of all exhibits plus an exhibit index. Check with me first.