



Superior Court of California County of Orange

Probate Video Court Trial Guidelines

Pursuant to California Judicial Council Emergency Rule 3 and Orange County Superior Court Administrative Order No. 20/22, Probate court trials, as ordered by the court, will be conducted by video via WebEx.

1. Scheduling

In advance of the trial date, the Court will confer with the parties and issue an Order Re: Remote Trial Proceedings. Parties must comply with all orders contained therein. The Court will confirm the email addresses for counsel and self-represented parties. The clerk will generate a WebEx video invitation link that will be sent via email to counsel and the self-represented parties to access the video court session. Instructions to download WebEx will be attached.

2. Participation Via Video

It is the responsibility of counsel and self-represented parties to ensure they have access and can successfully connect to WebEx via an electronic device (computer, cell phone, tablet, etc.).

- a. All parties, counsel and the testifying witness shall remain visible and audible during all trial proceedings, unless or until a party, attorney, or witness is excused by order of the court.
- b. It is vitally important the audio quality of a remote connection be clear and consistent. Some computers, digital devices and phones do not provide sufficient sound transmission quality to make a speaker understandable to others during a hearing. It is strongly recommended that all counsel, parties and witnesses utilize low cost headphones or ear buds with built in microphones. In the alternative the court is aware of existence of high-quality conference call microphone/ speakers which gather and reproduce sound well. The court has found these technologies greatly enhance the ability of all attendees to understand one another and eliminate background noise effectively. If a party, witness or counsel elects not to use headphones or earbuds, or other audio enhancing technology and the audio quality of the proceeding is consequently impacted the court may suspend, delay or continue the proceeding until the issue has been remedied by the use of acceptable sound transmission technology.
- c. During all trial court proceedings, the attorneys, parties, and witnesses shall conduct themselves in the same manner they would if they were physically present before the Court. Professional attire shall be worn that is appropriate for all court proceedings.

- d. Attorneys and their clients who are appearing from separate locations may communicate privately (e.g., text or email) during the court trial proceedings, provided that their communications do not interfere with the court proceedings and do not occur while the party is testifying.
- e. The court will have the ability to mute participants and place them in and out of a virtual waiting room, if needed.
- f. No filming, broadcasting, photography or electronic recording is permitted of this video session per California Rules of Court, rule 1.150 and Orange County Superior Court rule 180. Moreover, recording of any kind may run afoul of existing Penal Code statutes.

3. Public Access to Proceedings

- a. Per Administrative Order 20/22, access to the audio and video of court trial proceedings will be provided to the public.
- b. Any member of the public wishing to attend a remote court trial proceeding may do so by calling 657-622-8278. A link to the video session will be provided.
- c. The public will be placed on mute during the video session. The court will have the ability to place video participants in and out of a virtual waiting room, if needed.
- d. No filming, broadcasting, photography or electronic recording is permitted of this video session per California Rules of Court, rule 1.150 and Orange County Superior Court rule 180. Moreover, recording of any kind may run afoul of existing Penal Code statutes.

4. Witnesses

- a. Counsel and self-represented parties are responsible for providing the video appearance link to all their witness and ensuring they can successfully connect to WebEx.
- b. The party calling the witness must arrange for the witnesses to testify in a place with no distractions that may affect the efficient conduct of the trial, and where no documents or other material in any way connected with the case (whether electronic, physical, or in any other form) are present except for identified exhibits, as discussed below.
- c. Witnesses will be admitted to the video session when it is time for them to testify and will be sworn by the clerk. They will be excused/removed from the session once their testimony is concluded.
- d. Any unapproved communication between counsel and a witness while testifying, or between the witness and a third party while the witness is testifying is prohibited. This rule applies whether the communication is electronic or person to person. If such communication occurs, upon discovery, the court will take appropriate and immediate action to address the breach. This may include, but is not limited, to imposition of sanctions, terminating sanctions, striking of testimony, scheduling of an OSC re contempt, and, where appropriate, reporting of offending counsel to the State Bar of California for disciplinary proceedings.

- e. Counsel and self-represented parties are responsible for communicating these rules to witnesses they call to testify and to anyone else assisting a party, counsel, or witness in the case.
- f. Pursuant to Emergency Rule 3, use of interpreters through videoconferencing is also expressly permitted. The parties and the interpreter will use consecutive translation.

5. Trial Exhibits

- a. The parties are to prepare and deliver two sets of exhibit binders in the form of Joint Exhibit Notebooks (one for the court and one for the court clerk) to the Department not less than three (3) days before the remote trial begins. Each exhibit in the clerk's notebook must be pre-marked with exhibit tags affixed.
- b. The copy kept by the court clerk will be the formal trial exhibit available for admission into evidence.
- c. The party calling a witness is responsible for providing copies of exhibits to the witness in advance of the witness' trial testimony. A party's failure to do so may result in that party being unable to question the witness on the exhibit.
- d. To the extent evidentiary objections have not been anticipated, asserted or resolved prior to trial, counsel or a self-represented litigant may object by raising their hand and waiting to be recognized by the court.
- e. Exhibits to be used for impeachment or rebuttal are to be delivered to the court in a sealed envelope for reference during trial.
- f. If there are any potential rebuttal documents that need to be submitted during the hearing, parties may do so. Rebuttal evidence must be pre-scanned and ready to forward to the opposing party, their counsel, the witness, and the court (at an email address to be provided when or if appropriate during the hearing) at the earliest possible opportunity.