

**Superior Court of California
County of Orange
Lamoreaux Justice Center**

Hon. David J. Hesseltine, Dept. L66

Phone: 657-622-5566

Email: L66@occourts.org

MANDATORY REMOTE HEARING PROCEDURES

Pursuant to California Judicial Council Emergency Rule 3 and Orange County Superior Court Administrative Order No. 20/15, as amended, all family law proceedings in this courtroom shall be conducted remotely, unless otherwise ordered by the Court.¹ All remote hearings will be conducted using the Zoom videoconference platform, unless otherwise ordered by the Court

The following policies and procedures will govern and apply to all remote hearings conducted by this Court in Department L66:

I. Preliminaries

- A. All appearances (including those by self-represented litigants and counsel) are subject to the MANDATORY remote hearing orders until further notice.
- B. If self-represented parties do not have access to the technology needed for participation in a remote hearing, they may apply to the Court for alternate accommodations.

¹ California Judicial Council Emergency Rule 3, entitled Use of Technology for Remote Appearances, provides as follows:

(a) Remote Appearances

Notwithstanding any other law, in order to protect the health and safety of the public, including court users, both in custody and out of custody defendants, witnesses, court personnel, judicial officers, and others, courts must conduct judicial proceedings and court operations as follows:

(1) Courts may require that judicial proceedings and court operations be conducted remotely.

* * *

(3) Conducting proceedings remotely includes, but is not limited to, the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.

(b) Sunset of rule

This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

- C. Before the hearing date, all parties, counsel, witnesses, and other participants shall ensure they have access to Zoom by downloading the Zoom app or plug-in at <https://zoom.us/download> and placing it on the device or computer of their choice.
- D. All parties, counsel, and other participants are responsible for testing the functionality of and learning how to use Zoom before the remote hearing.
- E. All parties, counsel, and other participants should ensure they have a reliable internet connection with sufficient speed to conduct a video and audio Zoom conference. All parties, counsel, and other participants should ensure they have a camera and microphone that work well with Zoom. The Court encourages parties to use headphones and/or high-quality microphones.
- F. All remote hearings, except those for trials and specially-set hearings, shall be limited to no more than 2 hours (60 minutes per side). More time may be allowed at the Court's discretion, based on the Court's calendar and availability.
- G. The Virtual Courtroom may be accessed in the manner stated in the notice of remote hearing, which either will be mailed or emailed to all parties or their counsel.

II. Mandatory Meet and Confer

- A. BEFORE the scheduled hearing, the parties are directed to meet and confer by any practical means and discuss settlement and/or narrowing the disputes.²
- B. These meet and confer efforts are MANDATORY and confidential. **Domestic violence matters, however, are excused from this requirement to meet and confer.**
- C. Failure to meet and confer may result in the rescheduling of your hearing.

III. Exhibits and Witness List

- A. For all matters that are not trials or specially-set hearings, each side is limited to 15 exhibits and each exhibit is limited to 15 pages.
- B. All exhibits must be emailed to FamilyLawExhibits@occourts.org and emailed to the opposing counsel (or opposing party if self-represented), at least three court days before the scheduled hearing.
 - 1. **IMPORTANT:** The subject line for your email **MUST** include only the courtroom department number (L66) and your case number separate by a forward slash as follows: **L66/Case Number**. If the subject line of your

² See California Rules of Court 5.98.

email is not in this exact format your email and exhibits will not be routed to the correct repository for your hearing.

2. Do not include any spaces, additional words, or comments. Please make sure you use a forward slash, not a backward slash in your subject line.
 3. For example, if your case is Case No. 21D123456, then the subject line for your email to the court should read as follows: **L66/21D123456**
- C. Please do not send links to websites where the exhibits may be accessed. For security reasons, the Court cannot access or download documents from websites. If your exhibits are large, you may send multiple e-mails with attached exhibits or make arrangements with the Department L66 courtroom clerk to submit a flash drive with the exhibits.
- D. Parties and counsel do not need to submit physical copies of the exhibits to the Court for remote hearings.
- E. Counsel are responsible for submitting electronic or physical copies of the exhibits to all parties and all witnesses if counsel intend to ask the party or witness to testify about an exhibit.
- F. Exhibits that do not abide by the number or page limitations or are not properly submitted to the Court or opposing counsel (or opposing party if self-represented), may not be admitted into evidence or may not be considered.
- G. If there are any rebuttal or impeachment documents that need to be submitted during the hearing, parties and counsel may submit them by email to the Court (L66@occourts.org), all parties, all counsel, and all witnesses, but counsel must scan those documents into a .pdf format before the hearing. This will assure they are available and ready to forward to the other party, to their counsel, to the witness, and to the Court. The Court will not delay the hearing to allow counsel time to locate, scan, and email rebuttal or impeachment documents.
- H. Correctly submitting an exhibit does not mean it is admissible. Parties remain free to object to exhibits during the hearing. Admissibility of documents and other evidence will be determined as it would be at an in-person hearing.
- I. To the extent necessary, any objections should be kept to a minimum. Counsel, or self-represented litigants, must simply raise their hand for visual cuing, wait to be recognized by the Court, and then, state their objection. There shall be no speaking objections; the legally-recognized objection is all that is needed.
- J. The courtroom clerk will remain responsible for maintaining the official record of admitted exhibits.
- K. Witness List: Before the hearing, each party also must comply with Family Code section 217(c) by filing with the court and serving on all other parties a witness

list identifying all witnesses the party intends to call during the hearing as well as briefly describing the anticipated testimony by each witness.

IV. Requests for Continuance

- A. For all matters that are not trials or specially-set hearings, the parties may request to continue a remote hearing either in writing or telephonically. Written requests must be filed directly in Department L66. Telephonic continuance requests will be granted only if both parties agree to the continuance, as confirmed either by (1) being on the phone together or (2) making separate calls to the courtroom clerk. Continuances may be requested at any time before, but not later than, 12:00 noon the court day before the hearing. **After two continuance requests, the court will require all counsel and self-represented parties to appear and make a showing of good cause for any further continuances.**

V. Attendance at Remote Hearing

- A. Only parties, counsel, and identified witnesses will be invited to the remote hearing. The Court will forward the Zoom link for the hearing to all necessary persons for whom the parties have provided an email address. It is the responsibility of each party to ensure the court has the party's current email address as well as the current email address for each of the party's witnesses at least 24 hours before the hearing. The Court will not stop or otherwise delay the hearing to provide the Zoom link to any party or witness.
- B. Most judicial proceedings are presumptively open to the public. As it does for "in-person hearings," the Court retains the discretion to "close the courtroom" for the remote hearing based on the applicable statutory justification for doing so.³
- C. Members of the public – including friends or family – who wish to attend a Zoom hearing must make a request directly to the Court.
1. A request may be made by emailing L66@occourts.org with the case name, case number, and hearing date at least 24 hours before the scheduled hearing. In such instances, the Court will respond by providing an audio/telephonic link to enable access.
 2. Family members, friends, and members of the public who "attend" the Zoom hearing are considered non-participants just as they would be for in-person proceedings.

³ Family Code section 214 affords the Court a narrow exception to the general constitutional requirement that hearings are open to the public. The Court may exclude all persons except the officers of the court, the parties, their witnesses, and counsel when the Court considers it necessary in the interests of justice and the persons involved, to direct the trial of any issue of fact joined in a proceeding under the Family Code to be private. All exclusions are considered on a case-by-case determination whether there is a particularized need for the proceeding to be closed. (See *Globe Newspaper Co. v. Superior Court* (1982) 457 U.S. 596; *In re Marriage of Lechowick* (1998) 65 Cal.App.4th 1406, 1414–1415.)

VI. Conduct at Remote Hearing

- A. Parties and counsel must be on time for the remote hearing and be ready to proceed by remote means. If a party's internet connection is poor and the Court is unable to view, hear, or understand an attorney or litigant, the Court reserves the right to hear from the attorney or litigant telephonically, continue the hearing, or take the hearing off calendar.
- B. All participants are expected to wear attire appropriate to a courtroom setting, such as business casual or business attire.
- C. All participants must be in a room with proper lighting. There should not be any distractions (such as speaking, noises, or unusual visual items) in the background.
- D. Once a participant has logged in through Zoom, they will be placed into a virtual waiting room until admitted by the Court into the virtual courtroom. Participants should wait until admitted.
- E. Only parties, counsel, and witnesses identified by the parties will be admitted into the virtual courtroom. Therefore, it is important that you enter your full name (not initials, nickname, first name only or last name only, or device name) into Zoom.
- F. Witnesses will be admitted into the virtual courtroom when it is time for them to testify. They should leave the virtual courtroom after testimony, unless a party or counsel makes a request to allow them to remain and the Court grants the request.
- G. Disturbances of any kind will not be tolerated. All participants must conduct themselves as though they are physically present in the courtroom, including refraining from smoking, eating, or any other conduct that would not be permitted in the courtroom. The Court may move any participant in and out of the virtual courtroom or expel any participant from the Zoom videoconference altogether.
- H. All participants must have their video camera on at all times and be within the camera's view, unless a participant makes a request to only participate by audio and the Court grants the request.
- I. During the hearing, all participants should have their microphones muted unless they are speaking, or the Court gives them permission to leave themselves unmuted.
- J. Witnesses should be in a room alone during testimony. Witnesses shall not communicate with any other person during the hearing, or access any documents or materials during the hearing, without Court permission.
- K. **CHILDREN MUST NOT BE PRESENT FOR ANY HEARING**, unless otherwise ordered by the Court.

- L. Parties and counsel may communicate privately during the hearing, if they first notify the Court, the opposing party, and opposing counsel. A party may not communicate with counsel while the party is testifying. That includes, but is not limited to, text messages or other messaging apps or programs.
- M. Remote hearings will include a court reporter and it is important participants do not speak out of turn or over one another, as the court reporter will not be able to hear everyone or make a complete record. Generally, participants should speak only when prompted by the Court.
- N. Participants should ask to sign off before signing off to make sure they do not have any other issues to be resolved.
- O. Attorneys are responsible for a client's behavior while participating in the hearing. An attorney's client will not be allowed to speak unless prompted by the Court.
- P. The court may grant exceptions to these policies and procedures upon a showing of good cause.
- Q. All other pertinent statutes and rules that apply to in-person courtroom hearings will apply to remote hearing.

VII. Interpreters

- A. Pursuant to Emergency Rule 3, use of interpreters through Zoom or other remote platforms is expressly permitted.
- B. Under these circumstances, the use of simultaneous translation may not be available. The parties and the interpreter may have to use consecutive translation.
- C. When an interpreter is used by any party or witness during a remote hearing, all parties, counsel, witnesses, and other participants in the hearing must speak slowly and clearly, and must pause after every one or two sentences to allow for consecutive translation.
- D. If an interpreter is required, parties or counsel are to notify the courtroom before the hearing so appropriate arrangements can be made without undue delay.

VIII. Recordings Prohibited

- A. California Rules of Court 1.150 and Orange County Superior Court Rule 180 prohibit all persons from photographing, recording, screen shooting, filming, and broadcasting any court proceedings without prior approval from the Court.
- B. Moreover, Penal Code section 632 prohibits the recording of any confidential communication without the consent of all participants, and any violation of that section by recording any court proceeding may subject the violator to criminal sanctions.

- C. The Court also reserves the right to assess a civil penalty under Code of Civil Procedure section 177.5 against any person who violates the prohibitions on recording court proceedings.

IX. Communications with the Court

- A. Communications relating to remote hearings, as well as proposed orders, courtesy copies, and other documents that ordinarily would be handed to the courtroom clerk, may be sent to L66@occourts.org. This email address may NOT be used for filing documents or for questions unrelated to remote hearings. For all other case-related matters, you may call the courtroom clerk at (657) 622-5566.
- B. Parties are not permitted to send ex-parte (private) emails to the Court. All contact with the Court must include all counsel and self-represented parties.