

STATE OF VERMONT  
SUPREME COURT  
\_\_\_\_\_ TERM

**Order Promulgating Administrative Order No. 47**

1. Pursuant to the Vermont Constitution, Chapter II § 30, and Rule 43.1(e) of the Vermont Rules of Civil Procedure, it is hereby ordered that Administrative Order No. 47 be promulgated to read as follows:

**Administrative Order No. 47**

**TECHNICAL STANDARDS FOR VIDEO AND AUDIO CONFERENCE ADOPTED  
PURSUANT TO V.R.C.P. 43.1(e)**

The following Technical Standards are adopted and must be applied in all video and audio conference proceedings under V.R.C.P. 43.1 and other rules incorporating provisions of that rule:

**§ 1. Video Conference Proceedings.** In any proceeding in which the use of video conferencing is otherwise appropriate under V.R.C.P. 43.1:

(a) All participants in the proceeding must be able to see and hear all other participants during the proceeding. The system must include a means for remote participants to see the courtroom during the proceedings.

(b) All participants in the proceeding must be able to see and hear any witnesses who may testify while they are testifying in the proceeding.

(c) All participants in the proceeding must be able to see, hear, read, and otherwise observe any physical evidence, documentary evidence, or exhibits presented during the proceeding, either by video, facsimile, or other method. All documentary evidence must be readable by all participants during the proceeding by either video technology or other means.

(d) The video quality of the video appearance system must be adequate to allow the participants to see and hear each other.

(e) The video appearance system must allow verbatim recording of the proceeding by court-approved audio-visual or audio recording equipment.

(f) In a proceeding open to the public, the video appearance system must allow the public to hear and view the proceeding including any participant who appears by video.

(g) In all cases in which a party appears by video, the system must include a means for the party to consult privately with counsel for full and confidential communication at any time during the proceeding and a means for immediate transmission of documents and papers.

**§ 2. Audio Conference Proceedings.** In any proceeding in which the use of audio conferencing is otherwise appropriate under V.R.C.P. 43.1:

(a) All participants in the proceeding must be able to hear all other participants, and to speak at all appropriate times, during the proceeding.

(b) All participants in the proceeding must be able to hear any witnesses who may testify while they are testifying in the proceeding.

(c) All parties and the judge or magistrate must have access to any documentary or other tangible evidence necessary to the examination or cross-examination of any witness by facsimile or other method.

(d) The audio appearance system must allow verbatim recording of the proceeding by court-approved audio recording equipment.

(e) In a proceeding open to the public, the audio appearance system must allow the public to hear the proceeding including any participant who appears by audio.

(f) In all cases in which a party appears by audio, the system must include a means for the party to consult privately with counsel for full and confidential communication at any time during the proceeding and a means for immediate transmission of documents and papers.

#### **Reporter's Notes**

Administrative Order No. 47 is adopted to implement V.R.C.P. 43.1 and related rules that are simultaneously promulgated to provide for video and audio conference participation of parties and other necessary persons, as well as testimony of witnesses, in actions in the civil, environmental, family, and probate divisions of the superior court. See V.R.C.P. 43.1(e), Reporter's Notes to simultaneous adoption of V.R.C.P. 43.1, and simultaneous amendments of V.R.F.P. 17 and V.R.P.P. 43(b). The technical standards are adopted by administrative order rather than by rule to permit more rapid and flexible change as necessary to take advantage of changing technological capabilities.

Sections 1(a)-(c) of the order require that, for video conferencing to be used, both remote participants and those in the courtroom have visual and oral access to all aspects of the proceedings comparable to that which they would have if the entire proceeding was occurring, and all participants were present, in the courtroom. Sections 1(d)-(f) address the necessary capabilities that the video appearance system to be used must have to ensure that those requirements are met. Section 1(g) is intended to ensure that the use of video appearance does not in any way diminish a remote party's ability to communicate confidentially with counsel and to have timely access to any documentary material that may be necessary for full participation in the proceeding.

Sections 2(a)-(f) of the order are intended to adapt the provisions of Section 1 to the circumstances of audio appearance and participation.

2. This order shall become effective on \_\_\_\_\_, 2018.

3. That the Chief Justice is authorized to report this order to the General Assembly in accordance with the provisions of 12 V.S.A. §1, as amended.

Done in chambers at Montpelier, Vermont this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Paul L. Reiber, Chief Justice

\_\_\_\_\_  
Marilyn S. Skoglund, Associate Justice

\_\_\_\_\_  
Beth Robinson, Associate Justice

\_\_\_\_\_  
Harold E. Eaton, Jr., Associate Justice

\_\_\_\_\_  
Karen R. Carroll, Associate Justice

PROPOSED