
Why "Just Hitting Record" Is Not the Same as Hiring a Legal Videographer

A practical ALV member blurb for responding when attorneys want to self-record depositions

Key takeaway

Zoom can host a deposition. A legal videographer creates the video record. Those are not the same thing.

As remote depositions have become more common, some attorneys have asked whether they can simply use Zoom, Teams, or another videoconference platform to record a deposition themselves. While the technology makes recording easy, **ease is not the same as creating a proper, usable, certified deposition video for use as evidence in a case.**

A legal videographer does more than press a record button. The videographer helps create an official video record that is neutral, properly conducted, properly opened and closed, technically sound, and capable of being used later in litigation. When a deposition video may be used for summary judgment, settlement, impeachment, trial presentation, or preservation of testimony, the difference between an attorney-controlled platform recording and a professionally handled deposition video can be significant.

THE LEGAL AND PRACTICAL PROBLEM

Federal courts have repeatedly recognized the difference between conducting a deposition by videoconference and creating an official video-recorded deposition. Under the Federal Rules of Civil Procedure, **depositions must be conducted before a qualified officer, and attorneys are generally disqualified from serving in that neutral role.**

Courts addressing attorney-made Zoom recordings have often held that **an attorney simply activating the platform record function does not create a certified deposition video suitable for use as evidence.** In *Alcorn v. City of Chicago*, the court rejected the idea that an uncertified Zoom recording could be treated the same as a properly certified deposition record. Other courts, including *Sanders v. Mountain Oasis Cabin Rentals*, *Ryan v. eXp Realty*, *Adams v. Co-op City Department of Public Safety*, and *Raiser v. San Diego County*, **have rejected or limited attorney-recorded Zoom videos where the recording was not made and certified through proper procedures.**

There are jurisdiction-specific exceptions and more permissive approaches. Some courts have allowed limited platform recordings under detailed protocols, and some rules may permit certain additional recordings with notice. Attorneys may also be allowed to make personal-use recordings for internal trial preparation in some circumstances. **But that is different from creating an official deposition video that can be confidently used in court.**

WHAT A PROFESSIONAL VIDEOGRAPHER PROTECTS

- **Neutrality and certification:** the recording is handled by a disinterested professional, not by counsel for one side.
- **A clean official record:** openings, appearances, oath procedures, on/off-the-record transitions, and breaks are handled consistently.
- **Technical quality:** framing, audio, screen share behavior, witness view, interruptions, and glitches are monitored in real time.
- **Usability at trial:** the final video is preserved in a format and condition designed for litigation, not merely for internal reference.

A poor recording can undermine a witness, distract a jury, or create disputes over what was captured. A screen-share may cover the witness. The wrong participant may be pinned. Audio may drop out. Off-the-record discussions may be captured. Exhibits may obscure the witness. A file may be mislabeled, edited unintentionally, saved in the wrong format, lost, or shared without proper handling. These are avoidable risks.

SUGGESTED LANGUAGE FOR ATTORNEYS

"A platform recording may be useful for internal reference, but it is not necessarily a certified deposition video. If the recording may ever be used in court, at trial, for impeachment, for settlement presentation, or as preserved testimony, "

"The issue is not whether Zoom can record. The issue is whether the resulting file is a proper deposition record. Courts have distinguished between conducting a deposition by videoconference and creating an admissible video-recorded deposition. A legal videographer helps ensure the video is made correctly from the beginning, rather than leaving the parties to fight about admissibility later."

BOTTOM LINE

Legal videographers are not merely equipment operators. They are part of the record-making process. **Their role is to protect all parties by creating a clear, neutral, reliable video record that can withstand scrutiny.**

Because rules vary by jurisdiction, attorneys should always consult the applicable federal, state, local, and case-specific rules. But as a best practice, **when a deposition is being video recorded for possible litigation use, the prudent course is to retain a qualified legal videographer rather than relying on an attorney-controlled platform recording.**

A legal videographer is the safest path to admissible deposition video.

SOURCES / LEGAL REFERENCES

This summary is based on federal and state case law addressing video-recorded depositions, remote deposition recordings, and attorney-made platform recordings. Key authorities include Federal Rules of Civil Procedure 28 and 30; *Alcorn v. City of Chicago*, 336 F.R.D. 440 (N.D. Ill. 2020); *Sanders v. Mountain Oasis Cabin Rentals, Inc.* (N.D. Ga. 2024); *Ryan v. eXp Realty LLC* (D. Ariz. 2022); *Adams v. Co-op City Department of Public Safety* (S.D.N.Y. 2024); *Raiser v. San Diego County* (S.D. Cal. 2021); and related state rules and decisions. Rules vary by jurisdiction, and attorneys should consult applicable federal, state, local, and case-specific requirements.

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