

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT**

In re:

Expansion of Standing Orders # 20-09 and # 20-12

**Regarding Modifications of Bankruptcy Court
Procedures and Operations**

Under the Continuing Exigent Circumstances

Created by the COVID-19 Pandemic,

With Respect to the Conduct of Hearings by Zoom,

and the Need to Maintain Formality of Hearings,

in Effect Through April 2, 2021

STANDING ORDER

20-14

On March 16, 2020, this Court entered Standing Order # 20-09 to describe the modified procedures it was implementing in response to the public health emergency caused by the COVID-19 pandemic, to balance and maximize the following priorities

- (i) the health and safety of all constituents involved in bankruptcy court proceedings and hearings,
- (ii) the need to move cases forward and avoid delay in the delivery of crucial relief, and
- (iii) compliance with the pandemic-related recommendations of national, state and local authorities.

Those modified procedures worked well and there was no evidence to indicate they infringed the rights of any parties.

Therefore, on June 24, 2020, the Court entered Standing Order # 20-12 to continue those procedures through November 30, 2020.

Based on the Court's experience with those modified procedures and in recognition that the pandemic, and restrictions flowing from it, are likely to continue for the foreseeable future, and to provide court users with ample notice of how their hearings will be conducted, **THE COURT FINDS** cause to extend those modified procedures and maintain them through the winter, subject to the exception set forth below for in-person hearings.

Any attorney or *pro se* party who believes they or their client will suffer negative consequences if unable to appear at a particular hearing in person, may file a motion, on notice to all attorneys and parties who are expected to appear at the hearing, as well as to all attorneys who have filed a notice of appearance in the case, setting forth the legal and factual basis for their request, no later than seven business days before the hearing. Responses to such motions shall be due no later than three business days prior to the hearing. That hearing shall be held via Zoom.

In the event an attorney or *pro se* party demonstrates exigent circumstances warranting an in-person hearing, the Court shall issue an Order specifying the health and safety precautions that shall be

required of the parties and enforced by the Court, to ensure no one is put at undue risk by attending the hearing and the interests of justice are served.

THEREFORE, IT IS HEREBY ORDERED, effective immediately and subject to the evolving circumstances of COVID-19 in Vermont, all hearings scheduled **through April 2, 2021**, will be conducted via Zoom unless the Court orders otherwise based on a showing of exigent circumstances.

THE COURT ALSO FINDS that although counsel – particularly those who appear regularly in this Court – have mastered use of the Zoom.gov technology, further clarification may be helpful with respect to the logistics surrounding Zoom hearings and the level of formality to be demonstrated therein.

(A) TECHNOLOGY GUIDELINES FOR MAINTAINING THE SECURITY OF REMOTE HEARINGS

In order to maintain the security of Court hearings held via Zoom.gov, the Court must carefully monitor the devices that seek access to all hearings. Accordingly, the Clerk's Office has implemented a procedure aimed at (1) providing connection information to all parties who wish to appear at each Zoom hearing, at least one full business day in advance of the hearings; and (2) precluding entry to parties who do not disclose to the courtroom deputy both their intent to appear at a hearing and their screen name on the device they will be using to connect to the hearing. In order to maintain effective and secure use of the Zoom.gov technology and conduct the hearings as smoothly as possible, the Court has established the following security guidelines:

1. The courtroom deputy will send the Zoom.gov URL link (which includes the meeting ID and password for the hearing or conference) to the parties who filed the motion on for hearing, and to any parties who filed either an objection or notice of appearance in the case, no later than one business day before the hearing.
2. Anyone else who wishes to appear at the hearing should contact the courtroom deputy at either (802) 657-6404 or Jody_Kennedy@vtb.uscourts.gov to get the information necessary to access the hearing. All hearings are open to the public, subject to these security and protocol guidelines.
3. In order to maintain the security of the courtroom, attorneys and parties should not share this connection information with anyone other than those authorized to appear at the hearing. Other interested parties or members of the press may get the information directly from the courtroom deputy, at either (802) 657-6404 or Jody_Kennedy@vtb.uscourts.gov.
4. Anyone who will be appearing at a hearing via Zoom using only the audio functionality (i.e., by telephone) must use the Zoom link for that particular hearing (rather than the usual call-in information for telephonic hearings), and must
 - (a) notify the courtroom deputy at least two business days prior to the hearing that they will be calling in to a hearing,
 - (b) identify the hearing(s) in which they wish to participate, and
 - (c) give the courtroom deputy the telephone number from which they will be calling.

For security reasons, the Court will not admit anyone into a hearing who has not complied with this requirement.

5. All Zoom.gov participants must keep the audio on their devices on mute except when speaking, and must refrain from using speaker phones.
6. Once they connect via Zoom.gov, participants will find themselves in a "Zoom waiting room," and they will remain there until the Court is ready to address the matter in which they indicated they wished to appear, and the courtroom deputy lets them into the Zoom courtroom.

7. If a person experiences any technical difficulties during a Zoom hearing, they will be able to get immediate assistance by emailing the courtroom deputy at Jody_Kennedy@vtb.uscourts.gov.

(B) PROTOCOL GUIDELINES FOR MAINTAINING THE FORMALITY OF REMOTE HEARINGS

While participating in a court hearing from a remote location may feel less formal, THE COURT FINDS the same level of decorum must be exercised whether the hearing is held in person or remotely. This is a topic the Court addressed at its June 19, 2020 Bench Bar meeting.

Therefore IT IS HEREBY ORDERED that the bar take notice that Vermont Local Rules 5072-1 and 5073-1 apply, to the extent applicable to remote hearings, and the Court expects counsel to comply with these Local Rules and ensure that their clients do as well. They apply in a Zoom hearing as follows:

Vt. LBR 5072-1. COURTROOM DECORUM.


- (a) In order to maintain the decorum of the courtroom and dignity of the proceedings, attorneys (and parties representing themselves) must:
- (1) treat all persons in the courtroom with dignity and respect;
 - (2) address all persons by their surname during all court hearings;
 - (3) refrain from any oral confrontation or direct dialogue between opposing attorneys or among parties *[i.e., direct all comments and questions to the Court]*;
 - (4) *[not applicable in a Zoom hearing]*;
 - (5) make all objections to questions posed by opposing counsel with specificity prior to offering any argument or explanation of same;
 - (6) *[not applicable in a Zoom hearing]*;
 - (7) be *[present]* in the *[Zoom]* courtroom before their case is called and prepared to proceed when their case is called;
 - (8) refrain from talking while court is in session *[and keep microphone muted except when addressing the Court]*;
 - (9) dress professionally, advise their clients to dress appropriately for court hearings, and *[maintain a quiet and professional setting to the extent possible]*; and
 - (10) be attentive to the court hearings and refrain from reading newspapers or books while court is in session.

Vt. LBR 5073-1. DEVICES PROHIBITED IN COURTHOUSE; BROADCASTING BY COURT.

- (c) Recording and Broadcasting by the Court. the broadcasting or televising of legal proceedings is prohibited. *[This prohibition includes the taking and reproduction of screen shots in Zoom hearings.]*

SO ORDERED.

November 2, 2020
Burlington, Vermont



Colleen A. Brown
United States Bankruptcy Judge