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Directive #02-21

[Questions or comments may be directed to
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**TO: Assignment Judges
Civil Presiding Judges**

FROM: Glenn A. Grant, J.A.D.



**SUBJ: COVID-19 – Electronic Evidence in Virtual Civil Jury Trials –
Supreme Court’s January 7, 2021 Order**

DATE: January 7, 2021

The Supreme Court in its January 7, 2021 Order authorized a two-phase approach to implementation of virtual civil jury trials during the ongoing COVID-19 pandemic. This directive implements paragraph 5(e) of that Order by promulgating additional guidance to judges presiding over virtual civil jury trials about the format for documents, images, pictures, audio recordings, and video recordings, and how to preserve and retain those items.

Judges will consider the following non-mandatory recommendations for evidence submitted or to be presented during a virtual civil jury trial:

1. Pre-marked exhibits should be supplied to jurors prior to deliberations unless the parties agree, or the court rules, that an exhibit is admitted in evidence and should be provided during trial.
2. A standard format should be used for all evidence compatible with viewing by all participants. Universal accepted formats include:
 - a. Documents - .pdf;
 - b. Images, pictures - .jpg, .gif, .png, .pdf;



- c. Audio recordings - .avi, .mpg, .mp3, .mp4; and
 - d. Video recordings - .avi, .mpg, .mp3, .mp4.
3. To prevent modification, documents should be “flattened” or “locked” in PDF/A format, with an archival and preservation format that ensures documents will look the same regardless of the software used to view them.
 4. The pretrial order should specify PDF or PDF/A, image orientation, whether documents should be submitted in color or black and white, if multi-page documents are acceptable, or if each document should be submitted in a separate file.
 5. The pretrial order should address file size limitations.
 6. Security: Consideration should be given to access points for evidence shared and stored digitally, and electronic audit logging should be enabled to document when files are accessed and by whom. Electronic audit logging must not be conducted in a manner that would invade on the secrecy of jury deliberations.
 7. Admitted Exhibits: As exhibits are admitted in evidence, they should be placed by the court in a secure folder that is accessible only to counsel and the court, which may include a folder for both admitted plaintiff and defense exhibits. Admitted electronic exhibits should be provided to the jurors for access during deliberations and, at the discretion of the court, at other times.

Questions on this Directive may be directed to the Office of the Administrative Director of the Courts.

cc: Chief Justice Stuart Rabner
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