

**IN THE 21<sup>ST</sup> JUDICIAL CIRCUIT, ST. LOUIS COUNTY  
STATE OF MISSOURI  
FAMILY COURT**

<b>FREINER,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	<b>Cause No. 14SL-DR02617-01</b>
<b>v.</b>	)	
	)	<b>Division 31</b>
<b>JUDY,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

**TRIAL ORDER**

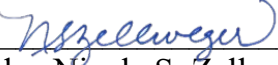
The Court held a pre-trial conference on this date by telephone to discuss the trial set for August 14, 2020. Petitioner appeared in person by telephone. Respondent appeared by counsel, K. Shaul, by telephone. GAL appeared by telephone. All parties have consented to the use of the Zoom application to conduct the trial.

By agreement of the parties, the minor child shall testify in the presence of the GAL and Court only. The minor child shall be brought to the office of the GAL at 8:30a.m. the morning of trial and shall testify first. If a party has a question he/she wishes to be asked of the minor child, the party may email the question(s) directly and only to the GAL no later than 5:00pm on August 13, 2020. The GAL shall ask those questions—and any additional questions the GAL deems appropriate—to the minor child.

Trial exhibits shall be exchanged by electronic mail no later than 5:00p.m. on August 13, 2020. The parties shall either send exhibits to the Court by electronic mail or drop off hard copies to the information desk of the Courthouse no later than August 13, 2020 at 5:00p.m.

Additionally, the Administrative Order attached hereto shall govern the video trial proceedings unless this Order deviates from the Administrative Order.

**SO ORDERED:**

  
\_\_\_\_\_  
Judge Nicole S. Zellweger  
Associate Circuit Judge, Division 31  
August 12, 2020

**ADMINISTRATIVE ORDER RE VIDEO-CONFERENCING PROTOCOLS DURING THE CORONA PANDEMIC**

**WHEREAS**, in March, 2020, the Centers for Disease Control and Prevention declared that the outbreak of COVID-19 is a worldwide pandemic, and both the Governor of Missouri and the St. Louis County Executive consequently declared a state of emergency; and

**WHEREAS**, the Supreme Court of Missouri announced the implementation of precautionary measures to combat the spread of the disease to the public and employees of the Missouri judiciary, while ensuring that essential services remained available and Missouri courts continued to fulfill their constitutional responsibilities; and

**WHEREAS**, the Missouri Supreme Court had initially suspended all in-person proceedings with certain identified exceptions, and the Missouri Supreme Court has authorized the Presiding Judge of each Circuit to determine the manner in which hearings are to be conducted; and

**WHEREAS**, the Supreme Court of Missouri, on May 4, 2020, provided Operational Directives to the courts of this state that they must follow before resuming court activities that have previously been suspended by this Court's prior orders; and

**WHEREAS**, these Operational Directives are designed to assist courts in ensuring public safety when making decisions at the local level. The Directives established phases which reflect differing approaches to in-person proceedings, personnel and staffing, and courthouse operations; and

**WHEREAS**, the Supreme Court has indicated "the citizens of the state and employees who enter Missouri courthouses and court facilities must feel confident for their own safety and understand that the health and welfare of every litigant, juror, witness, victim, judicial employee, attorney, and other individual involved in judicial proceedings across the state is paramount in the decisions that are made under these Operational Directives"; and

**WHEREAS**, Missouri courts operate at what the Missouri Supreme Court has referred to as “Operating Phase Zero,” in-person proceedings may only be heard if they are deemed to be one of a few specifically designated exceptions; Phase One allows for in-person proceedings if they are deemed to be one of the mentioned exceptions or are deemed to be “most critical.” Jury trials can only occur in Phase One and Phase Two if they involve “extraordinary, pressing and urgent cases”; and

**WHEREAS**, the Supreme Court indicated on July 24, 2020, that despite the limited or lack of in-person proceedings, “the courts of the State of Missouri shall remain open, available, and be able to carry out the core, constitutional functions of the Missouri judiciary as prescribed by law and continue to uphold the constitutional rights of litigants seeking redress in any Missouri court”; and

**WHEREAS**, the Supreme Court on July 24, 2020, encouraged Missouri courts to “utilize all available technologies – including teleconferencing and videoconferencing – whenever possible to limit in-person courtroom appearances to the extent not prohibited by constitutional or statutory provisions”; and

**WHEREAS**, the 21<sup>st</sup> Judicial Circuit Court adopted a list of protocols for videoconferencing for contested hearings.

**IT IS HEREBY ORDERED**, that this Circuit Court use the following protocols during contested hearings that are held through videoconferencing:

1. All videoconferencing hearings are court proceedings. Therefore, proper decorum (i.e., attire, behavior and speech) are expected at all times.
2. Attorneys and parties must always be visible to the judge and other attorneys. When testifying, witnesses must always be visible to the judge and attorneys.
3. When not speaking, all individuals who are “present” at the hearing, must ensure that they are muted.
4. Witnesses must be instructed that they be in a room with the door closed, with no one else inside during their testimony. Attorneys must instruct their witnesses about this requirement.



One exception: attorneys may be present. If this is the case, such information must be provided to the judge and opposing counsel. If attorneys and witnesses (including parties) are in the same room during the video hearing, the witnesses and the attorneys must both be visible on the screen at all times.

Whenever minor children testify during domestic family proceedings, they must be in the presence of their GAL.

5. Witnesses cannot receive any form of communication (such as texts, emails, verbal communication) during their testimony. They cannot look at documents or notes not otherwise visible to all parties during their testimony unless directed to do so by the Court. Attorneys must instruct their witnesses about these prohibitions.
6. Attorneys cannot directly or indirectly communicate (through any means, including third parties) with their clients while they are testifying. With the court's permission, they may communicate with their clients during breaks if their testimony is not completed.
7. Exhibits and exhibit lists must be provided (i.e. received) to the opposing party/counsel at least five business days before the trial. Exhibits and exhibit lists must be marked, scanned and emailed, or otherwise delivered in electronic form to the division clerk at least three business days before the trial.
8. Screen sharing of exhibits is prohibited unless authorized by the Court, and done for purposes of introducing the exhibits. Otherwise, screen sharing is prohibited until the exhibits have been admitted as evidence, subject to the discretion of the Court.
9. Recording or sharing any portion of the court proceedings in any way on social media (live or at any time) or any other public or private forum or platform is strictly prohibited.
10. The judge always has the discretion to make exceptions to the above rules. Parties must get approval from the judge for any exception at the pretrial conference or at the earliest possible time before the contested proceeding.

Courts should liberally grant continuances upon learning that unrepresented parties do not have adequate access to the videoconferencing proceeding.

No criminal case can proceed to a contested hearing by video-conferencing without the defendant's waiver of proceeding in-person before a judge. Courts shall be guided by Sect. 561.031, R.S.Mo.

**THIS ORDER MAY BE AMENDED AS CIRCUMSTANCES REQUIRE.**

**IT IS SO ORDERED.**



**Michael D. Burton**

**Presiding Judge, 21<sup>st</sup> Judicial Circuit**

**St. Louis County**

**August 5, 2020**