

PROTOCOLS FOR REMOTE VIDEO
PROCEEDINGS IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA



James A. Byrne – U.S. Courthouse - Philadelphia

February 2024

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PROTOCOL FOR REMOTE APPEARANCES

Introduction

Remote appearance technology can, under some circumstances, facilitate access to justice. Subject to the discretion of the presiding judge, consistent with Federal Rule of Civil Procedure 42(a) and Federal Rule of Criminal Procedure 26, certain civil and criminal proceedings in the United States District Court for the Eastern District of Pennsylvania may be heard in-person, by remote court appearance, or by a combination of in-person and remote court appearance.

These *Protocols* will ensure that your participation in a remote hearing occurs without interruption and is in accordance with the level of decorum expected in a federal court. When individuals are permitted or required to appear remotely, they must conduct themselves as though they were physically inside a courtroom. Remote court appearances are no less important or less formal than in-person court appearances.

These protocols apply to all individuals who are required or permitted to appear before the Court remotely, including lawyers and their assistants, litigants, and witnesses. These protocols apply with equal force to members of the public and the media who wish to observe court proceedings remotely. Enforcement of these protocols and any sanctions for violating them are subject to the discretion of the presiding judge.

If the Court allows or requires an individual to appear remotely, it may at any time cease the remote appearance and take any measure it considers appropriate, including issuing an order that a participant attend the hearing in-person.

Proceedings the Court may consider scheduling remotely include:¹

- Civil non-jury trials
- Civil hearings
- Scheduling hearings
- Rule 16 conferences
- Discovery disputes
- Final pretrial conferences
- Arbitration Trials²
- Select criminal proceedings

¹ This list is not exhaustive, and nothing in these protocols is intended to limit the discretion of the presiding judge to proceed telephonically without video where appropriate.

² As provided by Local Rule.

Prohibition on Photography, Recording and Broadcasting

Audio or video recording, photographing, broadcasting, livestreaming, reproducing, screenshotting, or otherwise disseminating the video, audio, or any photograph of any remote court hearing is prohibited.

Proper Use of Remote Appearance Technology

- Participants must ensure that they have adequate computer or cellular device technology, a stable internet connection with sufficient bandwidth, or adequate cellular network coverage prior to making a remote court appearance.
- When testing and verifying your technology, pay particular attention to the quality of your microphone. Because most proceedings are audio recorded, audio quality is critical.
- Before appearing remotely, participants should test their technology from the location that they intend to appear from, and with the same equipment that they intend to use.
- For most remote video proceedings, the United States District Court for the Eastern District of Pennsylvania uses the third-party ZOOM or Microsoft Teams platforms.
- Participants should ensure that their devices are connected to a power source. Remote video appearances can deplete battery life very quickly.
- If technical difficulties prevent a participant from hearing or seeing a proceeding, they should immediately notify the Court by speaking, raising their hand, or using ZOOM's/Team's "Raise Hand" function.
- If you are participating in the proceedings and become disconnected from the hearing, you should attempt to rejoin immediately. When possible, have access to a second device to contact the Court or other participants if technical issues cause you to become disconnected.
- Participants should identify, write down, and be prepared to use the dial-in access telephone number associated with the videoconference as a back-up.
- To minimize disruptions, participants should turn off all unnecessary notifications, applications, and programs on their cellular or computer devices.
- Participants should connect to the courtroom prior to the scheduled start time, allowing sufficient time to address potential technical issues.
- Upon establishing a remote appearance connection, you may receive a message that the proceedings have not yet commenced. If this occurs, you should follow the on-screen instructions.
- Participants should have their camera on, unless directed otherwise.
- Use of the "speaker" function for computer and cellular devices should be avoided.
- Counsel, litigants, and witnesses are strongly encouraged to use a headset or earbuds with an integrated microphone, or the technological equivalent. The use of such equipment provides a better audio experience.

- Participants should keep their microphones muted unless they are speaking. This will reduce the potential for background noise. You must remember to unmute prior to speaking.
- Participants should never place the Court on “hold”, nor “pause” the proceedings.
- Cameras must be maintained in a steady position to ensure that a stable image is displayed to the Court.

Required Decorum and Etiquette

- Barring exceptional circumstances approved by the Court, remote appearances must be conducted from a quiet and private indoor location, free from distractions such as the presence of pets or other individuals passing through the frame of view. Remote appearances must not be made while traveling by motor vehicle or any other mode of transportation.
- On-screen backgrounds or physical items indicating personal, political, or religious beliefs including but not limited to advertisements, flags, pins, and banners are not permitted. Additionally, on-screen backgrounds or physical items in the space depicting inappropriate content are not permitted.
- Participants should have their head and upper torso area visible to the camera, unless the presiding judge directs otherwise. Individuals appearing remotely should do so from a seated or standing position, and should not appear before the Court while slouching, reclining, or lying down, unless they are required to do so for medical reasons.
- Counsel, arbitrators, and court staff must ensure that the remote setting from which they appear has a professional appearance, and they should not use remote court appearances as an opportunity to advertise for legal services.
- Counsel, arbitrators, and court staff must wear business attire, as though they were attending court in-person. Other participants appearing remotely must be fully attired, as though they were attending court in-person. Hats or headwear are not permitted, except for religious or medical reasons. Sunglasses should not be worn, except for medical reasons.
- Participants must not eat, or drink anything other than water.
- Smoking and vaping are not permitted while making a remote court appearance.
- Only one participant should speak at a time.
- Be sure to unmute your microphone before speaking. Speak clearly enough for everyone to follow along and hear what you are saying.
- Avoid speaking over other participants, or the presiding judge or arbitrator. When you are finished speaking, mute your microphone.
- When speaking, you should look at your camera.
- When appearing remotely, you are not required to stand when the proceeding starts or ends, and you may remain seated while addressing the Court.
- Observers cannot use inappropriate identifiers or backgrounds, nor can they attempt to disrupt the proceedings or distract the Court. The Court may take any measure that it considers appropriate to limit or if necessary, prohibit remote participation.

Proper Presentation of Evidence

- Any other person present with a participant at a remote location must be identified and should be visible throughout the proceeding. No person may attempt to communicate, electronically or otherwise, with any testifying witness, unless the witness is granted leave of court to confer privately with counsel.
- Remote participants with documents, photographs, videos, or other materials relevant to their case should have such items ready and know how to display/share them on-screen should they be permitted to do so by the Court. The display of any such content is to occur only with the permission of the presiding judge. Whenever possible, counsel should provide hard copies of documents and exhibits to the judge in advance of the proceeding.
- Witnesses should not refer to documents or any other material while testifying, unless granted permission to do so by the Court.

Lawyers are expected to provide these protocols to their staff, clients, and witnesses in advance of any remote proceeding.