

# UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF MISSOURI

## VIDEO CONFERENCE PROCEDURES

The purpose of the following procedures is to establish uniformity in video conference hearings/trials (“proceedings”) in the Bankruptcy Court for Eastern District of Missouri (“Bankruptcy Court”) during the COVID-19 pandemic. Until further notice of the Court, these procedures are controlling concerning video conference proceedings should there be a conflict with the Bankruptcy Court’s Local Rules. Additionally, these procedures are meant to complement any scheduling or trial orders entered by the Bankruptcy Court and do not supplant any procedures contained therein. To the extent any of the following procedures conflict with a provision found in an order entered by the Bankruptcy Court, the order is controlling.

1. Video conference proceedings in the Bankruptcy Court will take place using the services of the Cisco Webex platform. The Bankruptcy Court will send an invitation for the appropriate Cisco Webex video conference to those persons authorized to participate in a proceeding via video conference.
2. All parties wishing to participate in a proceeding via video conference must contact the Courtroom Deputy for the Judge presiding over the case at the email address below to confirm that video conferencing is available for the proceeding. After receiving confirmation of the availability of video conferencing, all parties must provide advance notice of their intent to participate via video conferencing. The moving party should state its intent to participate in the proceeding via video conference in its Notice of Hearing. Non-moving parties wishing to participate in a proceeding via video conference and present evidence must provide the Bankruptcy Court with its notice at least ten (10) days prior to the proceeding by contacting the Courtroom Deputy for the Judge presiding over the case at the email address below. Non-moving parties wishing to participate in a proceeding via video conference, but not present evidence, must provide the Bankruptcy Court with its notice at least two (2) days prior to the proceeding by contacting the Courtroom Deputy for the Judge presiding over the case at the email address below. All notices must include the full name and email address of the proposed video participant and identify the party they represent. In the case of a hearing scheduled on expedited or emergency basis, notice should be given as soon as possible after learning of the hearing.
  - a. Chief Judge Surratt-States
    - John Howley: [john\\_howley@moeb.uscourts.gov](mailto:john_howley@moeb.uscourts.gov)
  - b. Judge Schermer
    - Craig Spidle: [craig\\_spidle@moeb.uscourts.gov](mailto:craig_spidle@moeb.uscourts.gov)

c. Judge Clair

- Matthew Clear: [matthew\\_clear@moeb.uscourts.gov](mailto:matthew_clear@moeb.uscourts.gov)
- 3. Participants wishing to present evidence during the proceeding should contact the Courtroom Deputy of the Judge presiding over the case via email to schedule a technology check to test audio, visual, chat, and screen sharing functions prior to the proceeding (See Paragraph 2). Absent a hearing on expedited or emergency basis, technology checks should take place at least seven (7) days prior to the proceeding. A technology check for a hearing scheduled on expedited or emergency basis should be scheduled as soon as possible after learning of the hearing. Participants planning to offer witness testimony must arrange for each witness to attend the technology check. In all cases, participants not presenting evidence should conduct a self-test of Cisco Webex using the same equipment they intend to use during the proceeding. Information regarding conducting a self-test can be accessed in the Webex Participants' Guide at: <https://www.moeb.uscourts.gov/webex>.
- 4. Participants in the proceeding will not be able to connect to the video conference until fifteen (15) minutes prior to the scheduled start time. The Bankruptcy Court will provide participants with a link to the video conference and instructions for connecting. All participants must use a desktop, laptop, or tablet device (not a cellphone) that is plugged into a power source and has both a camera and microphone. A stable and high-speed internet connection is required. A wired internet connection to the device is strongly recommended.
- 5. The Bankruptcy Court recommends the use of headphones or earbuds during the proceeding to limit background noise and feedback. All participants must mute their microphones when not speaking to limit background noise and feedback.
- 6. Videoconference proceedings are a public matter, and the general public may listen via telephone. Persons wishing to listen via telephone may obtain dial-in instructions on the Bankruptcy Court's website at: <https://www.moeb.uscourts.gov/information-regarding-telephonic-hearings-bankruptcy-court>
- 7. Recording videoconference proceedings from any location by any means is prohibited. The audio recording maintained by the Bankruptcy Court is the sole basis for creation of a transcript and constitutes the official record of the videoconference proceeding.
- 8. In accordance with Federal Rule of Civil Procedure 43(a) (made applicable by Federal Rule of Bankruptcy Procedure 9017), for good cause and in compelling circumstances the Bankruptcy Court may permit a witness to testify by contemporaneous transmission from a location other than the courtroom via videoconference. The Bankruptcy Court finds that the ongoing COVID-19 pandemic merits application of this rule. In the interest of fairness, if one witness must testify by contemporaneous transmission from another location via videoconference, the Bankruptcy Court requires all witnesses to testify by contemporaneous transmission from another location via videoconference. To achieve this end, the Bankruptcy

Court will allow witnesses physically present at the courthouse to testify from an alternate courtroom within the courthouse.

9. The Bankruptcy Court will administer the oath to each remote witness during the video conference and witness testimony will have the same effect and be binding upon each remote witness in the same manner as if such remote witness was sworn in by the Bankruptcy Court in person in open court.
10. The party sponsoring each remote witness must file with the Bankruptcy Court, no later than three (3) days prior to the scheduled proceeding, a Witness List containing the following information for each potential remote witness (including any potential rebuttal witness):
  - a. Her or his name and title (if applicable).
  - b. The city, state and country where the remote witness will be located while testifying.
  - c. The type of place from which the remote witness will testify, such as a home or an office. No addresses are required.
  - d. Whether anyone will be in the room 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 with the witness.
11. The party sponsoring each remote witness shall be responsible for ensuring that the remote witness has obtained the password-protected link to the video conference, has obtained all exhibits prior to the hearing, has registered with Cisco Webex, has equipment and internet service sufficient to permit participation in the proceeding, and has conducted a test of their equipment to ensure functionality.
12. No person is permitted to communicate with a witness during his or her testimony, except by direct examination or cross examination on the record, unless specifically authorized by the Bankruptcy Court.
13. Although conducted using video conferencing technology, 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 Bankruptcy Court.