

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

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MANDATORY REMOTE HEARING PROCEDURES

Last Updated: November 28, 2021

As a result of the Covid-19 pandemic, pursuant to California Judicial Council Emergency Rule 3 and Orange County Superior Court Administrative Order No. 20/15 effective immediately family law proceedings in this courtroom, with limited exceptions, shall be conducted remotely.¹

All remote hearings will be conducted using the “ZOOM” videoconference application.

The protocols to request, appear, and conduct said hearings will be managed according to the following Department L69 procedures:

1. Preliminaries

- a. All appearances (including those by self-represented litigants and counsel) are subject to the MANDATORY remote hearing orders until further notice.²
- b. If self-represented parties do not have access to the technology needed for participation in a remote hearing, they may call Department L69 for alternate accommodations.

¹ California Judicial Council Emergency Rule 3 provides: Use of technology for remote appearances.

(a) 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:

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

b. 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 eservice; 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 - 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after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.

² As applicable to this Court, this rule will remain in effect until amended or vacated by the Presiding Judge of the Orange County Superior Court.

- c. All ZOOM hearings are limited to 2 hours (60 minutes per side) unless otherwise ordered.³
- d. Matters requiring more than two hours may be allowed at the Court's discretion based on scheduling and Court availability.
- e. For hearings scheduled on 12/06/21 and after, all exhibits must be submitted using the Court's electronic evidence portal **and** emailed to the opposing party/counsel, at least **72 hours** prior to the hearing. For more information on how to access the evidence portal and upload the exhibits, please click [here](#).
- f. Exhibits must be uploaded to the evidence portal at least **two days** prior to the evidentiary hearing or trial. If you have a problem using the electronic evidence portal, call L69 for assistance.
- g. If exhibits are not timely provided to the Court using the electronic evidence portal and shared with the opposing party, they will not be considered.
- h. Parties are required to comply with Family Code § 217(c) identifying witnesses.

2. 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 narrow disputes.⁴ Domestic Violence matters are excused from this requirement.
- b. The meet and confer is MANDATORY and confidential.
- c. Failure to meet and confer may result in the rescheduling of your hearing.
- d. The day before the remote hearing each side shall prepare a proposed ruling(s), or if applicable a proposed order, and serve the same on the other party and lodge with the Court by emailing it to L69@occourts.org. This informs the judge regarding the specific relief each side is requesting.

3. Scheduling

- a. Once identified for proceeding by way of a ZOOM hearing, the Court will notify the parties of the date and time of the hearing.
- b. Parties (or counsel if represented) are to provide the Court with their current email addresses at least three days prior to the scheduled hearing.

³ More time may be allowed at the individual Judicial Officer's discretion based on scheduling and the Court's availability.

⁴ See California Rules of Court 5.98.

- c. ZOOM hearings for short matters, less than an hour, are usually set at 8:30 a.m. Longer hearings will be set at 1:30 p.m. but may be set earlier based on the Court's availability.

4. Attendance

- a. Parties, counsel, and identified witnesses will access the ZOOM hearing by visiting the Orange County Superior Court's public website (occourts.org) and following the following steps:
 - Click on the red "CLICK HERE" words at the top of the page.
 - Click on the Box entitled "Family Law and Family Court Services."
 - Click on the Red Box with the words "Click Here for Family Law Remote Hearings."
 - Click on the Box "L69."
- b. Prior to the hearing date, it will be necessary for participants to have access to ZOOM on their electronic devices (computers, cell phones, or laptops).
 - All participants must test the Zoom app functionality prior to their hearing date.
- c. Most judicial proceedings are presumptively open to the public.
 - As it does for "in person hearings", the Court retains discretion to "close the courtroom" for the remote hearing based on the applicable statutory justifications for doing so.⁵
- d. Members of the public -- including friends or family -- who wish to attend must a ZOOM hearing are to make a request directly to the Court.
 - i. Said request may be made by emailing **L69@occourts.org** with the case name, case number, and hearing date at least 24 hours prior to the scheduled hearing. In such instances, the Court will respond by providing an audio/telephonic link to enable access.
 - ii. 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.

⁵ Family Code §214 affords the Court a narrow exception to the general constitutional requirement that hearings are open to the public when it 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 this code to be private, and may exclude all persons except the officers of the court, the parties, their witnesses, and counsel. 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 and *In re Marriage of Lechowick* (1998) 65 Cal.App.4th 1406, 1414-1415.)

5. Conduct at Hearing:

- a. All other pertinent Statutes and Court Rules will apply to the hearing.
- b. Business casual or business attire is appropriate for parties, counsel and witnesses.
- c. All participants must be able to be seen and heard by all other participants.
- d. During the hearing, parties that are not testifying should have their microphones muted unless they are speaking.
- e. Witnesses should be in a room alone during testimony, without access to any documents or papers, other than copies of exhibits already provided to the Court and opposing parties.
- f. Attorneys and parties who are in separate locations may communicate privately via text or email during the hearing, provided however, parties may not communicate with counsel while they are testifying.
- g. No one may communicate with witnesses privately during the hearing without Court permission.
- h. All participants must be in an office or room with proper lighting. There should not be any distractions (noise or other things) occurring in the background.
- i. **CHILDREN MUST NOT BE PRESENT FOR ANY HEARING.**
- j. All participants must have their camera ON when addressing the Court unless excused.
- k. Participants will be allowed to speak only when prompted by the Court.
- l. Participants should ask to sign off before signing off to make sure they do not have any other issues to resolve.
- m. Attorneys are responsible for a client's behavior while participating.
 - An attorney's client will not be allowed to speak unless prompted by the Court.
- n. 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 party telephonically, continue the matter or to take the matter off-calendar.

6. Court Reporters

- a. All ZOOM hearings include a Court Reporter unless instructed otherwise at the time of the hearing.
- b. Whether telephonic or ZOOM, it is paramount all participants refrain from interrupting and not speak out of turn or over one another, as the Court Reporter will be unable to make a full record when two or more participants are speaking at the same time.

7. 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.⁶
- c. If an interpreter is required, parties or counsel are to indicate the need for an interpreter at the status conference.

8. Recordings

- a. Neither attorneys, parties, witnesses, nor any third parties are permitted to record the proceeding. Recording of any kind is a violation which shall subject an individual to potential civil and criminal penalties.
 - If a party/counsel/witness unlawfully records the proceedings in violation of Cal. Pen. Code Sec. 632, or any other section, the Court will forward the matter to the Orange County District Attorney's Office for prosecution.⁷

9. Ex- Parte Contacts with the Court

- Parties are not permitted to send ex-parte (private) emails to the Court. All contact with the Court must include the other party/attorney.

Dated: November 29, 2021

⁶ The parties and the interpreter will have to use consecutive translation, which slows down the process -- but is necessary considering these circumstances.

⁷ The Court further reserves the right to assess a civil penalty pursuant to Code of Civil Procedure §177.5.