



2026 Product Liability & Complex Torts Practice Group Seminar

September 16-18, 2026

HOT TOPICS

Lessons of COVID-19

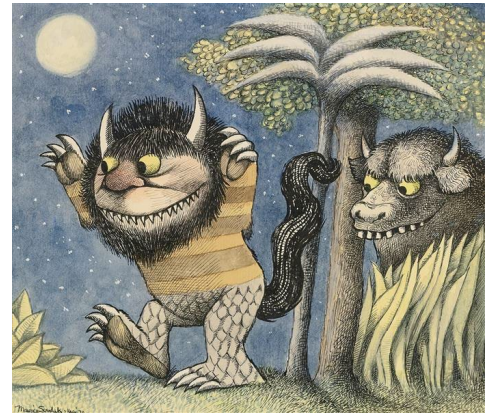
Ethical Considerations of Remote Appearances

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Where the Wild Things Are (“I Am Not a Cat”) – With increased use even before the COVID-19



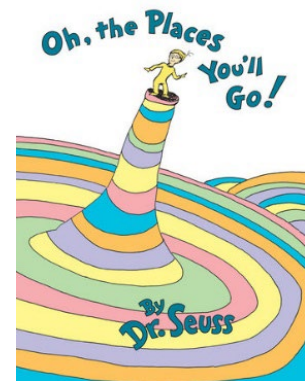
pandemic, remote appearances have reshaped civil litigation, offering greater efficiency and flexibility in matters ranging from case-management conferences and discovery disputes to depositions and evidentiary hearings. Yet their



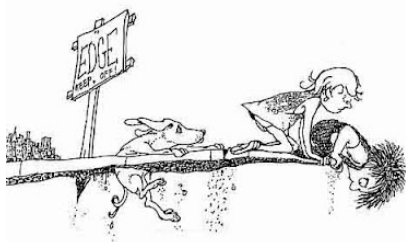
use raises significant ethical considerations for litigators, including protecting client confidentiality, ensuring effective advocacy and meaningful participation, maintaining the integrity of testimony and exhibits, and avoiding prejudice caused by unequal access to technology. The central question is not merely whether remote proceedings are convenient, but whether they preserve procedural fairness, professional responsibility, attorney independence, and confidence in the civil justice system.

Oh, the Places You’ll Go (or Not Go) - The American Bar Association Model Rules of Professional

Conduct permit attorneys to engage in remote practice, but they do not lessen a lawyer's professional obligations. Lawyers practicing remotely remain responsible for providing competent representation (Model Rule 1.1), maintaining reasonable communication with clients (Model Rule 1.4), protecting the confidentiality of client information through reasonable technological safeguards (Model Rules 1.6 and 1.1, Comment 8), and ensuring that their practice is properly supervised, including the work of lawyers and nonlawyer staff (Model Rules 5.1 and 5.3). Remote practice also requires attorneys to remain mindful of jurisdictional limitations under Model Rule 5.5 and to avoid establishing an unauthorized presence in jurisdictions where they are not admitted. Whether working from a traditional office, home, or another remote location, lawyers must employ secure technology, protect privileged communications, and maintain the same standards of diligence, professionalism, and ethical compliance expected in any legal practice setting.



Where the Sidewalk Ends (and Cybersecurity Begins) - The duty to employ reasonable



technological safeguards requires attorneys to take affirmative steps to protect client information from unauthorized access, disclosure, or loss. While the ABA Model Rules do not mandate specific technologies, they expect lawyers to assess the sensitivity of the information they handle and adopt security measures appropriate to the risks involved. Such measures may include using strong, unique passwords and multi-factor authentication,

encrypting devices and sensitive communications when appropriate, maintaining current software and security updates, utilizing secure Wi-Fi networks or virtual private networks (VPNs) when working remotely, implementing reliable data backup procedures, and training lawyers and staff to recognize phishing attempts and other cybersecurity threats. Attorneys should also evaluate the security practices of third-party technology providers and cloud-based services used in their practice. Because technology and cyber threats continue to evolve, reasonable safeguards require ongoing assessment and periodic updates rather than a one-time implementation of security measures, ensuring that lawyers continue to meet their ethical obligation to preserve the confidentiality of client information.

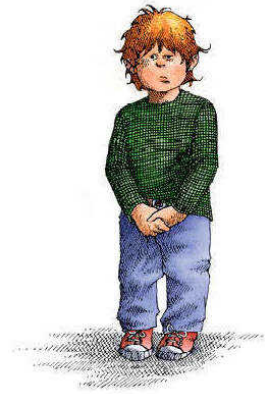
Alexander and the Terrible, Horrible, No-Good, Very Bad Day (or, How Not to be Held in Contempt) - Remote appearances do not diminish an

attorney's fundamental duties of zealous advocacy, independent professional judgment, or candor to the tribunal.

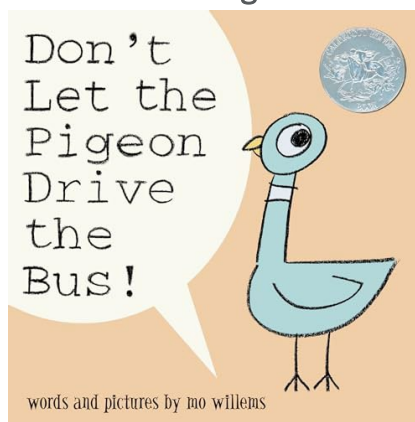
Whether appearing in person or by videoconference, lawyers remain obligated to represent their clients diligently, communicate effectively with the court, and ensure that remote technology does not interfere with the quality of their advocacy. Attorneys should become familiar with the court's technology, local rules, and remote hearing procedures in advance of any proceeding, test equipment and internet connectivity, and appear from a private, professional environment that minimizes distractions and protects confidential communications with clients. *Lawyers must also maintain their independence by ensuring that no off-camera individual improperly influences testimony or coaching of*

witnesses, promptly disclose technological issues that materially affect the proceeding, and continue to uphold their duties of honesty, professionalism, and respect for the judicial process. Effective remote advocacy requires the same level of preparation, courtroom decorum, and ethical judgment that is expected during in-person proceedings.

I think I'll move to Australia.



Don't Let the Pigeon Drive the Bus (or violate court rules) - Attorneys appearing remotely

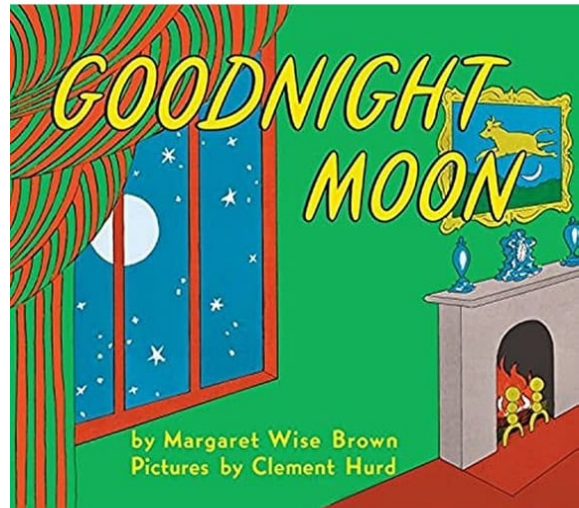


should remain vigilant in complying with all applicable state and local rules, standing orders, and individual judicial procedures governing remote court proceedings. Because requirements for virtual appearances vary significantly among jurisdictions, and may differ from one judge to another, lawyers should review all applicable rules and scheduling orders before each hearing to ensure compliance with technological, procedural, and decorum requirements. These rules may address matters such as advance registration, exhibit submission, witness management, recording prohibitions, camera and microphone use, attorney identification, dress and courtroom etiquette, and procedures for addressing technical difficulties. Familiarity with and

adherence to these requirements promotes the orderly administration of justice, demonstrates professionalism, and helps avoid unnecessary delays or sanctions that could adversely affect a client's

interests.

Goodnight Moon (Conclusion) - As remote proceedings continue to become a permanent feature of the legal profession, attorneys must recognize that the ethical duties governing their practice remain constant, even as the technology evolves. Competence, confidentiality, diligence, candor to the tribunal, and compliance with court rules are no less important when appearing through a screen than when standing in a courtroom. By embracing appropriate technological safeguards, maintaining professional independence and effective client advocacy, and remaining attentive to the unique challenges of virtual practice, lawyers can uphold the integrity of the judicial process while serving their clients effectively. Ultimately, the measure of professionalism is not the forum in which an attorney appears, but the unwavering commitment to the ethical principles that define the practice of law.¹



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