

In the Matter of Permitting Remote)	CHIEF JUSTICE ORDER
Proceedings)	No. 23-028
)	
)	ORDER PERMITTING REMOTE
)	PROCEEDINGS
)	

I HEREBY FIND as follows:

1. ORS 1.002(1) provides that the Chief Justice of the Oregon Supreme Court is the administrative head of the judicial department of government in this state; shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law; and, to facilitate exercise of that administrative authority and supervision, may make rules and issue orders as appropriate or take any other action appropriate to perform the functions of the office of Chief Justice.
2. ORS 1.171(2) provides that a Presiding Judge, to facilitate the exercise of administrative authority and supervision over a circuit court, may regulate the disposition of the judicial business of the court and make rules, issue orders, and take other action appropriate to that exercise. ORS 1.171(4) provides that a Presiding Judge may delegate the exercise of any of the administrative powers of the Presiding Judge to another judge of the court or to the Trial Court Administrator.
3. In 2022, the legislature amended ORS 1.002(5)(a), to grant the Chief Justice authority to direct or permit any court or magistrate appearance to be by remote means, notwithstanding any other statute or rule to the contrary, and not conditioned on any other event, such as a period of statewide emergency. Oregon Laws 2022, chapter 68, section 8 (effective March 23, 2022); *see also generally* Or Laws 2021, ch 199, §§ 1, 3 (prior amendment to ORS 1.002(5) – no longer in effect – granting that same authority, but only during a period of statewide emergency). ORS 1.002 relatedly provides:
 - a. In subsection (11), that the Chief Justice may delegate the exercise of any powers specified in ORS 1.002 to the Presiding Judge of a court; and
 - b. In subsection (5)(c), that the Presiding Judge may delegate the authority described in subsection (5) to another judge of the court.
4. On June 23, 2022, then-Chief Justice Walters issued CJO 22-012 (effective June 30, 2022), which exercised the authority granted to the Chief Justice regarding remote means, as described in paragraph 3 above, but also continued several statewide precautionary measures relating to the COVID-19 pandemic.
5. Following consultation with the Presiding Judges and leadership staff within the Oregon Judicial Department, I have determined that the Chief-Justice proscribed statewide precautionary measures set out in CJO 22-012 are no longer necessary, in light of the statutory authority granted to each Presiding Judge, as described in paragraph 3 above.
6. Since May 2020, our state courts have gained significant experience and expertise in conducting remote proceedings. More importantly, we have learned that remote proceedings are a key element in providing access to justice. The flexibility provided by

remote hearings has enabled court proceeding participants and other members of our communities across the state to participate in and engage with our courts, notwithstanding work and childcare schedules that conflict with courthouse hours; limited access to public transit in some communities; disabilities that make travel to the courthouse difficult; safety concerns in certain cases; and health vulnerabilities that require limited contact with others. The flexibility that we have gained from conducting remote proceedings has continued to increase the opportunity for court participation and to further fairness and equity.

This order is based on the foregoing, including the authority described in paragraphs 1, 2, and 3.

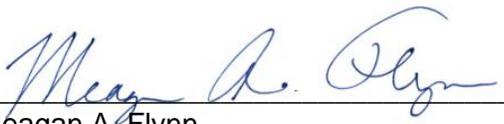
I HEREBY ORDER as follows:

1. Definitions. As used in this order:
 - a. "In person" means that a court proceeding is being conducted in the court facility, including at least one in-person participant who is neither the judge nor court staff.
 - b. "Presiding Judge" means the presiding judge of a judicial district or any person to whom that judge has delegated authority under this order. For purposes of this order, as applicable and pursuant to other statutory authority, the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, and the Tax Court Judge have the same authority in their respective courts as that described for a Presiding Judge.
 - c. "Proceeding" means a trial, hearing, or other court proceeding.
 - d. "Remote means" means the use of telephone, video, other two-way electronic communication device, or simultaneous electronic transmission.
2. Mode of Proceedings
 - a. Circuit courts
 - (1) Circuit court proceedings may be conducted in person or by remote means, as determined by the Presiding Judge, including the following:
 - (A) Regardless of the mode of proceeding, an attorney representing a party in a Forcible Entry and Detainer (FED) proceeding filed under ORS 105.110, at either a first appearance or trial, may appear by remote means with no need to file a motion requiring court approval, so long as the attorney provides advance notice to the court, consistently with local practice;
 - (B) Notwithstanding ORS 131.045(2) and (3), ORS 135.030(3), and ORS 135.360(3), any category of arraignment may be conducted remotely, without agreement of the parties; and

- (C) Notwithstanding any other statute or rule requiring that a person “personally appear,” “appear personally,” “appear in person,” make a “personal appearance,” or be “present in court,” the proceeding may be conducted remotely, and any appearance may be made by remote means.
 - (2) Notwithstanding any other provision of this order, if the constitution requires an in-person appearance or proceeding, then the appearance or proceeding must be conducted in person. If a party contends that a remote appearance or proceeding conducted remotely results in violation of the party’s rights, then the party may file a motion seeking an order that the appearance or proceeding be conducted in person. This subparagraph applies to any crime victim who contends that an order results in a violation of the victim’s constitutional rights.
 - b. Appellate Courts, Tax Court, and Citizen Review Board
 - (1) Appellate oral arguments and Supreme Court public meetings may be conducted in person or remotely, by video, at the determination of the Chief Justice or the Chief Judge, or the Chief Justice’s or Chief Judge’s designee.
 - (2) Tax Court proceedings may be conducted in person or remotely, by video or audio, at the determination of Tax Court Judge or that judge’s designee.
 - (3) The Citizen Review Board may conduct scheduled reviews of cases involving children in foster care in person or by remote means.
3. Exhibits in Circuit Court Proceedings
- a. When a circuit court proceeding is to be conducted remotely, the Presiding Judge shall determine the mode of submission of exhibits, which may include submission of exhibits that can be converted to PDF through the court’s electronic filing (eFiling) system, as set out in subparagraph 3.b. below, notwithstanding UTCR 6.050(3) and UTCR 21.070(3)(p). The Presiding Judge also may establish timing requirements that apply to the submission of exhibits for proceedings being conducted remotely.
 - b. Requirements for submission through the eFiling system:
 - (1) When submitting exhibits through the eFiling system, the filer shall designate the exhibits as described in UTCR 21.070(6).
 - (2) The submission of exhibits through the eFiling system must comply with UTCR 21.040(1), (2), and (3), to the extent applicable, except that the court may direct that multiple exhibits in a particular proceeding be submitted as separate eFiled documents.

- (3) The Presiding Judge may require that exhibits be submitted as a unified single PDF file under this subparagraph:
 - (A) Be accompanied by an index that identifies each exhibit, located at the beginning of the submission, with each identified exhibit electronically linked to the index; and
 - (B) Include an electronic bookmark for each exhibit.
 - (4) The court may reject submissions that do not comply with this paragraph.
 - (5) A Presiding Judge shall determine how nondocumentary exhibits, such as audio or video exhibits, are to be submitted for a proceeding for which exhibits otherwise are being submitted through the eFiling system.
4. This order supersedes CJO 22-012 (Order Permitting Remote Proceedings and Continuing Protective Measures) (June 23, 2022).
 5. This order becomes effective on September 1, 2023.

Dated this 30th day of August, 2023.



Meagan A. Flynn
Chief Justice