

FILED

Marilyn Burgess
District Clerk

MAR 30 2020

**11TH DISTRICT COURT'S RULE REGARDING
VIDEOCONFERENCED/TELECONFERENCED DEPOSITIONS**

Time: 10:30 am
By: [Signature] Deputy
Harris County, Texas

**I. The Texas Supreme Court Issues Emergency Order Regarding
COVID-19 State of Disaster.**

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On March 13, 2020, the Supreme Court of Texas and the Court of Criminal Appeals of Texas issued their joint "First Emergency Order Regarding the COVID-19 State of Disaster" (Misc. Docket No. 20-9042, "Emergency Order."). In its Emergency Order, the Supreme Court authorized all courts in Texas to "[a]llow or require anyone involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, or court reporter, but not including a juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means." Additionally, the Supreme Court authorized all courts in Texas to "[c]onsider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, such as by teleconferencing, videoconferencing, or other means."

The Supreme Court's Emergency Order recognizes that the COVID-19 pandemic presents exigent circumstances that justify vesting trial courts with discretion to modify or suspend procedures subject only to constitutional limitations. Thus, as permitted by the Emergency Order, this Court ORDERS that, in addition to the notice requirements set forth in Texas Rule of Civil Procedure 199.2:

1. All depositions may be noticed to take place remotely;
2. All notices shall state the location of: (a) the deponent; (b) the court reporter; (c) the lawyers; and (d) any other attendee;
3. All notices shall specify the method for accessing the remote connection being used; and
4. If a deponent or *pro-se* party lacks the capability or resources, e.g., equipment, necessary to participate remotely, the burden is on the party noticing the deposition to provide the necessary resources to the deponent/*pro-se* party.

II. Texas Rules of Civil Procedure 199.1 and 199.4.

Rule 199.1 currently provides that "[a] party may take the testimony of any person or entity by deposition on oral examination before any officer authorized by law to take depositions." To facilitate the implementation of the Supreme Court's Emergency Order, the Court modifies the procedure set forth in Rule 199.1 to clarify

that the officer “authorized by law to take depositions” need not be in the same location as the deponent.

Rule 199.4 of the Texas Rules of Civil Procedure provides that “[a] party may object to the time and place designated for an oral deposition by motion for protective order or by motion to quash the notice of the deposition. If the motion is filed by the third business day after service of the notice of deposition, an objection to the time and place of a deposition stays the oral deposition until the motion can be determined.”

To facilitate the implementation of the Supreme Court’s Emergency Order allowing remote depositions and the use of testimony adduced at those depositions, the Court ORDERS that:

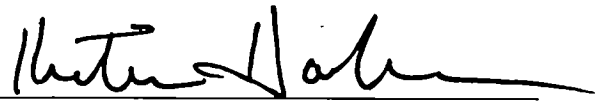
1. A party’s objection that a noticed deposition is to take place remotely, by video-conferencing, or by telephonic means, shall not—standing alone—be a ground to file a motion for protective order or a motion to quash; and
2. A party’s desire to attend a deposition in person shall not—standing alone—be a ground to file a motion for protective order or a motion to quash.

If, however, participating remotely would pose an undue burden on the deponent, a lawyer, or any other attendee, any party may file a motion for protective order or a motion to quash in accordance with Rule 199.4.

In issuing this rule, the Court has weighed the rights of the parties, including the parties’ rights to attend depositions in person, the procedural rights afforded parties by Rule 199.4, as well as the parties’ rights to proceed with discovery—even during the COVID-19 pandemic.

After weighing these procedural and the constitutional rights set forth in the Texas and United States Constitutions, the Court concludes that this Order does not infringe upon any party’s constitutional rights or run afoul of any other constitutional limitation.

Signed March 30, 2020.



Kristen B. Hawkins,
Judge, 11th District Court