

IN THE SUPERIOR COURT OF WALTON COUNTY
STATE OF GEORGIA

In Re: Hearings and Trials held
via video-conferencing

STANDING ORDER AS TO ALL MATTERS ASSIGNED TO
JUDGE JEFFREY L. FOSTER ("1") and PRESENTED
VIA VIDEO-CONFERENCING

FILED IN OFFICE
CLERK SUPERIOR COURT
WALTON COUNTY GEORGIA
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WHEREAS the use of video-conferencing for courtroom proceedings has been encouraged as a result of the COVID-19 Pandemic to minimize the risk of spreading viral infection and may likely continue to have use for some matters after the expiration of any judicial emergency orders; and,

WHEREAS this Court has had sufficient experience with video-conferencing to identify shortcomings and difficulties;

NOW THEREFORE, this Court, if permission to appear via video-conferencing has been granted, shall henceforth require all persons, whether attorneys or parties to an action (hereinafter participants), for shall to abide by the terms set forth below.

Accordingly, **IT IS HEREBY ORDERED** as follows:

1. The Court or its designee will send out the official link for video-conference access to hearings. Currently the Court utilizes WebEx or Zoom. Regardless of the platform used, Participants shall be responsible for having the necessary technology to utilize the platform the court may designate.
2. Court reporters and translators must appear in person.
3. Participants shall dress in court appropriate attire, shall not utilize cellular telephones or other electronic devices while on camera (unless necessary to review evidence during the hearing), shall not eat or drink while on camera, and shall not have children or pets present while on camera. Use of video-conferencing for a court hearing does not relieve a participant of the responsibility to obtain child care for the call of the calendar and the presentation of a hearing.
4. Participants shall appear at the call of the calendar with their video camera active and the microphone muted. Participants shall unmute their microphone to respond to the call of the calendar, and to participate in the hearing. Participants shall remain in the hearing, but may turn off the camera after the calendar call until their matter is recalled.
5. Participants must ensure the following in order to utilize video-conferencing:
 - a. they are located in an area with minimal background noise and no interruptions;
 - b. they have sufficient internet or 4G/5G signal to participate;
 - c. they are not in a moving motor vehicle;
 - d. that lighting is adequate so that they may be clearly seen. This includes taking into account any background lighting that interferes with the video camera's ability to focus upon and present the image of the participant clearly;
 - e. that microphones and speakers are appropriately placed to eliminate feedback.

Participants are strongly encouraged to test the technology and location in advance to verify compliance with the above. Failure to take these minimally necessary steps shall be treated as a failure to appear and participate in the matter being heard. This will not be grounds for a continuance.

6. When a participant is not actually speaking to the Court or responding to Court matters, their microphone shall be on mute. Failure to mute the microphone or excess background noise that disrupts any proceeding shall be treated as a willful disruption of, and interference in, court proceedings. Participants may be removed from the video-conferencing platform and/or held in summary contempt of court. This will not be grounds for a continuance.
7. During the actual hearing of a case via video-conferencing, participants shall remain on video and in view, and shall keep their microphone on mute unless and until they are required to speak. Failure to remain on video shall be treated as a failure to appear and participate in the matter being heard. This will not be grounds for a continuance.
8. No witness may be located in the same place as another witness or party, unless the witness is present at the office of the attorney intending to call them as a witness. In such circumstance, Counsel shall state such on the record and acknowledge that, as an officer of the court, counsel and their staff will police the Rule of Sequestration, keep them separated from the location of the actual video conferencing, and have them refrain from discussing testimony in the case. Should witnesses to appear via video-conferencing in compliance with the order, they will be deemed to have failed to appear to testify or to have violated the Rule of Sequestration and their testimony may not be presented.
9. The Court expects the presentation of evidence to be efficient and as seamless as possible regardless of the use of video-conferencing. The Court understands the desire of attorneys to minimize the advance disclosure of evidence intended for introduction at a hearing or trial (and the concomitant disclosure of trial strategy) and the conflict with the need to have evidence available for review by people in different locations during the hearing. This Court must also ensure the financial burdens, the time burdens, and the responsibilities of reviewing, printing and distributing documentary or photographic evidence is properly placed upon participants, and not court staff or the Clerk of Superior Court. Accordingly, all participants wishing to submit evidence during the course of a hearing held via video-conference, shall comply with the following requirements:
 - a. Any exhibits a participant intends to introduce as evidence, or exhibits intended for demonstrative purposes that a participant may wish to use with a witness at a hearing or trial being conducted via video-conferencing, must be delivered as a hard-copy to the Judge's staff at least 24 hours in advance, properly labelled as exhibits, with exhibit numbers, and sealed. These will only be viewed in Court when appropriate. If such items are tendered but not admitted, tendered and admitted into evidence, or admitted for demonstrative purposes, they will be filed with the Clerk of Superior Court.
 - b. The same evidence provided to the Court in advance of the hearing or trial shall also be delivered electronically to opposing counsel no later than 3 pm on the calendar day prior to the scheduled hearing.
 - c. It is incumbent upon participants to ensure they, and any witnesses they intend to call, have access to electronic copies of any exhibits, whether their own or those of opposing counsel, or that which they may choose to use for purposes of impeachment. Access to any such material must be able

to occur in real time during the hearing be capable of being viewed by all participants, any relevant witness, and the Court while also appearing in the video feed.

- d. If a participant or witness cannot open and review evidence electronically in real time on the court day, while participating in a video-conference hearing in compliance with other provisions of this order, they must appear in person.

Failure to follow the provisions of this order will be treated as though the participant chose not to bring or present evidence or exhibits in court, or that the participant chose not to confront or cross-examine a particular witness with an exhibit.

10. As would occur at any in-person hearing, neither the Court, nor Court staff, will provide instruction or tutorials on the use of video-conferencing platforms. Neither the Court, nor Court staff, will intervene during the course of a hearing to assist in the handling or presentation of any demonstrative aid or evidence. Failure to follow the provisions of this order will be treated as though the participant chose not to bring or present evidence or exhibits in court, or that the participant chose not to confront or cross-examine a particular witness with an exhibit.
11. Any participant who will be appearing in a hearing in which someone is using video-conferencing, whether at their own request or not, shall be responsible for becoming sufficiently proficient in the use of the platform selected by the Court, specifically the screen share functions or other means of publishing evidence, charts, diagrams, etc., that they wish to show the Court, a party, a witness or opposing counsel. Failure to follow the provisions of this order will be treated as though the participant chose not to bring, present or publish evidence or exhibits in court, or that the participant chose not to confront or cross-examine a particular witness with an exhibit.

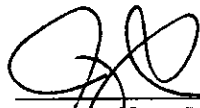
Failure to comply with this order may result in the following:

- a. a finding of contempt;
- b. a finding that the participant has elected not to participate in the hearing;
- c. the exclusion of evidence and/or testimony of a witness;
- d. or such other findings or remedies as may be appropriate.

If the Court grants a continuance based upon the failure of a participant to comply with this order, thereby unnecessarily expanding the litigation, the offending participant may be ordered to pay attorney's fees and costs incurred by the non-offending participant associated with the hearing date for which a continuance was granted.

NOTICE OF THIS ORDER SHALL BE POSTED ON THE ALCOVY CIRCUIT WEBSITE, FORWARDED TO THE BAR ASSOCIATIONS OF THE ALCOVY CIRCUIT, AND ATTACHED TO COMMUNICATIONS OR NOTICES ABOUT SCHEDULED HEARINGS USING VIDEO-CONFERENCING

SO ORDERED, this 22nd day of MARCH, 2021.



Hon. Jeffrey L. Foster
Judge, Superior Courts
Alcovy Judicial Circuit