

Standing order with respect to in person and remote participation in domestic and criminal hearings for Caledonia and Essex counties.

COVID made us all a little more comfortable with remote participation. When we were using remote there was also some increase in participation by some litigants. In person participation is a more effective way for parties to negotiate. It also reinforces decorum and the importance of a court case. The following attempts to gain the benefits of both remote and in person participation.

Criminal Court

Attorneys, defendants, witnesses, or other necessary persons should plan to attend arraignments and evidentiary hearings in person unless there has been a waiver of the arraignment. Defendants who are lodged will appear remotely for arraignment if a transport is not available. If a defense attorney wants a person transported we will reset the arraignment for the following day.

Parties may have a witness testify remotely upon motion and agreement. This should be done at least three days prior to the hearing.

In non-evidentiary hearings, such as status conferences, attorneys and defendants may appear remotely unless the notice goes out saying "The defendant's in person attendance is required." Those who are lodged will attend these hearings remotely.

Pre-trials

Settlement discussions often occur at a pretrial. However, lawyers and parties may also ask to participate in the pretrial remotely. This is likely to be granted when:

- The lawyer is an hour away and she has only one case on for pretrial.
- The client has already missed work to attend the first pretrial, this is the second or third pretrial, and counsel represents that settlement is unlikely.
- The client lives 500 miles away.
- The client is in jail.

Changes of Plea

The court will allow changes of plea by Webex where there is a compelling reason to do so. For instance, it is a misdemeanor, and the defendant now lives in Florida. The defendant is in federal custody or out of state custody, the sentence will be for concurrent time, and so the change of plea should be entered expeditiously. Requests should be by motion stating the compelling reason.

The Domestic Docket

In divorce and parentage cases, attorneys and parties may appear remotely in non-evidentiary hearings. Lawyers and parties are expected to attend in person, for evidentiary hearings. Witnesses are expected to be in person, however consistent with V.R.C.P. 43.1 parties may request that professional witnesses (teachers, guidance counselors, doctors, therapists) attend remotely. This will be routinely granted so long as the factors in the rule are met.

If physical appearance interferes with a lawyer's attendance in another court, or it imposes undue hardship on a party (the party lives in Iowa), the court may approve a motion for remote attendance for parties and counsel.

If it is a party or counsel who is seeking to attend remotely, all exhibits shall be filed with the court and opposing party five days in advance of the hearing so that everyone is looking at the same exhibit.

Any person appearing remotely will do so with audio and video on. As noted in the rule the movant must represent that the person has sufficient bandwidth to allow for audio and visual attendance.

The court will only be providing Webex access to hearings where a party or necessary person is appearing remotely. Webex access will not be provided for hearings where all parties/ necessary persons are appearing in person.

A handwritten signature in black ink, appearing to read "Michael R. Kainen". The signature is fluid and cursive, with a horizontal line extending from the end.

Michael R. Kainen
Superior Court Judge
Pursuant to V.R.E.F. 9(d)(1)(D).
Electronically Signed November 17, 2023 8:12 AM