

United States Bankruptcy Court

WESTERN DISTRICT OF MICHIGAN

CHAMBERS OF  
SCOTT W. DALES  
CHIEF JUDGE

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October 29, 2021

VIA ECF NOTIFICATION

Members of the Bar  
United States Bankruptcy Court  
for the Western District of Michigan

Re: In-Person Hearings

Dear Counsel:

Through the grapevine I have heard that, since the court resumed in-person hearings last July, some of you remain uncertain about my approach to allowing you or your clients to participate in court hearings by Zoom or telephone. I am writing to address this uncertainty and to assure you that I am willing to accommodate your concerns.

First, I have made no secret of my view that under Fed. R. Bankr. P. 5001(b) and Fed. R. Civ. P. 43(a) (applicable per Fed. R. Bankr. P. 9017), bankruptcy court proceedings generally must take place in our courtrooms, absent "compelling" circumstances. Early in the life of the pandemic, circumstances indeed compelled us to conduct court using Zoom or telephone for more than a year. After consulting with public health authorities, however, the Judges and the Clerk of the Court made the decision to return to in-person hearings starting July 6, 2021. We concluded that we could do so safely, using masks, sanitization, and social distancing, and we still feel that way. The Clerk of the Court monitors the situation every day.

Of course, we cannot yet regard the risk of serious illness from COVID as eliminated, only manageable, but with the data available to us we continue to believe that we may safely use our courtrooms again.

Second, I recognize that each of us has a different tolerance for the risk. For my part, I am fully vaccinated and am willing, if not eager, to appear in person. My children are older and I no longer have vulnerable adults in my family or immediate circles. I recognize, however, that many of you are more anxious about infection, given your particular circumstances, or the circumstances of those close to you. My colleagues recognize this, too. For this reason, we each (in our own ways) make accommodations as we strive to get back together again.

Our website includes a link to my procedures for obtaining permission to appear in court by Zoom or other remote electronic means. See [www.miwb.uscourts.gov](http://www.miwb.uscourts.gov). In a nutshell, I ask that those of you who wish to appear remotely do so for *bona fide* health-related reasons. Since we have returned to in-person hearings I have excused, and will continue to excuse, in-person appearances based on exposure, possible exposure, or even anxiety about exposure to the COVID-19 virus for the person making the request, their minor children, or other vulnerable people in their lives. I have not insisted on any documentation or personal medical information in relaxing the in-person requirement, relying on the honor of the person making the request. It will suffice for attorneys, clients, or witnesses simply to express concern about exposing themselves or other people to infection, or to describe other compelling circumstances under Fed. R. Civ. P. 43.

I have, however, rejected requests based merely on the inconvenience or expense of attending in person. I will continue to reject such requests, as I tried to explain during my remarks at the recent FBA seminar, not just because the rules require more but because our tradition of settlement, civility and trust depends on the relationships that we can only develop and nourish through proximity to each other. Remote electronic appearances can be a useful tool, but one we must use sparingly and in conformance with the rules, our local culture, and traditions.

Finally, I encourage you to consult the Judges' sections of our website for remote appearance guidelines, to appear in person when you feel it is safe, and to seek permission to appear remotely when you do not. I also hope you will join me as we strive to return to pre-COVID practices and the many benefits of practicing in West Michigan and working together, in public whenever we can, and remotely only when we must.

Very truly yours,



Scott W. Dales