

Judge Burgess's Hearing Procedure

These procedures only apply to hearings before Judge Burgess

Remote Access

I. Permitted Remote Access

A. All trials and evidentiary hearings require **IN-PERSON** attendance unless otherwise noted on the Order Scheduling or Notice of Hearing.

B. All motions to compel disclosure or discovery, motions for protective order, or similar motions set for hearing require in-person attendance by all parties to the dispute (counsel and client) unless otherwise ordered by the Court. No telephonic or Zoom appearances will be allowed for hearings on discovery disputes unless otherwise ordered by the Court. **The Court's general authorization for counsel outside of the Division of the Presiding Judge to appear remotely does not apply to hearings related to discovery disputes.**

C. For certain non-evidentiary hearings, the Court provides remote access to hearings through Zoom Video Communications, Inc. ("Zoom"). Please see [Appearances Before Judges Brown, Burgess, and Funk](#) to determine who qualifies to appear at a non-evidentiary hearing via Remote Access.

D. In accordance with the [broadcast policy](#) of the Judicial Conference of the United States for public access to civil and bankruptcy proceedings effective as of September 22, 2023, no member of the press or the public may observe any hearing by video on Zoom, but members of the press and the public may observe certain non-evidentiary hearings by audio only on Zoom.

E. Again, no remote access is permitted for any evidentiary hearings or Trials.

F. CourtCall is **NO LONGER** allowed for Remote Appearances.

II. Remote Access Procedures

Unless otherwise ordered, the following procedures apply to permitted remote appearances at hearings:

A. **Registration Required in Advance.** To participate in a hearing remotely via Zoom, you must register in advance no later than 3:00 p.m., one business day before the date of the hearing, except for hearings set on an emergency basis, in which case participants must register at least one hour before the hearing. Upon registration, Zoom will provide a password-protected link for the Zoom conference. All participants must conduct a pre-hearing test of Zoom using the same equipment that they intend to use during the hearing.

B. Registration Process.

To register for a remote appearance via Zoom, click [here](#), or manually enter the following web address into a browser:

<https://www.zoomgov.com/meeting/register/vJlsdumhqT4sG1ht0clKKW1F9hwW9Ab34tI#/registration>

Fill out all required information on the registration page. If you have more than one matter set for hearing on the same date and time, you only need to register once for that date, but you must provide all relevant case numbers, case names, and client names in the registration process.

C. Recording Prohibited, Official Record. No person may record the proceedings from any location by any means. The audio recording created and maintained by the Court will be the sole basis for creation of a transcript that constitutes the official record of the hearing.

D. Media and Public Unauthorized Video Access. If during any hearing the Court determines that a member of the media or the public has logged on to Zoom by video, the Court may (a) request the person to log off (with the option to log back on by audio only), (b) disconnect the person from Zoom, or (c) disable video broadcasting of the hearing for all participants (resulting in only audio access for all remote participants).

E. Conduct During Hearing. To avoid distractions during the hearing, all participants must mute electronic devices and disable all audible alerts. Although conducted using remote conferencing technology, the hearing is a court proceeding and the formalities of the courtroom must be observed. Counsel and witnesses must dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court. For hearings with multiple matters set at the same time, participants attending by video conference should keep their cameras off until their matter is called, at which time they should turn on their cameras for their particular hearing, and then turn them off again after their matter has concluded.

Persons participating in a hearing remotely also must:

1. ensure that the display name shown on Zoom is their full name;
2. state their name each time they speak;
3. speak audibly, clearly, and slowly; and
4. mute their microphone when they are not talking.

Failure to comply may result in an incomplete or inaccurate record of the proceedings.

Please note that when appearing remotely, you are connected directly with the sound system in the courtroom and will be able to hear all activity before the Court just as if you were in

the courtroom. As with appearances in person, you must wait for the Judge to call the case, at which point he will request appearances and direct the manner in which the hearing proceeds. At the conclusion of your matter, you may disconnect from the Zoom meeting without requesting to be excused.

F. **Remote Witness Testimony.** In accordance with Federal Rule of Civil Procedure 43(a) (made applicable by Federal Rule of Bankruptcy Procedure 9017), upon approval by the Court for good cause in compelling circumstances and with appropriate safeguards, a witness may be permitted to testify by contemporaneous transmission from a location other than the courtroom.

1. **Rule 43(a) Motion Requirements.** The party seeking relief under Rule 43(a) must file a timely motion. In the absence of an unanticipated emergency, any last-minute motion will be denied without a hearing. Any motion under Rule 43(a) must include the following information:

- (a) The name and title (if applicable) of the witness;
- (b) The reason why the witness requests to appear remotely;
- (c) The matter(s) on which the witness is anticipated to provide testimony;
- (d) The city, state, and country from which the remote witness will be testifying;
- (e) The type of place (i.e., home, office, hospital, airport, etc.) from which the remote witness will be testifying;
- (f) Whether anyone will be in the room or able to communicate with the remote witness during the testimony and, if so, for each such person, the person's name, title, relationship to the remote witness, and purpose for being present or able to communicate with the witness; and
- (g) Whether the remote witness will have access to any documents other than exhibits that have been provided to the Court and the parties and, if so, the identity of each such document.

2. **Remote Testimony Procedures and Requirements.** If a witness is authorized to testify remotely, the Court will administer the oath to the remote witness by video conference, and the witness's testimony will have the same effect and be binding upon the remote witness in the same manner as if the remote witness was sworn in by the Court in person in open court. As appropriate safeguards required by Rule 43(a), the Court also requires that:

- (a) if requested, the remote witness must disclose the city, state and country, and the type of place (such as home or office) where she or he is located while testifying;
- (b) no other person is permitted to be in the same room with the remote witness unless specifically authorized by the Court;

- (c) the remote witness may have with her or him only those documents also provided to the Court for consideration in connection with the matter(s) set for hearing and no other documents or data unless specifically authorized by the Court; and
- (d) no person may communicate with a witness during his or her testimony, except by direct examination or cross-examination on the record, unless specifically authorized by the Court.

3. **Responsibility for Remote Witnesses.** The party sponsoring the remote witness is responsible for ensuring that the remote witness has registered with Zoom and obtained the link to the video conference, the remote witness has obtained all exhibits before the hearing, and the remote witness has the technological capability to participate in the hearing via Zoom.