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## New Rule on Taking Remote Depositions

In his Virtual Lawyering column, Mark Berman discusses a new rule that became effective Dec. 15, 2021 for Commercial Division cases which specifically provides for taking remote depositions upon consent or by motion upon a showing of “good cause.”

By **Mark A. Berman** | January 03, 2022

**Mark A. Berman**

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New York's Chief Administrative Judge promulgated a new rule that became effective Dec. 15, 2021 for Commercial Division cases which specifically provides for taking remote depositions upon consent or by motion upon a showing of "good cause."

This new Rule 37 also includes a proposed "Stipulation and Order" which sets out specific protocols for taking remote depositions. The Stipulation and Order would apply to remote depositions of non-party witnesses and counsel noticing such depositions would be required to provide the necessary technology that the non-party does not possess. The Stipulation and Order also sets forth detailed procedures for various methods to use exhibits during remote depositions and counsel should acquaint themselves with them well in advance of the deposition as certain of these options require time consuming advance preparation. Of course, Rule 37 and its Appendix can be adopted in whole or in part for non-commercial cases.

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