

1 **Rule 43. Evidence.**

2 **(a) Form.** In all trials and evidentiary hearings, the testimony of a witness must be taken
3 in open court, unless otherwise provided by these rules, the Utah Rules of Evidence, or
4 a statute of this state. In civil proceedings, the court may, upon request or on its own
5 order, and for good cause and with appropriate safeguards, permit remote testimony in
6 open court. Remote testimony will be presented via videoconference if reasonably
7 feasible, or if not, via telephone or assistive device.

8 **(b) Remote testimony safeguards.** No hearing may proceed unless the court ensures
9 that all necessary remote testimony safeguards are provided, by the court or by the
10 parties. An objection to a lack of safeguards is waived unless timely made. Remote
11 testimony safeguards must include:

- 12 (1) a notice of (i) the date, time, and method of transmission; (ii) instructions for
13 participation, and (iii) contact information for technical assistance;
- 14 (2) a verbatim record of the testimony;
- 15 (3) upon request to the court, access to the technology and resources to participate,
16 including an interpreter, telephone, or assistive device;
- 17 (4) a court-provided or party-provided means for a party and the party's counsel to
18 communicate confidentially;
- 19 (5) a court-provided or party-provided means for the party and the party's counsel
20 to share documents, photos, and other electronic materials among the remote
21 participants; and
- 22 (6) any other measures the court deems necessary to maintain the integrity of the
23 proceedings.

24 **(c) Remote hearing oath.** An oath in substantially the following form must be given
25 prior to any remote hearing testimony: "You do solemnly swear (or affirm) that the
26 evidence you shall give in this matter ~~issue (or matter) pending between _____ and _____~~
27 shall be the truth, the whole truth and nothing but the truth, and that you will neither
28 communicate with, nor receive any communications from, another person during your
29 testimony unless authorized by the court, so help you God (or, under the pains and
30 penalties of perjury)."

31 **(d) Evidence on motions.** When a motion is based on facts not in the record, the court
32 may hear the matter on affidavits, declarations, oral testimony, or depositions.

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34 Effective May 1, 2021

