

## **VIRGINIA:**

*In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Wednesday, the 15th day of January, 2025.*

It is ordered that the Rules heretofore adopted and promulgated by this Court and now in effect are hereby amended, effective March 17, 2025.

Amend Rules 1:17, 1:27, 5:11, and 5A:8 as follows:

### **Rule 1:17. Electronic Filing and Service.**

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(c) *System Operational Standards.* In addition to the obligations and procedures set forth in subdivision (d) of this Rule, electronic filing systems under this Rule must meet these requirements:

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(5) Remote electronic access to documents submitted in an electronically filed case and stored electronically will be limited to judges, court personnel, any persons assisting such persons in the administration of the electronic filing system, active members of the Virginia State Bar and their authorized agents, and parties appearing pro se, who have complied with the registration requirements to use the electronic filing system.

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### **Rule 1:27. Testimony by Audiovisual Means in Circuit Court Civil Cases.**

(a) The court may permit a party in any civil trial or proceeding to present live testimony by means of audiovisual technology upon such conditions as the court may impose. Unless the court in its discretion allows a motion on shorter notice, such motion must be made, whether orally or in writing, at least 15 days in advance of the trial or hearing. Any party opposing a written motion must file any objections in writing 5 days after service of such motion, unless a different schedule is set by the court.

(b) Unless the courtroom or facility where the testimony will be presented has equipment meeting the standards of Code § 19.2-3.1, the party offering testimony of a witness by audiovisual means is responsible for providing the necessary equipment, and all necessary logistical arrangements, at no cost to the court. All costs and arrangements for the location where

the witness will give testimony are also the responsibility of the party offering the testimony. Failure to ensure that the courtroom or facility where the trial or hearing is to be held—and the location where the witness would testify—are properly set up for such testimony will preclude the offering of such testimony by audiovisual means. Remedies and procedures to address the failure of the arrangements to function properly for some other reason, such as a power outage affecting the Virginia courtroom, are within the sound discretion of the presiding judge.

(c) Any oath administered to a party or witness testifying by means of audiovisual technology shall be deemed to have been administered within the Commonwealth.

(d) *Presumptive cases for allowing remote testimony.* — The court should enter an order permitting live testimony under this Rule as follows:

(1) *Consent of All Parties.* Upon consent of all parties for live testimony of any party, lay witness, or expert witness by means of any audiovisual technology; or,

(2) *Distant and Other Specific Witnesses.* If (i) a lay witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the Commonwealth, unless it appears that the absence of the witness was procured by the party offering the testimony, or if (ii) the witness is a superintendent of a hospital for the insane more than 30 miles from the place of trial, or is a physician, surgeon, dentist, chiropractor, registered nurse, physician’s assistant or nurse practitioner who, in the regular course of his or her profession, treated or examined any party to the proceeding, or is in any public office or service the duties of which prevent his attending court; provided, however, that if the witness is subject to the jurisdiction of the court, the court may, upon a showing of good cause or sua sponte, order the witness to attend and to testify ore tenus.

**Rule 5:11. Record on Appeal: Transcript or Written Statement.**

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(e) *Written Statement in Lieu of Transcript.* A written statement of facts, testimony, and other incidents of the case, which may include or consist of a portion of the transcript, becomes a part of the record when:

(1) within 60 days after entry of judgment the moving party files in the office of the clerk of the trial court: (i) a copy of the statement, and (ii) a notice that the statement will be presented

to the trial judge no earlier than 15 days nor later than 20 days after the filing date. A copy of the statement and notice must be mailed or delivered to opposing counsel on the same day that they are filed in the office of the clerk of the trial court. The party filing the statement and notice must set or request a hearing within the time specified in subdivision (ii) above; and

(2) the statement is signed by the trial judge and filed in the office of the clerk of the trial court. The judge may sign the statement forthwith upon its presentation to him if it is signed by counsel for all parties, but if objection is made to the accuracy or completeness of the statement, it must be signed in accordance with paragraph (g) of this Rule.

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(g) *Objections.* Any party may object to a transcript or written statement on the ground that it is erroneous or incomplete. The objecting party must file any objections with the clerk of the trial court, specifying the errors alleged or deficiencies asserted, no later than 15 days after the date the notice of filing the transcript (paragraph (c) of this Rule) or no later than 15 days after the date the notice of filing the written statement (paragraph (e) of this Rule) was filed in the office of the clerk of the trial court. If the transcript or written statement was filed before the notice of appeal is filed, any objections must be filed within 10 days after the notice of appeal was filed with the clerk of the trial court. The clerk must give the trial judge prompt notice of the filing of such objections. Not later than 10 days after the notice of objection is filed with the clerk of the trial court, the trial judge must set a hearing with notice to all parties, unless a hearing has already been scheduled. After the hearing, the judge must:

- (1) overrule the objections; or
- (2) make any corrections that the trial judge deems necessary; or
- (3) include any accurate additions to make the record complete; or
- (4) certify the manner in which the record is incomplete; and
- (5) sign the transcript or written statement.

At any time while the record remains in the office of the clerk of the trial court, the trial judge may, after notice to counsel and hearing, correct the transcript or written statement.

The judge's signature on a transcript or written statement, without more, constitutes certification that the procedural requirements of this Rule have been satisfied.

**Rule 5A:8. Record on Appeal: Transcript or Written Statement.**

\* \* \*

(c) Written Statement in Lieu of Transcript. A written statement of facts, testimony, and other incidents of the case becomes a part of the record when:

(1) within 60 days after entry of judgment the moving party files in the office of the clerk of the trial court: (i) a copy of the statement, and (ii) a notice that the statement will be presented to the trial judge no earlier than 15 days nor later than 20 days after the filing date. A copy of the statement and notice must be mailed or delivered to opposing counsel on the same day that they are filed in the office of the clerk of the trial court. The party filing the statement and notice must set or request a hearing within the time specified in subdivision (ii) above; and

(2) the statement is signed by the trial judge and filed in the office of the clerk of the trial court. The judge may sign the statement forthwith upon its presentation to him if it is signed by counsel for all parties, but if objection is made to the accuracy or completeness of the statement, it must be signed in accordance with paragraph (d) of this Rule.

The term “other incidents of the case” in this subsection includes motions, proffers, objections, and rulings of the trial court regarding any issue that a party intends to assign as error or otherwise address on appeal.

(d) Objections. Any party may object to a transcript or written statement on the ground that it is erroneous or incomplete. The objecting party must file any objections with the clerk of the trial court, specifying the errors alleged or deficiencies asserted, no later than 15 days after the date the notice of filing the transcript (paragraph (b) of this Rule) or no later than 15 days after the date the notice of filing the written statement (paragraph (c) of this Rule) was filed in the office of the clerk of the trial court. If the transcript or written statement was filed before the notice of appeal is filed, any objections must be filed no later than 10 days after the notice of appeal was filed with the clerk of the trial court. The clerk must give the trial judge prompt notice of the filing of such objections. No later than 10 days after the objection is filed with the clerk of the trial court, the judge must set a hearing with notice to all parties, unless a hearing has already been scheduled. After the hearing, the judge must:

- (1) overrule the objection; or
- (2) make any corrections that the trial judge deems necessary; or
- (3) include any accurate additions to make the record complete; or
- (4) certify the manner in which the record is incomplete; and
- (5) sign the transcript or written statement.

At any time while the record remains in the office of the clerk of the trial court, the trial judge may, after notice to counsel and hearing, correct the transcript or written statement.

The judge's signature on a transcript or written statement, without more, constitutes certification that the procedural requirements of this Rule have been satisfied.

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A Copy,

Teste:

  
Clerk