



*MILLE LACS BAND OF OJIBWE INDIANS*  
*COURT OF CENTRAL JURISDICTION*

**IN THE COURT OF CENTRAL JURISDICTION  
CHIEF JUSTICE COURT ORDER 56**

**IN THE MATTER OF THE MILLE LACS BAND COURT  
OF CENTRAL JURISDICTION'S PROCEEDINGS  
SUBSEQUENT TO THE TERMINATION  
OF THE COVID-19 STATE OF EMERGENCY**

**Effective Date: November 1, 2022**

Title 5 MLBSA § 114(g) authorizes the Chief Justice of the Court of Central Jurisdiction “To exercise all administrative duties necessary for the continued conduct of competent court operations.” Chief Justice Court Order 53, as amended, effective May 15, 2020, enacted emergency protocols for the continued operation of the Court of Central Jurisdiction during the Coronavirus (COVID-19) pandemic. On July 14, 2021, the Mille Lacs Band Assembly adopted Resolution 19-04-73-21, “A Resolution Terminating the State of Emergency” which terminated the state of emergency declared by the Chief Executive for the Non-Removable Mille Lacs Band of Ojibwe on March 15, 2020.

The Judicial Branch will continue to promote the general welfare, provide access to justice, and protect the rights of all persons under the jurisdiction of the Mille Lacs Band. The use of remote hearings is an effective measure to prevent the spread of the COVID-19 and other viruses and improves access to court proceedings for persons with transportation challenges. Given the lifting of the state of emergency, it is necessary to repeal and replace the emergency protocols established by Court Order 53, as amended. THEREFORE, it is hereby ORDERED that, until further notice, the following policy for determining whether a court proceeding is heard remotely, or in-person shall apply.

**I. APPLICABILITY**

This policy applies to the Mille Lacs Band District Court, the Mille Lacs Band Family Healing to Wellness Court, and the Mille Lacs Band Court of Appeals.

**II. DEFINITIONS**

- A. “**Exceptional Circumstances**” are those situations where the Court may allow one or more parties to appear in person for a presumptively remote hearing or to appear remotely for an in-person hearing.

- B. **“Hearing”** is a formal proceeding before the Mille Lacs Band District Court, the Mille Lacs Band Family Healing to Wellness Court, or the Mille Lacs Band Court of Appeals, including oral arguments.
- C. **“In-Person Hearing”** is a hearing at which all parties are required to be physically present in the courtroom.
- D. **“Remote Hearing”** is a hearing at which no parties are physically present in the courtroom.
- E. **“Hybrid Hearing”** is a hearing at which some parties appear in person and others appear remotely. The presiding judge or Special Magistrate may authorize a hybrid hearing for exceptional circumstances.

### III. DETERMINATIONS

- A. **Designation of case hearing types.** All hearings shall be conducted either remotely or in-person, as provided in the attached table, unless the presiding judge, the Special Magistrate, or Chief Justice finds that exceptional circumstances exist that justify departure from the presumption.
- B. **Remote hearing factors used to determine exceptional circumstances exist.** The presiding judge, Special Magistrate or Chief Justice, either on her or his own motion or on the motion of any party, may consider the following factors when determining whether exceptional circumstances exist **to allow one or more parties to appear in person for a presumptively remote hearing:**
  - 1. All parties and the court agree that the hearing should be held in person (this factor, by itself, does not constitute exceptional circumstances);
  - 2. A party lacks access to technology to participate remotely, and the party cannot reasonably be expected to gain access to such technology before the hearing;
  - 3. The importance and complexity of the hearing;
  - 4. There are too many participants in the hearing to easily keep track of them all on a computer screen;
  - 5. For an evidentiary hearing, whether appearing remotely would allow for effective examination of the witness and maintain the solemnity and integrity of the proceedings and thereby impress upon the witness the duty to testify truthfully;
  - 6. Any undue surprise or prejudice that would result; and
  - 7. Such other factors, based upon the specific facts and circumstances of the case, as the court determines to be relevant.

C. **In-person hearing factors used to determine exceptional circumstances exist.** The presiding judge, Special Magistrate or Chief Justice, either on her or his own motion or on the motion of any party, may consider the following factors when determining whether exceptional circumstances exist **to allow one or more parties to appear remotely for an in-person hearing:**

1. All the parties and the court agree that the hearing should be held remotely (this factor, by itself, does not constitute exceptional circumstances);
2. Holding the hearing in person would cause a hearing participant to reasonably fear for their safety;
3. A hearing participant has a preexisting health condition that places the participant at a higher risk of contracting viruses or to suffer severe illness from a virus;
4. The cost and time saving to any party;
5. A hearing participant would need to travel unreasonably far to the hearing location, or it would be unduly burdensome for a hearing participant to secure transportation to the hearing;
6. A hearing participant is incarcerated, in residential treatment, or hospitalized and cannot physically travel to the hearing but can participate remotely;
7. Inclement weather conditions make travel to an in-person hearing a risk to the personal safety of any hearing participants;
8. Unavoidable scheduling conflicts of the parties preventing the matter from moving forward in a more timely way;
9. The importance and complexity of the proceeding;
10. For an evidentiary hearing or trial, whether appearing remotely would allow for effective examination of a witness and maintain the solemnity and integrity of the proceedings and impress upon the witness the duty to testify truthfully;
11. Any undue surprise or prejudice that would result; and
12. Such other factors, based upon the specific facts and circumstances of the case, as the court deems relevant.

#### **IV. PROCESS**

1. A party seeking an exception to the requirement to appear for a hearing either in-person or remotely, as the situation may be, shall file a motion with the court to change the hearing type no later than five (5) business days (unless emergency circumstances prevented the filing of a timely request) prior to the hearing. Copies of the motion shall be served on all other parties to the hearing.

2. The Court Clerk's office shall make available form motions for the purpose of requesting in the change of hearing type.

**V. EFFECTIVE DATE**

This Order is effective November 1, 2022. All hearings scheduled on or after the effective date of this order shall be held remotely, in person, or in hybrid as described in the terms of this order. Hearings scheduled prior to the effective date of this order shall be held remotely or in person as initially noticed to parties, unless an exception is granted by the presiding judge, Special Magistrate, or the Chief Justice.

IT IS SO ORDERED:



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Sylvia J. Wise  
Chief Justice, Court of Appeals  
Dated this 26 th of September 2022



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Richard D. Osburn  
Judge, District Court  
Dated this 26 th of September 2022

CHIEF JUSTICE COURT ORDER 56

MILLE LACS BAND COURT OF CENTRAL JURISDICTION  
 DESIGNATION OF REMOTE AND IN-PERSON HEARINGS  
 Effective: November 1, 2022

CASE CATEGORY	CASE TYPE	HEARING TYPE	REMOTE	IN-PERSON
<b>CIVIL</b>				
<i>General Civil Claim</i>				
		Pretrial	X	
		Motions	X	
		Default	X	
		Temporary Restraining Order	X	
		Contempt		X
		Trial		X
<i>Electric Utility</i>				
		Hearing		X
		Motions	X	
		Trial		X
<i>Forcible Entry &amp; Detainer</i>				
		Pretrial	X	
		Hearing		X
		Motions	X	
		Trial		X
<i>Petition for Harassment Restraining Order</i>				
		Emergency Hearing	X	
		Motions	X	
		Final Hearing		X
<i>Petition for Order for Protection from Domestic Abuse</i>				
		Emergency Hearing	X	
		Motions	X	
		Final Hearing		X
<b>FAMILY</b>				
<i>Adoption</i>				
		Initial Hearing	X	
		Final Hearing		X

CASE CATEGORY	CASE TYPE	HEARING TYPE	REMOTE	IN-PERSON
<i>Child in Need of Protection or Services (including Truancy)</i>				
		Initial Hearing		X
		Admit/Deny Hearing		X
		Pretrial	X	
		Motions	X	
		Trial		X
		Permanency Hearing	X	
		Review Hearing	X	
<i>Child Support</i>				
		Hearing	X	
		Contested Hearing		X
		Motions	X	
<i>Custody</i>				
		Initial Hearing	X	
		Pretrial	X	
		Final Hearing		X
		Motions	X	
<i>Dissolution of Marriage</i>				
		Initial Hearing	X	
		Pretrial	X	
		Final Hearing		X
		Motions	X	
<i>Guardianship &amp; Conservatorship- Adult</i>				
		Emergency Initial Hearing	X	
		Final Hearing (Contested)		X
		Review Hearing (Temporary Guardianship)	X	
		Motions		X

<b>CASE CATEGORY</b>	<b>CASE TYPE</b>	<b>HEARING TYPE</b>	<b>REMOTE</b>	<b>IN-PERSON</b>
<i>Guardianship - Minor</i>				
		Emergency Initial Hearing	X	
		Hearing		X
		Motions		X
<i>Paternity</i>				
		Hearing		X
<b>FAMILY HEALING TO WELLNESS COURT</b>				
<i>Family Healing to Wellness Court</i>				
		Status Hearing		X
		Motion Hearing		X
		Termination		X
<b>CRIMINAL</b>				
<i>Criminal</i>				
		Arraignment		X
		Motions	X	
		Trial		X
		Sentencing Hearing		X
<i>Natural Resources</i>				
		Arraignment		X
		Motions	X	
		Trial		X
<i>Traffic</i>				
		Arraignment		X
		Motions	X	
		Trial		X
<b>PROBATE</b>				
		Initial Hearing		X
		Hearing		X
		Order to Show Cause		X

<b>CASE CATEGORY</b>	<b>CASE TYPE</b>	<b>HEARING TYPE</b>	<b>REMOTE</b>	<b>IN-PERSON</b>
<b>APPEALS</b>				
<i>Court of Appeals - Regular</i>				
		Motions	X	
		Oral Argument		X
<i>Court of Appeals- Election Contest</i>				
		Motions	X	
		Oral Argument		X
<i>Employment Appeal</i>				
		Motions	X	
		Hearing		X
<i>Gaming Regulatory Appeal</i>				
		Motions	X	
		Hearing		X