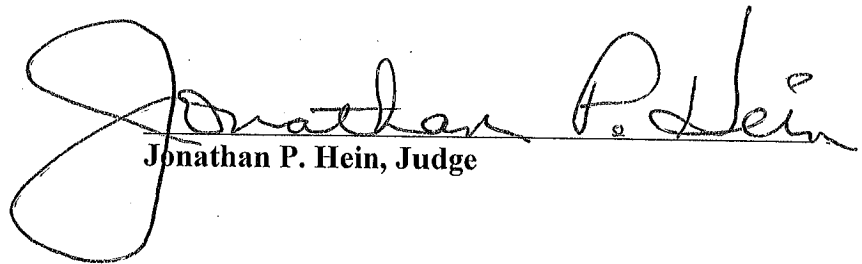


IN THE COMMON PLEAS COURT OF DARKE COUNTY, OHIO

Local Rule 14 - : **20-CV-00420**
: :
Adopting Policies and Practices for Electronic : :
: :
Appearances During Court Proceedings : **JONATHAN P. HEIN, Judge**

JUDGMENT ENTRY
(electronic appearances)

Local Rule 14 – as attached – is adopted by the Court to establish policies and practices for electronic appearances in the Court.


Jonathan P. Hein, Judge

LOCAL RULE 14: ELECTRONIC APPEARANCES

The intent of this local rule is to promote uniformity in the practices and procedures related to telephone and video appearances in cases before the Darke County Court of Common Pleas, General Division, where permitted by these rules, court order, statutory or other rules of this court or the courts of Ohio. Believing in the necessity for electronic appearances, and the numerous attendant benefits therefrom, the Court expects to liberally apply this local rule. Counsel and parties are encouraged to advise the Court when circumstances indicate that remote technology will be beneficial.

Notwithstanding any provisions of this rule, there is no entitlement to an electronic appearance. Only the Court may implement this Local Rule and permit a party, witness or counsel to electronically or remotely appear in court for any conference, hearing, or proceeding.

For all such electronic appearances, the Court shall provide a means of access for the public at any time the public has the right to be present in the proceeding.

- A. **ELECTRONIC APPEARANCES.** If the Court determines that an electronic (aka remote) appearance would not materially hinder the progress of any proceeding or would not hinder the effective management or resolution of any particular case, at the Court's discretion, a witness or party may testify via electronic method, provided there is effective audio and video communication. Factors for the Court to consider regarding the necessity of electronic appearance include: the witness / party / counsel's remote distance from the courthouse, scheduling conflicts, gravity / complexity of the subject matter, economic efficiencies and integrity of the judicial process. Other factors may also be considered.
- B. **REQUESTS.** Though implementation of the rule remains in the Court's sole discretion, parties, counsel and witnesses are encouraged to move the Court to permit appearances by electronic methods. "Electronic methods" includes telephone and video-conference methods. Such requests should articulate the reasons therefor.
- C. **NOTICES.** The Court shall give notice of the electronic method, the time and the person who will initiate the electronic method. Further, the Court shall provide information necessary to accomplish or facilitate the electronic conference, such as communications platform, telephone numbers, hypertext link and/or video-conference meeting numbers.
- D. **RECORDING.** Unless the proceeding includes evidentiary materials, electronic conferences typically will not be recorded. When recording is necessary, the Court will use the customary means used during in-person appearances to make the recording.
- E. **RECONSIDERATION.** If at any time during a hearing, conference, or proceeding conducted by electronic method the Court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

- F. **CONFIDENTIAL DISCUSSIONS.** Provisions shall be made to preserve the confidentiality of attorney-client communications and privilege as may be necessary during the course of any electronic proceeding. The Court should be advised of such need as soon as the need becomes apparent.
- G. **SEPARATION OF WITNESSES AND INTERESTED PERSONS.** No witness shall listen to or observe any proceeding conducted by electronic methods. In any proceeding involving minor children, the electronic proceeding shall not be conducted in the presence of any minor child; residential parents / parties are encouraged to arrange child care during the time of the proceeding. Any person with knowledge of any violation of separation requirements shall promptly notify the Court.
- H. **BEST PRACTICES.** The Court shall, from time to time, promulgate best practice instructions to assist participation by electronic means. These instructions will be posted on the Court's website. The terms of such instructions are incorporated herein.
- I. **TECHNICAL STANDARDS AND EQUIPMENT.** The equipment and platform used in any proceeding conducted under this rule must conform to the following minimum requirements:
- (1) All parties and witnesses must be able to see and hear each other continuously and simultaneously.
 - (2) All parties and witnesses must be able to see, hear, or otherwise observe any documents, physical evidence, or exhibits presented during the proceedings. Compliance with this requirement may occur by displaying the item during a video-conference proceeding and by providing the item in advance of the proceeding to other parties / counsel and the Court.
 - (3) When a recording is necessary, the Court must be able to make a verbatim verbal record of the proceeding. Participants appearing remotely will be required to provide connectivity and effective communications to allow a complete recording.
 - (4) The use of telephonic or audiovisual technology in conducting hearings and proceedings shall in no way abridge any right of public access, unless ordered by the Court.
 - (5) To facilitate electronic methods, the Court may make available its own electronic hardware, software and means of connectivity.

Effective:

The Darke County, Ohio, Court of Common Pleas

ELECTRONIC APPEARANCE INSTRUCTIONS:

1. Appearing by electronic means (telephone and video-conference) still means that you are in the Court's presence (as if in the courtroom itself) and customary decorum must be followed (i.e. appropriate clothing, no extraneous talking or gestures, waiting to speak until called on by the Court, not talking over others, etc.)
2. These instructions are primarily intended to assist with video-conference appearances, though many still apply to telephone usage.
3. Before your scheduled proceeding, visit the video-conferencing website for helpful instructions on how to use the platform or application. The Court's preferred platform is ZOOM. Best results typically occur when participants download the app onto their device.
4. Test your telephone, camera, speaker, and microphone in advance. Also, bigger screens give participants a better video experience. Set the view to Gallery Mode to see all participants simultaneously (as opposed to Speaker Mode).
5. Find a quiet place to participate. Remove distractions in your space, such as pets, phones, other noises, electronic devices.
6. Keep your microphone on mute until it is your turn to talk.
7. Place your camera/phone/tablet in a stationary place to minimize unnecessary movement.
8. Make sure others using your Wi-Fi network minimize their use so to not disrupt your connection. Ensure you have adequate battery power or use a direct electric connection.
9. Make sure your profile or screen name accurately describes you, preferably using your first and last name. No obscene, suggestive or misnomers will be permitted.
10. Do not use a virtual background. Keep a good light source in front of you to avoid backlighting.
11. Recording by anyone except the Court is not permitted, unless the Court gives permission prior to the hearing. Violations are punishable by fines and/or incarceration.
12. Exhibits: Provide any documents/exhibits that will be presented at the hearing shall be provided to opposing counsel / parties and the Court prior to the hearing. Providing the exhibit does not imply that rules for admissibility are satisfied.
13. If private conversations are necessary, such as sidebar discussions with the Court or attorney-client discussions, break out rooms or private chat features will be used.

14. Witnesses will be placed into a “waiting room” prior to admission into the proceeding and will be admitted at the Court’s discretion. Witnesses may be required to verify their identity by use of an approved identification card. Witnesses will be administered the Oath by the Court prior to testifying. Witnesses should look into their camera when testifying and should speak slowly and clearly.
15. If video methods are not functional or available for a witness during a video-conference proceeding, the Court may hear the oral testimony, continue the hearing to require personal appearance, or exclude the testimony.
16. Breaks / Recesses may be used as determined by the Court. Parties and counsel should not leave a hearing or terminate their connection without prior permission by the Court.
17. To get the Court’s attention during a hearing for ministerial matters, put the request in the chat box or use the “raised hand” symbol. Raising objections permitted by the Rules of Evidence should be made by the customary interruption process.
18. Unless the Court designates the hearing as “closed to the public,” the video-conference will be open to viewing by members of the public. Public attendees will be muted and are expected to follow all rules of the Court, including not recording the proceeding. Public attendees may be removed by the Court for failure to follow rules.
19. If a party, counsel or witness needs accommodations due to a recognized disability, the Court should be advised as soon as this disability issue is known so that reasonable accommodation can be considered.
20. If there is a technical difficulty during the proceeding, the Court will make operational decisions at that time, including granting continuances, adjourning and restarting the video-conference, etc. If communication with the Court is lost during a hearing, immediately call the Court and advise the staff (937-547-7325). Also, promptly try to reconnect to the hearing.
21. As with all rules, the Court will enforce these instructions and manage all proceedings to accomplish the administration of justice. Violation of rules and instructions by parties, witnesses, counsel and members of the public may subject the violator to sanctions for contempt, including monetary fines and incarceration.