

Protocol for Remote Civil Bench Trials  
And Arbitration Hearings

These protocols are intended to apply to Civil Bench Trials and Arbitration Hearings.

1. The parties will receive an email with a link, the meeting code, and dial-in information prior to the hearing date. Each party is responsible for making sure that their witnesses have the information to join the proceeding at the appropriate time. Use a Zoom Waiting Room that is configured to allow the judge to preview and admit only those parties necessary to the case at hand. This prevents participants from joining the remote hearing before the host has joined and is ready to begin. Witnesses should remain in the Zoom virtual Waiting Room until they are called. Once the necessary participants are connected, the trial or arbitration hearing will be called to order by the Judge or Chairperson of the arbitration panel.
  
2. Admonishments. In a proceeding using a court reporter the Judge or Chairperson should then give a version of admonishments A - J below. In trials or hearings without a court reporter the Judge or Chairperson should give a version of admonishments B, C, D, F, G, I, and J:
  - A) The court proceedings are on the record and we have a Court Reporter present on Zoom. All conversations can be heard by all the other parties present and will become a part of the record.
  - B) Remember that this is a formal proceeding. Treat it as if you were present in the courtroom. All witnesses and participants, whether joining by video to telephone, must remain in a single, stationary location while connected to the proceeding.
  - C) The public is also able to view these proceedings as a Livestream on YouTube.
  - D) There are multiple participants in this proceeding. If you are not speaking, mute yourself so we do not pick up background noise or unwanted audio feedback. Please take a moment to locate the mute button on your screen. Clicking the microphone will enable you to mute and unmute. If the Court mutes you, I will let you know that I will be doing so.
  - E) When you want to speak, unmute yourself and identify yourself by stating your last name. Identify yourself each time we change who is speaking, otherwise, the Court Reporter may have a difficult time determining who is speaking. If you have an objection, state the objection followed by your name or other identifying title. Wait until questions are completed before announcing an objection. The Court Reporter may interrupt from time to time to clarify who is speaking.
  - F) When you speak, please make sure that you speak slowly and clearly. Please do not speak over one another or interrupt one another.

- G) The Court will admit witnesses into the virtual Courtroom from the Waiting Room one at a time. Do not allow or encourage witnesses to watch the Livestream during the hearing or assist them in any way in violating this rule. Do not communicate with the witness through any format during the proceeding. Witnesses may not hold any notes or paperwork in their hands while they are testifying.
  - H) Verbal responses are essential in order for the Court Reporter to take down what the speaker said.
  - I) If a participant or witness has limited internet access or experiences problems with an internet connection during these proceedings, they should immediately dial in using the dial-in information and meeting code provided in the Zoom invitation that they were given. Once dialed-in they will be admitted through the Waiting Room.
  - J) Video or audio recording of this proceeding by any party through any device or format is strictly prohibited. Failure to comply with this admonishment may result in the imposition of sanctions or in a finding of contempt.
3. The trial or arbitration hearing should then begin as it normally would with opening statements and then the presentation of evidence.
  4. As each witness is called, the Judge or Chairperson will admit that witness from the waiting room for testimony. Witness should only be admitted one at a time as they are called to testify.
  5. Once the witness is admitted they will be sworn-in by the Judge or Chairperson. This procedure will remain the same as during a physical court appearance if all parties appear by Zoom. However, if there is any question as to the identity of a participant appearing by Zoom, the Judge or Chairperson may require identification through a driver's license or another form of identification. If a party is unable to appear by Zoom and is present by telephone only, the Judge or Chairperson must verify that the participant is the person he or she claims to be. This can be accomplished by asking other participants if they recognize the witnesses voice and/or by asking other identifying questions. If verification is established, the oath can be administered as set forth above.
  6. Exhibits will have been exchanged prior to the trial in accordance with each courtroom's standing order. All exhibits should be numbered and labeled and include an exhibit list describing each item, along with columns that indicate whether each item was admitted into evidence. During the trial, the previously distributed exhibits will be presented utilizing the Zoom Share Screen feature. Parties may submit unanticipated rebuttal evidence or impeachment during the trial through the Share Screen feature as well. Share Screen can be used to lay foundation, refresh recollection, and authenticate signatures. The Court should not allow an exhibit to be shown on Share Screen without permission. The Court can disable file sharing and then only enable it after the participant receives

permission to show the exhibit. This also ensures no one improperly or accidentally uses exhibits. Once the Court has ruled on an exhibit, the exhibit list should be marked accordingly. At the conclusion of the proceeding, the parties should be instructed to retain their own exhibits, and the Court's copy of the marked exhibit list should be placed in the court file kept by the Circuit Clerk and made part of the official record.

7. Tangible exhibits may require the proponent to be present in court unless the parties can reach a stipulation or agree to substitute photos or a video. If necessary, the parties may also agree to deliver tangible exhibits to the Circuit Clerk for preservation of the record. In appropriate circumstances, the Judge can require counsel to file an image of the physical item with the Circuit Clerk in lieu of the original item. Parties may show tangible exhibits on video to or by a witness through Share Screen and should be viewable by everyone present in the virtual courtroom. Agreements regarding tangible evidence should be discussed in advance of the virtual proceeding.
8. Once a witness who is not a party has completed their testimony, the Court should require that they exit the proceedings. If there is a possibility that the witness may be recalled, the Court and parties should try to reach an agreement that would allow the remainder of that witnesses' testimony to be taken out of order. In the absence of such agreement the Court or Chairperson should place the witness back into the Waiting Room. If the non-party witness is excused, they should be terminated from the session and can view the proceedings using the Court's YouTube livestream.
9. For proceedings that require an official record, a court reporter furnished by the 19<sup>th</sup> Judicial Circuit should be used whenever one is available. The Court Reporter will attend the proceeding as a Zoom participant, and the Gallery View setting on Zoom should be used so that the Judge and the Court Reporter can see all the participants and more clearly know who is speaking.
10. In the event a Court Reporter is not available, the Judge may utilize the Zoom recording feature. A *Memorandum on Remote Hearings* issued by the Illinois Supreme Court provides as follows:

Supreme Court Rule 46 allows for recording of court proceedings by "stenographic means or by an electronic recording system approved by the Supreme Court." The following describes approved use of recordings made by video conferencing services under Rule 46.

- At all times during the making of the record, the court shall be in total control of the means of recording, regardless of platform, and may not delegate that control to any attorney, party or witness to the proceeding.

- If Court Reporting Personnel as defined under SCR 46(c) are available to take the record of a remote hearing via stenographic means, they shall do so under the direction of the judge.
- If the record is not taken by stenographic means:
  - The following video conferencing services are approved electronic recording systems under Supreme Court Rule 46 (Official Record of Court Proceedings): [list those recommended by chief judges work group – ie., Zoom, Webex, etc.].
  - The platform used for video conferencing must be capable of making a recording that produces a reliable verbatim record of the proceeding.
  - The electronic recording produced by the court should be saved and secured locally, on a computer or server that provides a secure storage platform. The recording should not be archived and left on the video conferencing service’s cloud. Security should be used to prevent access to the electronic recordings, thereby allowing access to only the judge and court reporting personnel.
  - Consistent with Supreme Court Rule 46, the electronic recording from an approved video conferencing service may be used in the preparation of the transcript that serves as the official record of court proceedings.
  - Judges and Court Reporting Personnel should work together to determine the best configuration of technology at the courthouse and/or home that will produce the most clear and reliable verbatim record of the proceedings.

11. The Judge or Chairperson can move participants to separate Breakout Rooms for privacy and when otherwise appropriate. The Judge or Chairperson may use the Breakout Room with the attorneys for a side bar, to rule on objections, or a Breakout Room may be used by an attorney to consult with their client. Interpreters and Court Reporters should be included in the Breakout Room when appropriate. Otherwise, the Breakout Room is not recorded.

12. When an interpreter is used, the Judge or Chairperson should ensure that the language interpreter has identified himself/herself for the record and that the record includes for whom the interpreter is present. The Judge or Chairperson should also administer the oath to the interpreter at the start of the proceeding. The Judge or Chairperson hosting the Zoom proceeding must enable the language interpretation feature and designate a participant as the interpreter in the proceeding. When the proceeding begins, the Judge or Chairperson can start the interpretation feature which will give the interpreter access to his or her own audio channel. Participants can select an audio channel to hear their language of choice. Participants will hear the translated audio and can choose if they want to hear the original audio at a lower volume.

13. At the end of the trial or hearing, the Judge or Chairperson should conclude the matter in the same manner as if physically in court. Before concluding, the Judge or Chairperson should reaffirm that the participants were present for the entire virtual proceeding and that they were able to hear what was said.
  
14. At the conclusion of the trial or hearing an appropriate order should be entered reflecting Court's or Panel's ruling. The Judge or Chairperson may prepare the order himself or herself or designate a party to prepare the order and email it to the courtroom clerk for signature.