



2025 GUIDE TO CONDUCTING REMOTE DEPOSITIONS

HOW TO CONDUCT GLITCH-FREE, SECURE VIRTUAL DISCOVERY IN A REMOTE WORLD



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INTRODUCTION

Remote Depositions Present an Opportunity and a Challenge

Remote depositions have gone mainstream. Courts have acknowledged that [remote depositions are not inferior to in-person depositions](#) and are even considering [adopting ground rules](#) about notice requirements, technical standards, and camera positioning.

The industry shift to remote depositions and their growing acceptance is not a surprise. By eliminating the need to travel, remote depositions provide convenience and cost savings. Technology allows attorneys to depose witnesses—sometimes several in one day—anywhere in the world without needing to board a plane.

But remote depositions also introduce some risks and factors for consideration:

- Technology can glitch.
- Audio or video quality can be poor.
- There is difficulty assessing witness trustworthiness.
- Unethical attorneys may coach witnesses off-camera.
- Security and confidentiality can be breached or lapse.

There are simple steps that attorneys and legal staff can take to help streamline the process and mitigate risks to take full advantage of the convenience of remote depositions.

Remote deposition best practices break down into five essential elements:

- **Security:** The essential element that encompasses every step of the remote deposition process.
- **Administration:** Noticing, choosing a platform, and preparing a protocol specifically geared toward a remote deposition.
- **Audio/video:** Preparing and troubleshooting equipment and technology.
- **Exhibits:** Preparing and sharing sensitive materials with deponents and counsel.
- **The Proceeding:** Combining the elements above with in-proceeding testimony review and vigilance against witness coaching.

This guide provides legal professionals with an overview of how to prepare for and conduct remote depositions in a world that is increasingly adopting hybrid and virtual work environments. By using these best practices, including proper protocols and secured technology, there is less of a need to travel for a deposition ever again.



SECURITY

Security Is Essential

Before going in-depth about the do's and don'ts of remote deposition, we need to talk about an overarching concept that is critical to every step of the process—data security.

When doing anything online, the biggest risk becomes security. Depositions involve sensitive information, both in oral testimony gathered from deponents and in exhibit documentation. Security must extend to the preparation and transmission of exhibits; the storage of audio, video, and transcript files; and during the deposition itself. Legal staff and attorneys should familiarize themselves with [basic tools and practices](#) that safeguard and enhance digital security. The most essential tool in data security is encryption.

What Is Encryption?

Encryption is the current standard tool to secure sensitive digital data by converting it into ciphertext that is inaccessible to anyone without authorization. Encryption protects everything online, from communications to financial transactions.

Attorneys and their professional support staff should ensure that all confidential communications are sent via encrypted email. Remote depositions should be conducted on secure, encrypted platforms. Reputable cloud platforms offer the ability to securely store and easily share documents and media files with the security of encryption.

At Esquire, all client data is encrypted end to end, in transit, and at rest, and delivered by a secure online delivery platform that is PCI DSS certified and HIPAA compliant.



Throughout this eBook, you will see this symbol where data security plays an important role.

Assessing Vendor Security

The need for data security extends to third-party vendors, and attorneys and legal staff must vet their vendors carefully when choosing with whom to partner. This includes scrutinizing court reporting agency security measures.

For example, Esquire Deposition Solutions [makes security a top priority](#). Esquire holds its ISO 27001:2022 certification and has successfully completed multiple AICPA SOC 2 Type II audits. Esquire's adherence to the ISO 27001:2022 standard ensures a comprehensive approach to data protection, reducing the risk of unauthorized access, data breaches, and information leaks. The rigorous SOC 2 Type II audit, and Esquire's compliance with industry regulations, underline Esquire's commitment to meeting the highest standards of security, availability, processing integrity, confidentiality, and privacy.

With this level of protection in place, attorneys can have confidence that transcripts, exhibits, and other sensitive legal data will be secure throughout the entire deposition and court reporting process.

ADMINISTRATION

In many ways, administering a deposition remotely is more convenient and cost effective than in person—no office space to reserve, no plane or train tickets to buy or routes to plan, no hotel rooms to book, and no paper documents to ship or carry.

But remote depositions still require up-front legwork to ensure that testimony is gathered successfully, confidentiality is maintained, and the deposition is stored and transmitted securely.

Legal staff must coordinate with deponents and attorneys and retain a court reporting agency. The agency will handle much of the administrative tasks, including scheduling the proceeding and coordinating the court reporter, support staff, videographer, and if necessary, a remote technologist to help with exhibit presentation.

Remember! Notice about the deposition should be clear that the proceeding will take place remotely. It should state that counsel, a court reporter, and other relevant parties will participate over videoconference.

Choosing a Meeting Platform

To meet remotely, parties must join a virtual meeting. There are myriad meeting platforms available, and your law firm likely has one of choice. Zoom, Teams, and Webex are three of the most popular and all offer end-to-end encryption.

The advantage of well-known videoconference platforms is that many people are already familiar with them, but their limited functionality can be frustrating during the deposition. Legal professionals may need to juggle two separate applications when displaying and moving through exhibits, which can introduce the risk of inadvertently displaying an incorrect exhibit, an exhibit list, or other confidential materials.



Fortunately, legal services companies like Esquire saw the need to enhance a basic meeting application with a purpose-built platform dedicated to making legal proceedings run as smoothly as possible.

Esquire eLitigate®ZE, fully integrated with Zoom meetings, is enhanced with advanced AI testimony tools that help shorten litigation cycles. More than just technology, it delivers a streamlined, all-in-one platform with case exhibit folders that follow you from deposition to deposition. For solo practitioners and large litigation teams alike, eLitigateZE offers the long-awaited optimized experience—replicating the efficiency and integrity of in-person proceedings in a fully integrated virtual environment.

Esquire's eLitigateZE is fully integrated with Zoom so legal professionals can simply log in from a web browser. It is intuitive to use for anyone who has used other video conferencing platforms in the past—and [it is always secure](#).



It bears repeating that when selecting a court reporting agency for virtual depositions you should always assess data security. If a vendor is using their own proprietary platform, inquire about their use of encryption.

Develop a Strong Remote Deposition Protocol

A strong protocol will contain stipulations that will help avoid the possibility that a party will challenge the validity of testimony taken remotely. A [well-written deposition protocol](#) will go a long way toward ensuring that a remote deposition will proceed with minimum glitches, misunderstandings, or objections.

There are several stipulations that can be included in a remote deposition protocol that will help things run smoothly.

- All persons should agree to conducting the deposition remotely, waiving all objections to the use and admissibility of the transcript or video based on the fact that the deposition was taken by remote means, that the court reporter is not present with the deponent during the deposition, and/or that the court reporter is not a notary public in the same state as the place of examination.
- The transcript and/or video recording of the deposition may be used at trial or hearing to the same extent that an in-person deposition would be.
- All persons will join the meeting in a secure space that is free from distractions that would inhibit the course of the deposition.
- All persons will join the meeting from a private, secure internet connection. If a public connection is necessary, depositing counsel will bear the cost of furnishing a secure VPN client.

- Depositing counsel will bear the cost of ensuring the deponent has adequate equipment to participate in the deposition remotely, including access to hardware, software, internet, and audio/video equipment.
- No person may initiate a private conference or communication with the deponent, including verbally or with body language off-camera, text message, instant message, email, chat, or any other means, except during breaks.
- During breaks, parties may use virtual breakout rooms or other means to communicate as otherwise permissible under the Federal Rules of Civil Procedure or applicable state rules of civil procedure.
- Any party may request that the deposition be recorded by a [legal videographer](#) at the requesting party's cost.
- If technical problems prevent a court reporter from hearing or transcribing testimony, counsel will confer and cooperate to reschedule the deposition.



Stipulate that all parties must use a secure internet connection. Avoid public connections if possible without a VPN.

Troubleshooting Objections to Remote Depositions

When parties do not agree to taking depositions remotely, courts have been mixed about whether to compel. Generally, courts want attorneys to show [good cause for conducting depositions remotely](#). That said, [courts have said that remote depositions continue to be “prudent and effective,”](#) and the American Bar Association [adopted a best practices resolution](#) in 2023 in acknowledgment of the advantages of avoiding unnecessary travel.

AUDIO/VIDEO

Technology glitches are inevitable in modern life and law. Here is how legal professionals can prevent technical difficulties that might impede a successful [remote deposition](#).

Use Dedicated Microphones

Ask each party to use a dedicated headphone and microphone set rather than external speakers and mics. Headphones with microphones will eliminate echoes, background noise, and volume disparity where one speaker is much louder than someone else. Use wired where possible since wireless is more likely to lose connection, glitch, or sound muddled.

Conduct a Dry Run

Ensure that all applications and computers are installed with the latest software, and make sure that witnesses are familiar with all the technology they will be using on deposition day. Check that all the relevant participants are comfortable with the tools and exhibits that will be used during the deposition and that witnesses understand how to manipulate and highlight digital materials, if applicable.



Remember! A remote deposition is not the same thing as a video deposition. A remote deposition refers to how the deposition is taken. A video deposition refers to the official record itself. A remote deposition may yield only a transcript or a transcript with audio/video. The notice of deposition must state clearly both the means of carrying out the deposition—either in-person or remotely—and the recording method, including whether video will be used.

Check Connections

Test your internet connection speed before connecting to the meeting, and if it is slow, resetting your router may help refresh your connection.

Communicate Clearly

At the outset of the deposition, ensure that the court reporter can hear the deponent and counsel clearly, and if not, instruct them to speak more directly into the microphone. Ensure that every party clearly says their name when they first speak so the court reporter knows who is speaking at all times.

Tips and Best Practices for Good Audio and Video

- Have a light source, such as a ring light or window, in front of the deponent sit in front of a light source, such as a ring light or window.
- Avoid having parties sit with a window behind them, which will shadow the face.
- Avoid crosstalk as much as possible.
- Speak clearly and enunciate.

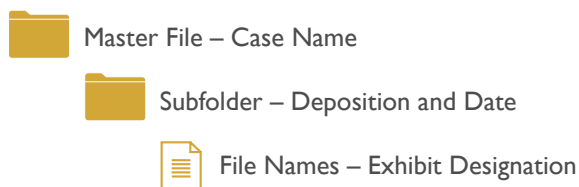
EXHIBITS

There are two ways to manage exhibits in remote depositions—the DIY approach or a dedicated deposition management platform.

The Do-It-Yourself Approach

Organization is key to a DIY approach to make exhibits easily accessible during the deposition.

Develop a simple file-naming system that will allow you to quickly pull up documents you want to view.



Create an index with all of the exhibit designations and descriptions of what the files are.

Index of Exhibits

Exhibit A	Email Brown to Smith, December 24, 2023
Exhibit B	Company 2024 Financial Statements
Exhibit C	Correspondence with Tom Doe
Exhibit D	Insurance Claim Form January 1, 2024

If you are using a cloud storage program, you can link each exhibit directly in your index to pull them up quickly.

In addition to your meeting platform, you will need to use a variety of different applications to share exhibits depending on the filetypes you will present. Whether PDFs, audio files, videos, spreadsheets, web content, schematics, or drawings, ensure each application you will need is up to date before deposition day.

During your meeting, you will click the “share screen” tool and then use the relevant applications to pull up the files on your own computer.



When sharing exhibits with your team or opposing counsel, make sure your email and storage platforms are secure to safeguard confidential information.

A Purpose-Built Deposition Platform

eLitigateZE streamlines exhibit management with simplified uploading, stamping, annotation, and collaboration. Gain more control over remote depositions with drag-and-drop uploads, private previews, and live exhibit presentation tabs.

eLitigateZE’s Case Teams feature empowers paralegals and legal assistants to prepare and upload exhibits on behalf of the taking attorney or an entire litigation team. To ensure confidentiality, private documents are only viewable by the team that uploaded it until they are introduced.

When the deposition has concluded, Case Exhibits streamlines the preparation process for the next deposition by copying the complete exhibit folder into each team member’s exhibit list for each subsequent proceeding during the lifespan of the case, so that all case exhibits are always available to each team member. Each exhibit has an info tag that certifies its exhibit number and time of introduction, ensuring the integrity of the exhibits.

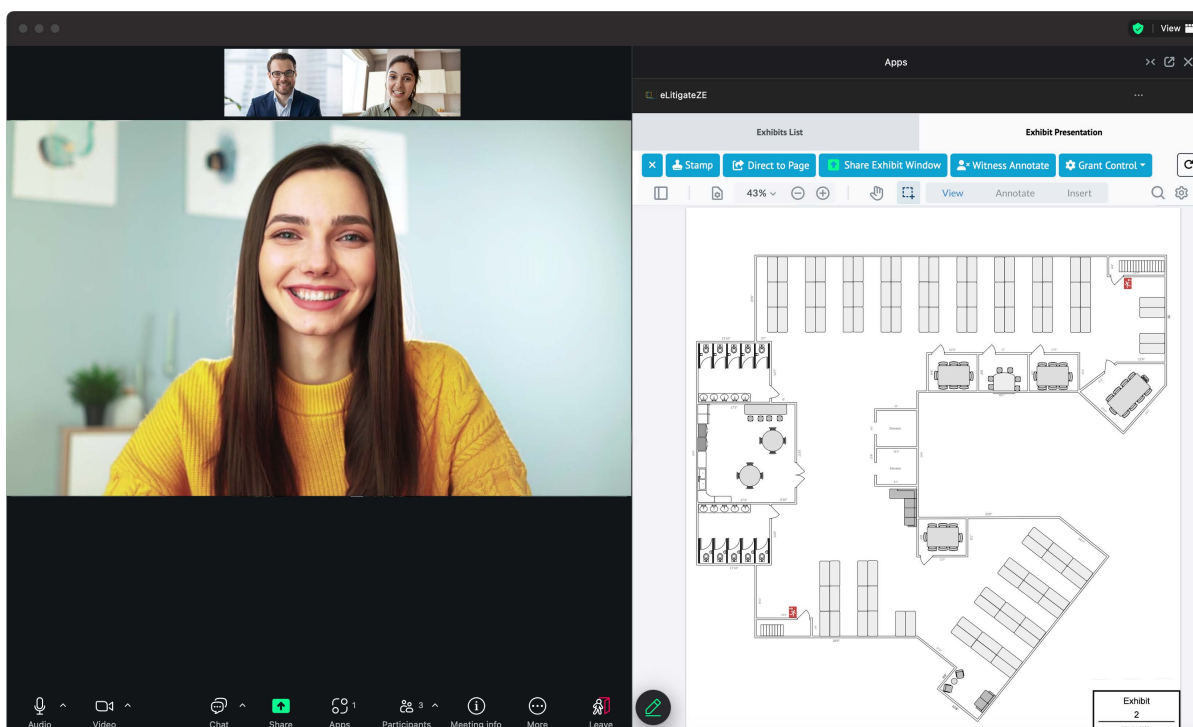
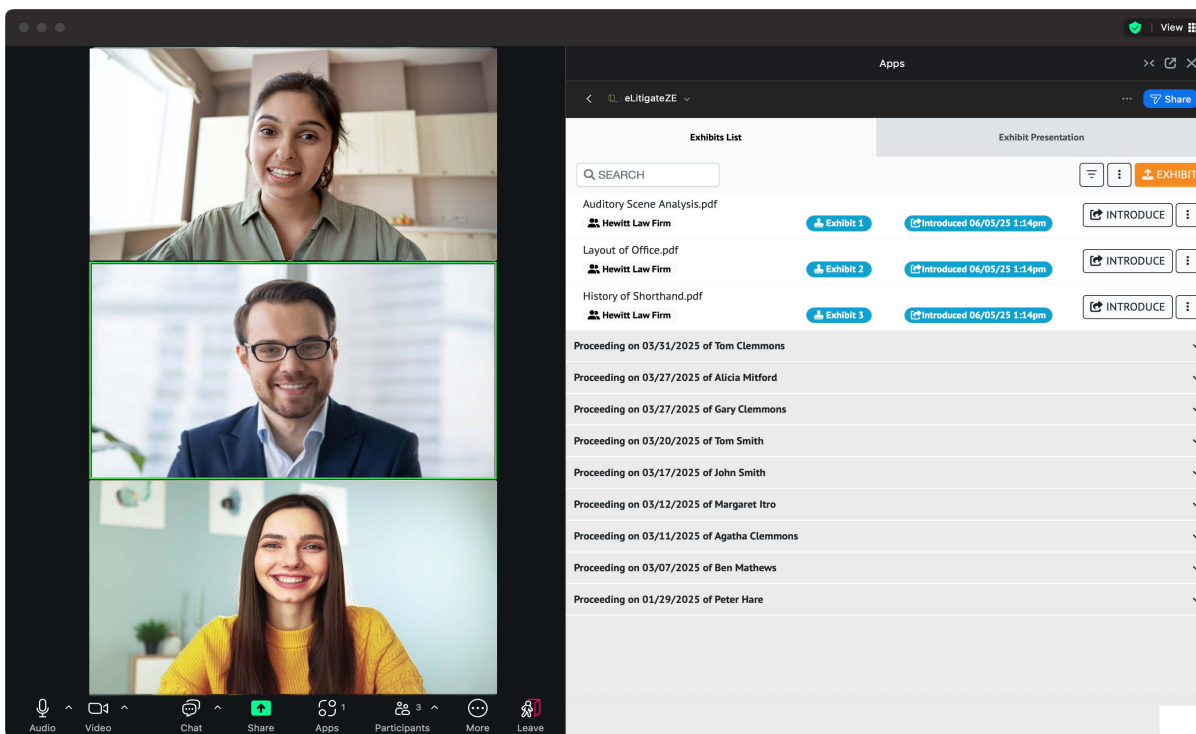
Uploading exhibits is easy on eLitigateZE. Users can upload any document file type for submission to the court reporter after the proceeding. For in-app presentation, eLitigateZE natively supports PDFs, image files (.png, .jpg, .gif), and Microsoft Office formats (Word, PowerPoint, and Excel).

Documents remain private until shared. Once shared, the document appears in each participant's exhibit list, and opens in the Live Exhibit page.

The presenter can direct all participants to a particular exhibit page, then allow all, including the witness, to scroll

through the document independently. The presenter can then direct a witness to annotate documents.

The presenter can show audio, video, and native file formats using Zoom's Screen Sharing feature.



THE PROCEEDING

As the [proceeding is underway](#), attorneys and legal staff will need to juggle several elements—including technology—to keep the deposition moving smoothly and achieve the objective of eliciting useful evidence for the case.

Remember! Advise participants to dress for the deposition the way they would for an in-person one. Participants should not eat, drink, smoke, or scroll through their phones during the proceeding.

Reviewing Testimony With Real-Time Court Reporting

Just as with in-person depositions, a real-time court reporter in a remote deposition will take stenographic notes that are immediately transformed into readable text to give lawyers instant access to a searchable transcript of

the proceeding as it occurs. This real-time court reporting gives attorneys an opportunity to ensure that unclear or unintelligible words are corrected in the transcript, to absorb the information more effectively, and to note important points for follow-up questioning.

As in traditional depositions, after the remote deposition concludes the certified court reporter will prepare the official transcript for use as evidence. Likewise, an official videographer will prepare video files for use in the official record, if stipulated.

Troubleshooting Witness Coaching

A drawback of remote depositions is lack of visibility. When across a table from a witness in a conference room, there is little opportunity for counsel to furnish answers. But when all you can see is a head and shoulders, there is no controlling what is going on behind the camera or on the deponent's screen.



Witness coaching is a major concern for attorneys conducting remote depositions. While courts have sanctioned attorneys who inappropriately coached witnesses during remote proceedings, attorneys should be proactive in preventing and discouraging witness coaching in the first place.

The American Bar Association recommends several steps that attorneys can take to minimize the occurrence of witness coaching during remote depositions, such as skillful cross-examination, obtaining court orders directing uninterrupted testimony, and stipulations in protocols and pre-discovery plans.

Here are some guardrails that legal professionals may want to include on their remote deposition protocols and in proceedings:

In the Protocol:

- No applications besides the conference platform and, if necessary, exhibit-viewing applications should be open on the deponent's computer.
- Opposing counsel should be on camera at all times.
- Eyes should be visible, and no masks allowed.

Remember! If you observe witness coaching, get it on the record. If it's not on the record, it didn't happen.

- No person may initiate a private conference or communication with the deponent, including verbally or with body language off-camera, text message, instant message, email, or any other means, except during breaks.

In the Proceeding:

- State clearly the locations of all persons present at the outset.
- Ask the witness to verify that there are no other applications open on the computer.
- Remind the witness and counsel that communication by body language or hand signal is inappropriate.
- Remind the witness not to rely on notes for answers, and be sure to obtain them if they are present.
- Ask all participants to keep their microphones on at all times.

Courts have not been kind to attorneys caught coaching witnesses during remote depositions. A U.S. district court [sanctioned and removed](#) one attorney who had coached a deponent about 50 times while they were both wearing masks. Attorneys in two different cases in two different states—Florida and Arizona—were suspended from practicing law because of witness coaching over text message and chat, respectively, in the past three years. These and other examples of unethical attorney conduct are unfortunate, but the risk of witness coaching is a surmountable challenge that can be overcome with preparation and vigilance.



THE FINAL WORD

Technology will continue to improve the remote deposition process. Internet connections will continue to become more stable, smoothing out glitches and lags. Computer and phone cameras will continue to improve, providing sharper video. And companies like Esquire Deposition Solutions will continue to innovate tools for attorneys to conduct discovery more easily.

Although remote depositions are still in the early stages of widespread adoption, platforms like eLitigate already provide comprehensive solutions for the needs of legal professionals to make the process even more convenient than just avoiding travel to a deposition.

With these simple elements in place, attorneys can ensure that their remote depositions are successful.

The Elements of a Successful Remote Deposition

Security

When conducting proceedings remotely, security becomes one of the biggest concerns. Safeguard the sensitivity of confidential information through every step of the process. Also, check that email clients, data storage platforms, meeting platforms, and third-party vendors adhere to strong data security standards.

Administration

Choose a court reporting agency that supports remote depositions and ensure it adheres to the highest security standards. Prepare a protocol specific to a remote deposition, covering any elements that will prevent objections to admissibility because it was taken virtually.

Audio/Video

Make sure all parties have access to hardware, software, and the audio/visual equipment they need. Take a test run to verify that software is updated, internet connection is stable, and hardware is working properly.

Exhibits

Make sure the whole team has access to exhibits when moving from deposition to deposition in the case. Keep the exhibit list hidden during the proceeding, especially while sharing your screen during the deposition.

The Proceeding

Have each participant speak clearly, and state what is occurring during every step of the process. Prevent witness coaching with a strong protocol and by keeping vigilant during the deposition. Remind witnesses not to rely on notes and for all participants to keep microphones on.



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