

**GAZETTE NOTICE NO. 107**

**THE SUPREME COURT (VIRTUAL SESSIONS) PRACTICE DIRECTIONS, 2023**

**PURSUANT to Rule 64 of the Supreme Court Rules, 2020, the Hon. Chief Justice and the President of the Supreme Court issues the following practice directions –**

**Citation**

1. These Practice Directions may be cited as the Supreme Court (Virtual Sessions) Practice Directions, 2023.

**Commencement**

2. The Practice Directions shall come into force on a date to be determined by the Hon. Chief Justice and President of the Court.

**Interpretation**

3. In these Practice Directions, unless the context otherwise requires –

“Act” means the Supreme Court Act, 2012.

“Court” means the Supreme Court of Kenya as established under Article 163 (1) of the Constitution.

“Video and Audio Conference” means an online technology that allows users/ participants in different locations to communicate in real time over an internet connection.

“Video and Audio Conference Link” means a connection enabling access to a video and audio conference.

“Registrar” means the Registrar of the Court, and includes Deputy Registrar(s) of the Court.

“Rules” means the Supreme Court Rules, 2020.

**Application**

4. These Practice Directions apply to all virtual proceedings before the Court.

**Objectives**

5. The objective of these Practice Directions is to guide the integration of Information Communication Technology (ICT) in proceedings before the Court and in particular to provide for:

(a) Use of technology in Court sessions.

(b) Conduct of virtual proceedings before the Court.

(c) Expeditious and efficient disposal of cases.

(d) Efficient use of available judicial and administrative resources.

(e) Court etiquette during virtual sessions.

6. Proceedings before the Court may be conducted virtually by use of video and audio conference or other electronic communication as the President of the Court may direct.

7. Hearing of applications shall proceed by way of written submissions as prescribed by the Rules, save where the Bench seized of the matter directs that it shall be through video and/or audio conferencing.

8. Where proceedings are to be conducted virtually, the Registrar shall provide a video and audio conference link to the concerned advocates or parties through email or other electronic means at least three (3) days before the proceedings.

9. In any proceedings conducted by video and audio conferencing, each party must ensure its electronic equipment and internet connection is of appropriate quality and robustness for the duration of the proceedings.

10. Where a party is not able to access necessary equipment or internet access, such a party shall inform the Registrar of the Court at least two (2) days before the hearing and the Registrar shall make necessary arrangements to provide the necessary equipment and internet access within the Court premises.

11. Each party must ensure that the video and audio conference hearing is conducted with the same decorum and respect as a physical hearing.

#### **Conduct of Virtual Proceedings and Etiquette for Participants**

12. The conduct of virtual Court proceedings shall be guided by the Court.

13. All advocates and parties must join the video and audio conference at least fifteen (15) minutes before the stipulated time for the Court session.

14. During virtual proceedings inappropriate profiles or background photos shall not be used. Failure of which may lead to denial of audience before the Court or removal from the virtual session.

15. All advocates shall be properly robed for a virtual hearing Court session. Failure to robe may lead to denial of audience before the Court.

16. All advocates and parties, where they appear in person, must be visible and audible during a virtual session. Failure to visibly appear may lead to denial of audience before the Court.

17. All advocates and parties, where they appear in person, must log in to the video and audio conference using their official names as they appear in their pleadings, and where applicable, using the name of the law firm. Advocates and parties are also encouraged to provide their prefixes (e.g., Mr./Ms./Mrs. etc.). All Advocates should ensure that they work from a decent background and from surroundings that are not noisy.

18. All microphones shall be muted until an advocate or party is given audience by the President of the Court or the Presiding Judge and while such an advocate or party is addressing the Court their camera should be switched on. Advocates and parties as much as possible should minimize distractions and avoid disrupting the court.

19. In order to minimize disruptions during the virtual sessions, advocates and parties, who appear in person, are required to raise their hands using the icon when they need to speak or raise an objection.

20. While making submissions, advocates and parties, who appear in person, should be precise and conscious of their speed to facilitate interpretation, where necessary, and verbatim recording. Time

allocated shall not be extended unless the President of the Court or Presiding Judge directs otherwise.

21. Once the President of the Court or the Presiding Judge declares the end of a virtual session, the Judges of the Court will disconnect from the video and audio conference before all the other participants.

22. All participants must at all times act with utmost good faith, decorum and etiquette during virtual sessions.

### **Recording**

23. Proceedings of virtual sessions shall be recorded by the Court.

24. Recording of proceedings by advocates and/or parties shall only be with leave of the Court.

25. Certified transcripts of virtual sessions shall constitute the official court record of the session.

26. Certified true copies of the transcripts of virtual sessions shall be made available upon request and on payment of the relevant fees.

### **Decision of the Court**

27. The Court may deliver its rulings and judgments in a virtual session or forward true copies thereof to advocates and parties, where they appear in person, electronically.

28. The Registrar shall notify advocates and/or parties of the date reserved for delivery of judgments and rulings by the Court in accordance with the Act and the Rules.

### **Sanctions for Non-Compliance**

29. Non-compliance with these Directions shall result in such penalty as the Court may order, which penalty may include—

(a) Citation for contempt of Court in accordance with the Act and Rules;

(b) Payment of fines, costs and adjournment fees; and

(c) Any other sanction that the Court may impose in its discretion.

### **Miscellaneous**

30. The Chief Justice and President of the Court may amend these practice directions from time to time.

Dated the 10th January, 2024.

MARTHA K. KOOME,

Chief Justice and President of the Supreme Court of Kenya.