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RPPTL Section Lee County Bar Association April 9, 2021

2021 UPDATE: RPPTL, FCTC, RJA, BOG

- I. Florida Bar RPPTL
 - A. Section Strength in Numbers: 11,031 section members as of 3/31/21
 - B. Governing body: 275 member Executive Council: 16 from the 20th¹
 - 1. 17 committees for the Probate & Trust Division²:
 - a. Participation
 - b. Accessibility
 - C. Legislation: mid-session
 - 1. Some good
 - 2. Some not so good
 - D. Continuing Educational Opportunities
 - 1. Traditional courses
 - 2. Lunch and Learns
 - 3. Committee meetings
 - E. Action Line - see attached for sample of contents
 - 1. Worth the price of admission - membership is \$60 per year
- II. Florida Court Technology Commission
 - A. Creature of rule: RJA 2.236, as modified in October 2010
 - 1. Responsibility for overseeing, managing, and directing the development and use of technology within the judicial branch.

¹ Guy S. Emerich, Punta Gorda; Marve A. M. Alaimo, Naples; S. Dresden Brunner, Naples; Denise B. Cazobon, Naples; Robert W. Goldman, Naples; Michael T. Hayes, Naples; Hugh D. Hayes, Naples; Alan S. Kotler, Naples; Robert L. Lancaster, Naples; Laird A. Lile, Naples; Jon Scuderi, Naples; Michael A. Sneeringer, Naples; Alfred J. Stashis Jr., Naples; Lisa B. Van Dien, Naples; Joseph E. Adams, Fort Myers; Sanjay Kurian, Fort Myers

² Ad Hoc ART; Ad Hoc Committee on Electronic Wills; Ad Hoc Guardianship Law Revision Committee; Ad Hoc Study Committee on Due Process; Jurisdiction & Service of Process; Ad Hoc Study Committee on Professional Fiduciary Licensing; Asset Protection Committee; Attorney/Trust Officer Liaison Conference; Charitable Planning and Exempt Organizations; Elective Share Review Committee; Estate & Trust Tax Planning; Guardianship; Power of Attorney & Advance Directives; IRA; Insurance & Employee Benefits; Principal and Income Committee; Probate & Trust Litigation; Probate Law & Procedure; Trust Law; Wills, Trusts & Estates Certification Review Course

2. 9 judges, 3 court administrators, 3 court technology officers, 4 clerks of court, 4 members of The Florida Bar, and 2 members of the public at large.
 - B. Policy making versus operational responsibilities of the portal
 1. Portal subcommittee "...the subcommittee will continue work on standardizing the pull-down docket codes in the Portal, researching a solution on non-party filers potentially accessing confidential filings, and educating attorneys on the importance of removing themselves from the service list when required."
 - C. Coordination of technology with county clerks
- III. Rules of Judicial Administration: Rules beginning with 2 - Table of Contents attached
- A. Rules of Judicial Administration Committee: Rules Case 19-2163
 1. May 1, 2020: Comments from Probate Rules Committee and others
 - (1) "The change could be accommodated by filing a Notice of Filing for every document containing a signature by someone other than the lawyer filing the document. For many of the documents routinely filed in probate and guardianship proceedings, that would create unnecessary work for the filing lawyer, the portal, and the clerks receiving the filing."
 2. March 5, 2021: The court issued its Order "request[ing] the RJAC to re-engage with the interested parties and resubmit a proposal in more final form, with greater consensus and narrowed issues."
- IV. Board of Governors of The Florida Bar - 52 members
- A. More meetings, not fewer
 1. Interim meetings on discrete subjects
 2. Remote only, to date
 3. Hybrid in May
 - B. Budget was approved for publishing
 1. No dues increase
 2. Objection period
 - C. Best Practices Guidelines for Remote Court Proceedings
 1. <https://www.legalfuel.com/the-florida-bar-recommended-best-practices-for-remote-court-proceedings/>
 - D. Renewed focus on discipline cases
 1. Judicial referrals
 - E. Relationship with court
 1. IOTA Task Force, chaired by Mayanne Downs
 2. Delivery of Legal Services, chaired by John Stewart
- V. Bonus #1: The Florida Bar Recommended Best Practices for Remote Court Proceedings:<https://www.legalfuel.com/the-florida-bar-recommended-best-practices-for-remote-court-proceedings/>
- VI. Bonus #2: Grammar matters - *Facebook, Inc. v. Duguid*, USSC April 1, 2021
- VII. Conclusion



This magazine is prepared and published by the Real Property, Probate & Trust Law Section of The Florida Bar as a service to the membership.

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Get Included In **ActionLine!**

Readers are invited to submit material for publication concerning real estate, probate, estate planning, estate and gift tax, guardianship, and Section members' accomplishments.

ARTICLES: Forward any proposed article or news of note to Jeff Baskies at jeff.baskies@katzbaskies.com. Deadlines for all submissions are as follows:

<u>VOLUME NO.</u>	<u>ISSUE</u>	<u>DEADLINE</u>
1	Fall	July 15
2	Winter	October 15
3	Spring	January 15
4	Summer	April 15

ADVERTISING: For information on advertising, please contact Jason Ellison at jellison@elattorneys.com.

PHOTO SUBMISSIONS: If you have a photo that you'd like to have considered for the cover, please send it to the photo editor, Janellen Green, at jane@emeraldgreenconsulting.com.

GENERAL INQUIRIES: For inquiries about the RPPTL Section, contact Mary Ann Obos at The Florida Bar at 800-342-8060 extension 5626, or at mobos@flabar.org.

Mary Ann can help with most everything, such as membership, the Section's website, committee meeting schedules, and CLE seminars.

Florida Rules of General Practice and Judicial Administration

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Supreme Court of Florida

FRIDAY, MARCH 5, 2021

CASE NO.: SC19-2163

IN RE: AMENDMENTS TO THE FLORIDA RULES OF JUDICIAL
ADMINISTRATION AND FLORIDA RULE OF CRIMINAL PROCEDURE 3.030
- ELECTRONIC FILING AND SERVICE

On December 31, 2019, the Rules of Judicial Administration Committee (RJAC) and the Criminal Procedure Rules Committee (CrimPRC) filed a joint report proposing amendments to several Rules of Judicial Administration and Florida Rule of Criminal Procedure 3.030 (Service and Filing of Pleadings, Papers, and Documents). According to the report, the committees proposed the amendments “in reaction to the electronic filing and service advancements within the courts and legal profession.” Joint Out-of-Cycle Report of the Rules of Judicial Administration and Criminal Procedure Rules Committees, at 1. Most of the proposals are from the committees’ review of the rules; however, the RJAC also proposes amendments in response to this Court’s February 11, 2019, referral regarding *Wheaton v. Wheaton*, 261 So. 3d 1236 (Fla. 2019), wherein a majority of this Court held that a proposal for settlement was not subject to the service requirements of Florida Rule of Judicial Administration 2.516 (Service of Pleadings and Documents).

First, the RJAC proposes this Court adopt new Florida Rules of Judicial Administration 2.345 (Electronic Signature of Court Official) and 2.511 (Florida Courts E-Filing Portal). Proposed new rule 2.345 defines when an electronic signature from a justice, judge, magistrate, clerk, or other court official is complete. Proposed new rule 2.511 defines the Florida Court's E-filing Portal, specifies the credentials for access to the portal, and establishes the governance structure for the portal. The RJAC also proposes this Court adopt amendments, some of which are substantial, to rules 2.514 (Computing and Extending Time), 2.515 (Signature and Certificates of Attorneys and Parties), 2.516 (Service of Pleadings and Documents), 2.520 (Documents), and 2.525 (Electronic Filing). In response to the RJAC's proposed amendments discussed above, the CrimPRC proposes amendments to Florida Rule of Criminal Procedure 3.030 (Service and Filing of Pleadings, Papers, and Documents).

The rule amendments were approved by each respective committee, and the Florida Bar Board of Governors (Board) unanimously approved the proposals. The proposals were published for comment before they were filed with the Court. The RJAC received comments from the Civil Procedure Rules Committee (CivPRC), Kimberly Bocelli, the Florida Probate Rules Committee (FPRC), and

Former Judge Steven Scott Stephens. Upon consideration of the comments, the RJAC made some changes to its proposed amendments before submitting them to the Court.

After the committees' report was filed with the Court, the Court published the proposals for comment. The Court received nine comments. Comments from the Florida Courts E-Filing Authority (Authority), Former Judge Stephens, Attorney Thomas D. Hall, and the Florida Association of Court Clerks (FACC) are generally in support of the proposed amendments; however, they include suggested changes to the proposals that they ask the Court to consider. The comment from the Juvenile Court Rules Committee is neither in support nor against the proposals, but instead, explains the potential effects of the proposals on the Juvenile Court Rules. Comments from the CivPRC, the FPRC, Attorney Laird A. Lile, and the Southern Legal Counsel raise numerous concerns with the proposed rule amendments.

Thereafter, the ad hoc subcommittee, which was responsible for the development of these proposed amendments, reviewed the comments, and the RJAC filed a response to the comments. Although many comments did not result in changes to the proposals, the RJAC made some changes to its proposed rule

amendments in consideration of the comments received. Prior to submitting the revised proposed amendments to this Court, the RJAC submitted them to the Board for acceptance. A member of the Board expressed opposition to the revised proposed amendments, concerned that they did not go far enough in accepting suggestions made in certain comments. The Board then voted not to accept the revised proposed amendments, notwithstanding its prior acceptance. In submitting its revised proposed amendments to the Court, the RJAC suggested that some comments may warrant review by the Court and may result in the Court further amending the rules after complete analysis.

Oral argument was held in this case, wherein the Court heard argument from the RJAC as well as six commenters, including the FACC, the CivPRC, Mr. Hall, Former Judge Stephens, the FPRC, and Mr. Lile.

Having reviewed the proposed amendments and comments and heard from the various committees and commenters, we do not adopt the proposed amendments as presented to the Court. Although the RJAC has been working on these proposals for a lengthy time period, the Board, the RJAC itself, the CivPRC, the FPRC, Mr. Hall, Former Judge Stephens, and Mr. Lile, agree that other changes should be made to the proposals. Many of these other changes are

significant, so much so that the Board declined to approve the RJAC's revised proposed amendments even though it had approved the initial proposed amendments.

We have been urged by the RJAC to adopt agreed-upon changes and those that require only minor changes by the Court to the amendments proposed. We decline the invitation for the Court to perform this exercise. Instead, we request the RJAC to re-engage with the interested parties and resubmit a proposal in more final form, with greater consensus and narrowed issues. To the extent there are agreed-to changes that can be separated from the matters in dispute that require additional work, the RJAC may resubmit those proposed changes in final form for consideration by the Court. Any resubmissions must be filed in new cases after submission to the Board.

We thank the members of all the committees and commenters who have worked on these proposed amendments.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

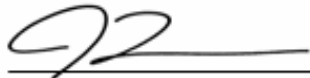
CANADY, C.J., and POLSTON, LABARGA, LAWSON, MUÑIZ, COURIEL, and GROSSHANS, JJ., concur.

CASE NO.: SC19-2163

Page Six

A True Copy

Test:



John A. Tomasino
Clerk, Supreme Court



so

Served:

KRYS GODWIN

MIKALLA ANDIES DAVIS

MICHAEL J. KORN

CECI CULPEPPER BERMAN

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JUSTIN J. HORAN

HON. KIMBERLY DAVIS BOCELLI, MAGISTRATE

HON. SAMANTHA LEE WARD, JUDGE

The Florida Bar Recommended Best Practices Guide For Remote Court Proceedings
(Updated 02-25-2021)

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5. [Remote Mediations](#)

The following Recommended Best Practices are designed to provide a guide to all participants, based on currently available technology, to maximize the effectiveness of remote proceedings. They are not intended to relax or supplant the Florida Statutes, the Florida rules of court, local rules of court, administrative orders, individual judges' instructions, the Rules Regulating the Florida Bar (including, without limitation, the Rules of Professional Conduct), or any other substantive or procedural law (collectively, the "Applicable Law, Rules, and Procedures"). All Applicable Law, Rules, and Procedures are intended to prevail, unless expressly stated otherwise.

1. Remote Procedures Applicable to All Proceedings

1.1. Participants must dress and otherwise present professionally, as if they are physically appearing in a courtroom, deposition or mediation, as the circumstances indicate. Participants should notify their court reporter or other technical assistants to follow the same requirements. Participants should conduct remote proceedings in a quiet location where they are free from distractions, with as little ambient noise as possible, and with lighting that allows all participants to clearly see each other. Participants must not operate a motor vehicle while participating in a remote proceeding and should otherwise ensure that their participation does not create a public safety issue.

1.2. Participants in video conferencing proceedings must use a device that allows them to have access to a camera, a speaker, and a microphone. This includes having the necessary device to be able to view any shared documents on the screen of the device, when applicable. Participants must have an adequate Internet connection. A wired Internet connection is preferable over a wireless connection. Participants should ensure that they have working audio and video, know how to mute and unmute, share screens, and are generally familiar with these Best Practices. If any participant does not have access to a device that allows for video conferencing, that participant may attend a remote proceeding by telephone or as otherwise determined by the court.

1.3. Prior to the proceeding, participants should familiarize themselves with the requirements and other operational aspects of the virtual platform being used. If possible, participants should display their full name (and not just a first name, nickname, or phone number) and any party they represent, if applicable.

1.4. At the commencement of a remote proceeding, all participants should identify themselves to the other participants and should also identify any other person present with them, even if that person is off-camera. If another person enters the room with a

The Florida Bar Recommended Best Practices Guide For Remote Court Proceedings
(Updated 02-25-2021)

participant during the proceeding, that participant should notify the other participants and identify the person at that time.

1.5. When not speaking or preparing to make timely objections during the proceedings, the parties, lawyers, their clients, and non-testifying witnesses should mute themselves.

1.6. For all court proceedings, the court should provide the link to the virtual platform that is being used. No participant should create either a visual or audio recording of a court proceeding without permission of the court. Except as otherwise provided herein, if a participant desires an official record of the proceeding, the participant should hire a court reporter to appear unless the official record is otherwise preserved as authorized by the court.

1.7. Requests for continuances based solely on a participant's preference to wait until the court event can be conducted in person are disfavored, and will be considered only under extraordinary circumstances. Parties and counsel should make any such requests as early as practicable.

1.8. The court should provide for a breakout room if a lawyer needs to confer with his or her client during the proceeding, or in the event the participants need to discuss a matter off the record.

1.9. All notices of remote proceedings must (i) indicate that the proceeding will occur by video conferencing; (ii) include, if available, the video conferencing details, including links and login information; (iii) state that no party or counsel should appear in person at the proceeding; and (iv) provide instructions for participation by telephone if a self-represented party does not have access to the video conferencing platform that is being used. For security purposes, unique links and login information are preferred.

1.10. Judges may begin all court proceedings with an explanation of the video conferencing procedures, including the process the court will use to designate participants to speak.

1.11. Absent an order of court, upon discovering that a participant has lost audio or video connection, the court, mediator, or the participant conducting the deposition, as the case may be, should immediately stop the proceeding until all participants have a live audio and video connection.

1.12. Participants should act in good faith to assist other participants who are unintentionally experiencing technical issues, including but not limited to failing to activate

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(Updated 02-25-2021)

or deactivate the mute function or inadvertently sharing material that is confidential or privileged or otherwise inappropriate for sharing. Participants who observe such instances should alert the court, mediator, or the unaware participant, as appropriate under the circumstances.

2. Remote Procedures Applicable to All Non-Evidentiary Hearings

2.1. Participants should always check the court's procedures and any local orders, but in the absence of anything to the contrary, should email copies of any materials the participant intends to present to the court during the hearing to the court and opposing parties no later than 48 hours in advance of the hearing.

2.2. A court may allow a participant to share case law, documents, photos, or other materials via the screen-sharing mechanism on the video conferencing platform even if not previously submitted. In addition, any participant sharing previously undisclosed authority or evidence should also contemporaneously provide a copy to all participants by email or other electronic means.

3. Remote Procedures Applicable to Evidentiary Hearings

Note: These procedures apply only to the electronic use and admission of documentary, photographic, audiovisual and other evidence reasonably able to be provided and shared electronically.

PREHEARING EVIDENTIARY PROCEDURES

3.1 PREHEARING CONFERENCE

3.1.1. The court may, *sua sponte* or at the request of any party, schedule a prehearing conference in advance of any evidentiary hearings.

3.1.2. At the prehearing conference, the court may advise all parties of the procedures for the hearing. By way of example, the court's procedures may address the handling of sequestration of witnesses, document sharing, and the use of physical evidence.

3.2 DOCUMENT PROCEDURES

3.2.1. At least 7 calendar days in advance of an evidentiary hearing, the parties must exchange exhibit lists that specifically identify by Bates number potential exhibits to be used at the hearing. Within 5 calendar days in advance of the evidentiary hearing, the parties must meet and confer by telephone or video conference to stipulate to as much as practicable regarding authenticity and admissibility and to agree on the format and manner in which evidence will be presented at the hearing.

3.2.2. During the "meet and confer" after the exchange of exhibit lists, the parties shall prepare jointly an index of all exhibits that will be used at the hearing. The movant shall be primarily responsible for preparing this index and for providing the final copy of the index to the court and clerk's office. This index shall also specifically identify what objections exist, if any, to each exhibit and which party is making the objection. The parties shall check the judge's preferences and procedures, as well as any local rules, for the form of the index. A sample index is included as **Appendix A**. The parties shall exchange copies of any proposed exhibits that have not previously been exchanged no later than this meeting, except for exhibits solely to be used for impeachment. All documents shall be pre-marked for identification, and shall be Bates stamped for ease of identification during remote testimony.

3.2.3. At least 2 calendar days before an evidentiary hearing, the parties shall file all evidence sought to be introduced pursuant to instructions provided by the court. The parties shall comply with the judge's preferences and procedures, as well as any local rules, regarding the form for marking exhibits and the means of submitting the exhibits to the court or clerk in advance of the hearing. The parties should seek to file all exhibits jointly, but in the absence of a joint filing, must file unilaterally at least 2 calendar days in advance.

3.2.4. In settings where the court must review a document that is not being admitted as evidence (for example, showing a driver's license to verify identity) the parties need not file the document in advance but may display the document by the camera for the court's review during the hearing.

3.2.5. Document uploading procedures:

A. Once all documents have been indexed and identified, attorneys must contact the judge's judicial assistant to determine the procedure that will be used for providing copies of the documents to the court, either electronically or otherwise.

B. Documents that are uploaded or provided to the court in an electronic format should be named as follows: #___ Ex. [brief description of document]. For example, #1 Ex. contract between John Smith and Susan Jones 09.12.73.

C. Oversized documents and physical evidence, such as an original of a document, that are not capable of being provided electronically to the court and participants will be addressed by the court on a case-by-case basis. Participants should include a description of such evidence on the exhibit index and shall advise the court of the issue in advance of the hearing.

3.3 WITNESS PROCEDURES

3.3.1. At least 10 business days in advance of an evidentiary hearing, the parties shall exchange witness lists that include the witnesses' names and, if known, email addresses and telephone numbers. The parties shall also identify any witness for whom an interpreter or an accommodation under the Americans with Disabilities Act will be required, and include the names of all interpreters on the witness list. Witness lists shall also be filed with the Court without the witnesses' email addresses or phone numbers at least 10 business days in advance of an evidentiary hearing.

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(Updated 02-25-2021)

3.3.2. Participants should ensure that witnesses who will lay the predicate for evidence have a copy of the evidence. This can be accomplished either by sharing the document virtually in real time or providing the evidence to the witnesses ahead of time, provided that if the document is provided ahead of time, it must be identical to, and bear the same Bates numbers as the document that is shared virtually during the hearing.

3.3.3. If a witness does not have the technology necessary to participate in the remote hearing, the participant calling that witness should take reasonable measures to assist the witness to participate. The court should address how the witness may participate in the hearing on a case-by-case basis.

3.3.4. Participants should explain to witnesses that, if the rule of sequestration is invoked, the witness will not be able to observe any part of the proceeding outside of his or her testimony, and will either be placed into a virtual waiting room or virtual breakout room or will be “on call” until it is the witness’s turn to testify. If the witness will not be placed in a virtual waiting room or virtual breakout room, the participant should advise the witness to be prepared to immediately participate in the proceeding upon receiving a notification from the participant who is calling the witness.

3.3.5. Participants should ensure their witnesses are aware of the witness testimony protocol discussed and agreed to by counsel or ordered by the court

3.3.6. The witness shall have the appropriate form of identification available to allow for the virtual swearing in of the witness.

Appendix A

Exhibit	Admissibility Status
Example- Plaintiff’s Exhibit 1- Contract	Stipulated into evidence
Example- Plaintiff’s Exhibit 2- Medical Records	Objection by Defendant 1 on the basis of relevancy.

4. Remote Deposition Procedures

The following procedures supplement all Applicable Law, Rules, and Procedures, which shall be followed at all times. This includes, but is not limited to, the prohibition on speaking objections and on contact, including virtual contact, with a witness during the course of a deposition.

4.1. The court reporter may administer the oath or affirmation to the deponent remotely in accordance with the Applicable Law, Rules, and Procedures.

4.2. Participants appearing on the record shall state their appearances clearly for the record, and shall not disable their cameras during the deposition unless there is a break or unless they are necessarily appearing by telephone.

4.3. The deponent shall comply with any request by a participant to show the environment where the deposition is taking place by using the camera on the device being used by the deponent for the deposition.

4.4. The deponent shall not use any virtual background at any time during the deposition.

4.5. All deposition participants shall appear remotely unless the witness requests that the witness's counsel be present in the same physical location as the witness. The witness shall provide written notice to the participants no less than 5 business days prior to the deposition of the witness's intent to have his or her counsel present in the same physical location during the deposition. Upon such notice, any participant may attend the deposition in person or remotely. If the witness and the witness's counsel are in the same room, that witness and counsel must use two video cameras on two different devices and mute one of those devices to allow only one microphone to be used at a time. One video camera shall show the witness and one video camera shall show the witness's counsel.

4.6. In the event that the witness produces documents for the deposition in advance of the deposition, the party calling the witness should produce such

documents to the participants promptly. If documents are produced at the time of the deposition said documents shall be made available to all parties.

4.7. The deposition notice for any remote deposition shall identify the virtual video conference platform. The notice shall also contain a general description of how deposition participants may access the remote deposition.

4.8. The host of the remote deposition will only admit participants entitled to be present under all Applicable Law, Rules, and Procedures. Whenever possible, the host shall secure the deposition with a password or a second method of authentication.

4.9. Remote depositions taken in accordance with these Best Practices may be used at a trial or hearing to the same extent that an in-person deposition may be used at a trial or hearing, and the parties may not object to the use of the video recordings of the remote depositions on the basis that the depositions were taken remotely or through an electronic, Internet-based service.

4.10. The parties will use reasonable efforts to minimize technical disruptions. Notwithstanding the foregoing, in the event that the participants, court reporter, or videographer experience a technical malfunction that disrupts his or her audio or video during the deposition, the affected participant must raise any objection, contemporaneously on the record or as soon thereafter as reasonably possible, as to the portion of the deposition during which the affected participant's participation was impaired. If additional time is needed to complete the deposition due to technical difficulties, the participants must agree to make the deponent whose deposition was interrupted available later that day, if possible, and if not, on another day to conclude the deposition.

4.11. While testifying in the deposition no witness shall engage in any private communication, including but not limited to text messages, electronic mail, or the chat feature in the video conferencing system, while on the record, whether or not a question is pending. Nothing in this paragraph prohibits counsel for the deponent from conferring with the deponent during a break in the deposition, in a "breakout room" or otherwise, nor does it prohibit counsel from communicating with each other by any means during the deposition, or otherwise prevent

counsel for the deponent from conferring with the deponent as permitted by the applicable rules of court.

4.12. The deponent must not turn off his or her microphone while on the record. While on the record, each deponent shall close all documents, emails, browsers, programs and applications on his or her computer or other device, other than the virtual video conference platform. While on the record, the deponent should turn off all electronic devices capable of communication and Internet access other than the ones being used to connect to the remote deposition.

4.13. Any video record shall be made in accordance with all Applicable Law, Rules, and Procedures.

4.14. During breaks in the deposition, the participants may use the breakout room feature provided by the virtual video conference platform, which simulates a live breakout room through video conference. The breakout rooms shall be established and controlled by the host. A conversation in a breakout room shall not be recorded, transcribed, or observed by anyone not specifically authorized by the participants in the specific breakout room.

4.15. Exhibits used during the deposition need not be presented to the deponent and participants in hard copy and may instead be presented electronically. No participant may object to the admissibility of any material on the grounds that the material was presented in electronic form.

4.16. Participants may introduce exhibits electronically during the deposition through the virtual video conference platform's document-sharing technology, by using the screen-sharing technology within the video conferencing platform and by sending the exhibit to the deponent and all participants via email or other electronic means. In the event that the videographer or exhibit technician is charged with introducing exhibits through the virtual video conference platform's document-sharing or screen-sharing technology within the video conferencing platform, such person is prohibited from sharing any exhibit with anyone else unless and until the deposing participant asks that the exhibit be published to the witness and other participants.

5. Remote Mediation Procedures

5.1. All confidentiality protections that apply to mediation shall also apply to any mediation conducted virtually.

5.2. All appearance requirements that apply to mediation shall also apply to any mediation done virtually.

5.3. In order to make sure all parties, counsel, representatives, and other participants are in compliance, all video cameras shall be turned on and all participants, regardless of their location, shall be visible at all times while conferring with the mediator, unless excused by the mediator or by agreement of all of the parties.

5.4. No one, regardless of location, shall record any portion of the mediation or download or save any contents of any chat function of the conferencing platform.

5.5. The mediator should be the host of the virtual mediation and should:

A. Disable the recording functions, if any, in the conferencing platform;

B. Enable a sufficient number of confidential, break-out rooms for participants to caucus;

C. Maintain control of who is admitted to participate in the conference by manual admission (if the platform is equipped with that function);

D. Provide an alternate method of communicating with the mediator, such as by telephone, email, or text, so that a participant who has lost connection to the conference may be re-admitted or continue to participate.

5.6. Anyone who circulates or receives a connection link for a remote mediation conference should safeguard the link, refrain from sharing the link with non-participants, and refrain from posting the link publicly (such as on social media outlets).