

THE SUPREME COURT of OHIO
COMMISSION ON PROFESSIONALISM

PROFESSIONALISM DOS AND DON'TS

VIDEOCONFERENCING

Although Zoom and other videoconferencing platforms existed before the COVID-19 pandemic, it was not until COVID-19 safety protocols became ubiquitous in courts and law offices that these platforms became everyday parts of most legal practitioners' lives. Because of its many benefits, it appears that videoconferencing is here to stay.

As in other areas, the legal profession's adjustment to videoconferencing was not without occasional missteps. One mistake that gained national attention, was a Texas lawyer who could not remove his cat filter during a hearing.

If a lawyer uses videoconferencing improperly, or without fully understanding the technology of the chosen platform, the lawyer can potentially violate the Ohio Rules of Professional Conduct, damage their reputation, or their employer's reputation, and create claims against the lawyer and/or the employer.

For these reasons, the Commission on Professionalism is publishing the following guidelines, a set of videoconferencing "Dos and Don'ts." The Commission believes that if lawyers follow these guidelines, they will enjoy all of the benefits of videoconferencing without running afoul of professional pitfalls.

It is not the Commission's intention to regulate or suggest additional bases for discipline, but rather to facilitate the promotion of professionalism among Ohio's lawyers. By adhering to these guidelines, lawyers will be acting as professionals.

VIDEOCONFERENCING

DO

- DO ensure that your internet connection is sufficient to allow you to connect to the videoconferencing platform and maintain a stable connection. Consider using a cable and a hardwired-internet connection instead of relying on a wireless-internet connection.
- DO familiarize yourself with the functionalities of the videoconferencing platform. Learn keyboard shortcuts, if any.
- DO connect early to ensure everything is working properly.
- DO a test run before the first time you use a videoconferencing platform for a meeting, court proceeding, client meeting, etc., to minimize the potential for technical difficulties at the time of your conference.
- DO have all materials you need, plan to refer to, or mark as exhibits ready and available.
- DO ensure all materials and exhibits that will be referenced during the videoconference are shared with participants before the conference. For a videoconference deposition, send exhibits to the participants, including the court reporter, at least a day before the deposition.
- DO change your videoconferencing platform's default settings so that you enter conferences with your microphone muted and your camera turned off. Consider adding your headshot to your profile, if possible, so your picture appears if you lose your video feed.
- DO remember to mute your microphone when others are speaking.
- DO treat all participants with courtesy and civility.
- DO mute your microphone, and remind your client to mute their microphone when you take breaks in a deposition or other meeting requiring client consultation. You and your client should physically move to another room, rather than using a virtual breakout room within the videoconferencing platform, before having any conversations during breaks.
- DO consider your audience when choosing attire. Dress as you would if you were having the meeting or proceeding in person. Avoid clothing with stripes or other patterns that cause a strobing effect on camera.
- DO consider using a laptop or desktop computer, rather than a cellphone or tablet, to ensure high-quality video and sound.
- DO position your device so your head and shoulders are visible, you are centered in the frame with some space above your head, and the camera is as close as possible to level with your eyes.
- DO make eye contact with the camera, not the images of the other participants.
- DO be conscious of your body language during a videoconference. Consider standing when addressing a court, tribunal, or witness, if you can do so without causing undue delay or distraction.

VIDEOCONFERENCING

DO, CONTINUED...

- **DO** notify others in your office that you will be unavailable during the videoconference to avoid interruptions and distractions. Consider putting a sign on the door informing others in the building that a videoconference is underway.
- **DO** choose a professional background.
- **DO** set up in a well-lit area. Avoid using a window as your background and having lights directly behind you. Consider positioning a ring light or similar device in front of you to provide better illumination.
- **DO** be mindful of confidentiality rules. Ensure that no client information is unintentionally visible during your videoconference session.
- **DO** ensure that your display name on the videoconferencing platform is appropriate and properly identifies you. Avoid using generic names (such as “Participant 1”) or your email address. Include both your first and last name if you are before a tribunal or in a meeting with participants who do not know you.
- **DO** familiarize yourself with any tribunal rules or orders related to appearing before that tribunal through videoconferencing platforms.

VIDEOCONFERENCING

DON'T

- DON'T be late. Punctuality matters and is a show of respect to your fellow attendees and tribunal.
- DON'T choose a location that is uncomfortable or public.
- DON'T forget that any other attendee could be watching you at any time.
- DON'T keep other tabs open on your web browser, use an offensive or inappropriate device wallpaper, or allow your device to give pop-up notifications, if you are sharing your screen.
- DON'T make rude or degrading comments to any participant.
- DON'T wear clothing that matches, or is similar to, the color of your video background.
- DON'T forget to wear appropriate attire on your lower half. Although it is generally not visible, if you must stand or walk away for any reason, other participants can see your entire outfit.
- DON'T be less prepared than you would be for an in-person meeting or appearance before a tribunal.
- DON'T multitask. Your fellow attendees can tell.
- DON'T forget to check your setup – including the functioning of your audio and video, your background, the lighting, the appearance of your attire, and the documents on your desk – before joining the session.
- DON'T be interrupted by avoidable distractions. Before your session, turn off the ringer or alert tone (including any vibration feature) of your desk phone, cellphone, smart watch, and other devices, close programs (such as your email program) that send frequent alerts, and disable any visual-notification feature on your device.
- DON'T presume your audience is always with you. Periodically check to ensure that you and any critical participants (such as the judge) are still connected and streaming to the videoconference, and see if other participants have questions or comments.
- DON'T say something not meant for all participants until you ensure your microphone is muted. Don't leave your camera on if you need to attend to something other than the videoconference during the session, or there is a visible distraction in the room with you.
- DON'T forget to unmute when you are ready to speak or turn your camera on when you rejoin the session.
- DON'T interrupt or speak over other participants.