



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

HON. JOSEPH A. ZAYAS
CHIEF ADMINISTRATIVE JUDGE

HON. NORMAN ST. GEORGE
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

DAVID NOCENTI
COUNSEL

MEMORANDUM

To: All Interested Persons

From: David Nocenti

Re: Request for Public Comment on a proposal to amend the Rules of the Commercial Division by adding a new Rule 25-a relating to virtual evidence courtrooms

Date: June 16, 2025

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The Administrative Board of the Courts is seeking public comment on a proposal recommended by the Commercial Division Advisory Council (“CDAC”) to amend the Rules of the Commercial Division (22 NYCRR § 202.70) by adding a new Rule 25-a relating to virtual evidence courtrooms.

CDAC notes that a virtual evidence courtroom (“VEC”) is a secure web-based digital platform that centralizes trial exhibits, evidence, and case files, making them accessible to authorized parties, including judges, counsel, and court staff. CDAC states that the utilization of VECs provides multiple benefits, including:

- Streamlined evidence management: Documentary evidence can be uploaded as PDFs, eliminating the need for physical binders and boxes, and making it easier to locate and access exhibits;
- Enhanced trial efficiency: Counsel can display exhibits and other documents to witnesses and the court by electronic means;
- Enhanced pre-trial preparations: VECs facilitate the exchange of proposed exhibits in advance of trial, which ensures more accurate, efficient pre-trial planning;
- Improved trial scheduling and management: Judges and lawyers can better estimate the time required for presenting evidence and calling witnesses;
- Improved post-trial activities: Admitted evidence can be accessed and organized easily for streamlined post-trial analysis; and

- Enhanced reputation for innovation: VECs add to the Commercial Division's array of innovations, which together contribute to the Commercial Division's reputation as a premier venue for complex litigation.

The proposed rule does not mandate the use of VECs in the Commercial Division, and instead simply encourages the use of VECs by explaining what they are, how they are used, the types of cases for which they are most suitable, how they can be authorized for use in a particular case, and how data security and confidentiality are ensured.

The proposed new rule is attached as Exhibit 1, and attached as Exhibit 2 is a February 14, 2025 memorandum from CDAC providing background on this issue and the reasons for the proposal.

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Persons wishing to comment on the proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: David Nocenti, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 10th Fl., New York, New York, 10004. Comments must be received no later than Friday, August 8, 2025.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT 1

Proposed Amendments

The Rules of the Commercial Division (22 NYCRR § 202.70) are amended by adding a new Rule 25-a to read as follows (all language is new):

Rule 25-a. Virtual Evidence Courtrooms

(a) Purpose. To promote the effective, efficient, and accessible management of trial evidence, the Commercial Division encourages the use of Virtual Evidence Courtrooms (VECs) for managing and presenting evidence during trials. VECs may be used to facilitate real-time access to trial exhibits and other relevant documents.

(b) Definition and Application. A "Virtual Evidence Courtroom" (VEC) is a secure web-based platform for organizing, storing, and sharing evidentiary materials in real time. A VEC may be used to present documents to the court, parties, witnesses and, where applicable, a jury. Documents uploaded to a VEC are not considered to have been filed with the court. A VEC is not part of the official County Clerk's record and, the documents uploaded to the VEC are available only to those individuals given access by the court; they are not available and accessible to the public. When a VEC is used and documents that must be filed with the court, they must be separately uploaded to the NYSCEF docket in the case. While VECs will typically contain the evidence to be offered by the parties, issues relating to what materials may be uploaded to the VEC and when shall be determined by the justice presiding over the case in consultation with counsel.

(c) Use and Access Control. The use of a VEC is encouraged in cases that are particularly complex and document intensive. Accordingly, the parties should confer regarding the proposed use of a VEC prior to the pretrial conference in the matter. At the pretrial conference itself, or at any other appropriate time, the court should discuss the use of a VEC with counsel. Thereafter, the parties may request, or the court may direct, with or without consent, the establishment of a VEC for use at trial. Once use of the VEC has been authorized, the parties, in consultation with the court, should agree to access rights and the assignment of secure, role-based permissions to all authorized parties so as to ensure compliance with the parties' discovery and confidentiality obligations.

(d) Confidentiality, Security Measures, and Data Retention. The VEC platform currently incorporated into the NYSCEF system complies with the Office of Court Administration's standards for data security and confidentiality, including encryption, user authentication, and secure access protocols. The party uploading a document to the VEC is responsible for ensuring all information uploaded to the VEC complies with all applicable laws, rules or court orders relating to confidentiality or privacy. Furthermore, NYSCEF's VEC platform enables the presiding justice to delete documents from the VEC. Whether, and if so, when and under what circumstances some or all the documents on the VEC should be removed will be determined by the presiding justice, in consultation with the parties to the case.

EXHIBIT 2

MEMORANDUM

To: Administrative Board of the Courts
From: Commercial Division Advisory Council
Date: February 14, 2025
Re: Proposal for a Commercial Division Rule on Virtual Evidence Courtrooms for Trials

I. Introduction

The New York Commercial Division has long been at the forefront of modernizing courtroom practices to enhance efficiency, streamline processes, and adapt to the complexities of commercial litigation in the modern age. Since its establishment, the Commercial Division has pioneered innovative procedural rules and adopted advanced technologies to ensure that its practices meet the needs of contemporary litigants, making it a model for specialized courts across the nation.

The integration of technology into courtroom practice has become increasingly vital for enhancing efficiency and accessibility in legal proceedings. Virtual Evidence Courtrooms (VECs) represent a significant technological advance, offering a secure, digital platform for managing and presenting evidence during trials. Justices Andrew Borrok, Anar Rathod Patel and Melissa Crane of the New York County Commercial Division have successfully implemented VECs in their courtrooms, demonstrating the practical benefits of this technology. This memorandum proposes the adoption of a rule to encourage the use of VECs in Commercial Division cases.

II. Technology and Functionality of Virtual Evidence Courtrooms

A Virtual Evidence Courtroom (VEC) is a secure, web-based platform that centralizes trial exhibits, evidence, and case files, making them accessible to authorized parties, including

judges, counsel, and court staff. VECs facilitate real-time sharing of documents, enabling efficient and organized access and review. Key features of VECs include exhibit indexing, search functionality, and secure, role-based, access control.

Once VEC usage has been authorized by the justice presiding over a matter, VECs are made accessible directly within the NYSCEF interface, appearing as a distinct tab in the case docket; users need not download or access separate applications or software. Instead, once authorized, chambers will activate VEC functionality on NYSCEF and set up access for counsel of record, who will all receive NYCSEF-generated emails with instructions for use. At that point, counsel can seamlessly toggle across different case resources, including the docket, case details, and the VEC itself, allowing for an intuitive and uninterrupted experience when managing evidence and related materials. Moreover, the VEC's architecture ensures data integrity and security through encryption, user authentication, and secure access protocols.

III. Benefits and Efficiencies of Virtual Evidence Courtrooms at Trial

Expanding VEC usage in Commercial Division trials offers numerous advantages, particularly given the inherently document intensive nature of most cases in the Division. These include:

- 1. Streamlined Evidence Management and Organization.** VECs allows documentary evidence to be uploaded as PDFs, eliminating the need for physical binders and boxes and making it easy to locate and access exhibits. This digitization saves substantial time during trials, as exhibits can be immediately referenced on a laptop, with clear indications as to whether an exhibit has been admitted. And even for those justices who continue to require a hard copy set of exhibits, using of the VEC will still facilitate the rapid location of documents and their use during witness examinations. While documents may be digitally exchanged and the stored by attorneys and the assigned justice on their

individual internal or external computer drives, the VEC has the advantage of offering a single shared location where all those involved in the case may access all of the documents and avoids the need for each individual to download and save each document to his or her individual computer.

2. **Enhanced Trial Efficiency.** VECs make trials more efficient by allowing counsel to display exhibits and other documents to witnesses and the court by electronic means. Counsel and the court may readily locate exhibits and other documents using the shared virtual library of materials in the VEC.
3. **Enhanced Pre-Trial Efficiency and Clarity of Evidence Scope.** VECs improve pre-trial preparations by making exhibits readily accessible at trial and facilitating the exchange of proposed exhibits in advance of trial. This transparency permits both the parties and the court to assess the full scope of potential evidence. Having a holistic view of the evidence, in turn, ensures more accurate, efficient pre-trial planning and fosters more informed and precise adjudications.
4. **Optimized Trial Scheduling and Time Management.** By having all exhibits organized in advance, judges and lawyers can better estimate the time required for presenting evidence and calling witnesses, enabling more predictability in scheduling and efficiency at trial.
5. **Improved Post-Trial Briefing and Verdict Analysis.** VECs also simplify post-trial processes by allowing admitted evidence to be accessed and organized easily for streamlined analysis. Lawyers can use this functionality to argue more effectively in the contexts of post-trial motions or verdict modifications, pointing directly to evidence that was admitted or excluded.

6. **Elevating the Practice of Law and Court Efficiency.** By providing lawyers with this innovative technology, VECs add to the Commercial Division's already extensive array of innovations, all of which contribute to the Commercial Division's reputation as a technologically advanced, premier venue for complex litigation.

IV. Proposed Rule on Virtual Evidence Rooms

Given these advantages, the Commercial Division Advisory Council proposes that the Commercial Division adopt the following rule to encourage the use of VECs for trial evidence management:

Proposed Rule: Virtual Evidence Rooms

***Purpose:** To promote the effective, efficient, and accessible management of trial evidence, the Commercial Division encourages the use of Virtual Evidence Rooms (VECs) for managing and presenting evidence during trials. VECs may be used to facilitate real-time access to trial exhibits and other relevant documents.*

1. Definition and Application:

A "Virtual Evidence Courtroom" (VEC) is a secure web-based platform for organizing, storing, and sharing evidentiary materials in real time. A VEC may be used to present documents to the court, parties, witnesses and, where applicable, a jury. Documents uploaded to a VEC are not considered to have been filed with the court. A VEC is not part of the official County Clerk's record and, the documents uploaded to the VEC are available only to those individuals given access by the court; they are not available and accessible to the public. When a VEC is used and documents that must be filed with the court, they must be separately uploaded to the NYSCEF docket in the case. While VECs will typically contain the evidence to be offered by the parties, issues relating to what materials may be uploaded to the VEC and when shall be determined by the justice presiding over the case in consultation with counsel.

2. *Use and Access Control:*

The use of a VEC is encouraged in cases that are particularly complex and document intensive. Accordingly, the parties should confer regarding the proposed use of a VEC prior to the pretrial conference in the matter. At the pretrial conference itself, or at any other appropriate time, the Court should discuss the use of a VEC with counsel. Thereafter, the parties may request, or the court may direct, with or without consent, the establishment of a VEC for use at trial. Once use of the VEC has been authorized, the parties, in consultation with the Court, should agree to access rights and the assignment of secure, role-based permissions to all authorized parties so as to ensure compliance with the parties' discovery and confidentiality obligations.

3. *Confidentiality, Security Measures, and Data Retention:*

The VEC platform currently incorporated into the NYSCEF system complies with the Office of Court Administration's standards for data security and confidentiality, including encryption, user authentication, and secure access protocols. The party uploading a document to the VEC is responsible for ensuring all information uploaded to the VEC complies with all applicable laws, rules or court orders relating to confidentiality or privacy. Furthermore, NYSCEF's VEC platform enables the presiding justice to delete documents from the VEC. Whether, and if so, when and under what circumstances some or all the documents on the VEC should be removed will be determined by the presiding justice, in consultation with the parties to the case.

V. Conclusion

By encouraging the use of VECs, the Commercial Division can continue its mission of promoting procedural efficiency and maintaining its reputation as a leader in judicial modernization. VEC usage aligns with the Commercial Division's tradition of innovation and offers substantial benefits to both the court and litigants, facilitating streamlined evidence management and a more efficient trial process. For these reasons, the Commercial Division Advisory Council urges promulgation of this rule.