

STANDING ORDER FOR PROCEEDINGS BY RELIABLE ELECTRONIC MEANS

[¶1] Because public access to court facilities has been limited due to the Coronavirus pandemic, a proceeding in the above matter may be conducted using reliable electronic means under N.D.Sup.Ct.Admin.R.52. Accordingly, it is Ordered:

[¶2] Documents and exhibits for the remote proceeding must be handled as follows:

- a. Direct evidence can be submitted by affidavit or unsworn declaration in substantially the form set out in N.D.C.C. § 31-15-05. These documents must be timely filed and served in the Odyssey case management system prior to the proceeding. All individuals who submit an affidavit, or an unsworn declaration, must be available as a witness for cross-examination at the time set for the proceeding.
- b. Any exhibits that the parties intend to introduce into evidence should be marked, filed, and served at least 2 business days prior to the proceeding using the Odyssey case management system. When filing exhibits use the description “proposed exhibit.”
- c. Each party must pre-mark all of their exhibits using labels with a white background only. Plaintiff can use numbers 1 – 100 when marking exhibits and Defendant can use numbers 101 – 199.
- d. The parties will cooperate in preparing an exhibit list in a form acceptable to the Court. The parties will cooperate in entering into a stipulation indicating: any exhibits which may be received into evidence without testimony; and any exhibits to which foundation is stipulated. The above stipulation and a copy of the exhibit list are to be filed and served at least 2 business days prior to the proceeding using the Odyssey case management system.
- e. Documents and exhibits necessary for rebuttal may be used during the proceeding at the judge’s discretion. All rebuttal documents and exhibits must be contemporaneously electronically exchanged with all participants prior to use during the proceeding. Contemporaneous electronic exchange may include real-time display, email, cloud upload and download, facsimile, or using other reliable electronic means.
- f. Unless otherwise ordered by the judge, any exhibit (whether previously exchanged or not) offered or admitted into evidence from a remote location must be filed by the moving party into the Odyssey case management system immediately after the close of the proceeding. An exhibit not filed as required by this paragraph must be deemed stricken from the record.
- g. All participants must have access to any documentary or other evidence necessary to the examination or cross-examination of any witness. It is up to the parties to ensure that those participating by phone have access to these documents.
- h. If you anticipate having exhibits that cannot be electronically exchanged or electronically filed with the Court prior to the proceeding, please contact the Clerk’s Office at 701-451-6924 or 09clerk@ndcourts.gov.

- i. Any unrepresented party without access to the Odyssey case management system must provide any exhibits or documents for timely filing. Call the Clerk's Office at 701-451-6924 for further instructions.

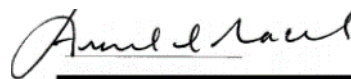
[¶3] Witnesses for the remote proceedings will be handled as follows:

- a. Witnesses must attend the proceeding using the information in this Order to join.
- b. It is up to the party calling the witness to inform the witness of the requirements of this Order and to ensure availability.
- c. Witnesses do not need to attend the entire proceeding and can join the proceeding when they are called to testify.
- d. Prior to the proceeding the parties must communicate about sequestration requests. If a party requests sequestration the parties and attorneys are responsible for the sequestration of their own witnesses. Sequestration requests can be accommodated by placing witnesses in a virtual waiting room or by having witnesses join a proceeding at a specified time if prior arrangements are made.

[¶4] The following procedures and instructions apply:

- a. Proceedings conducted by reliable electronic means are court proceedings and standard court protocols and decorum apply, including the rules for other electronic devices. All other electronic devices should be turned off during the proceeding.
- b. Join the proceeding from a quiet place free from other distractions and mute yourself until the case is called.
- c. No electronic device may be used by a participant for photography, videography, or audio recording of the court proceeding without prior approval from the judge.
- d. For audiovisual proceedings, participants should download the video application before the scheduled proceeding. Be sure to test your speaker, microphone, and camera before the proceeding. If participants want to show exhibits during the proceeding to all participants, the participant should become familiar with screen sharing and document sharing options.
- e. To ensure a clear record participants should:
 - i. Keep devices on mute when not speaking to reduce feedback and limit background noise;
 - ii. Speak only when addressed by the Court unless making objections or to make a record;
 - iii. State their name prior to speaking unless clearly identified by the Court; and
 - iv. Speak slowly, clearly, and one at a time taking care not to talk over one another, interject or interrupt one another.

[¶5] If you are concerned you will not be able to attend the proceeding by reliable electronic means because you do not have access to a computer or phone please contact the Clerk's Office at 701-451-6924 or 09clerk@ndcourts.gov.



Frank L. Racek
Presiding Judge
East Central Judicial District