

Overview of the Best Practices for Remote Hearings

The purpose of the Best Practices for Remote Hearings is to provide guidance for lawyers and parties when preparing for and participating in a remote hearing. They apply to any remote hearing that takes place before an adjudicator (e.g., a judge or master), including a motion, application, case conference, pre-trial or trial.

Parties must consult the local Practice Directions and Rules of the Court applicable to the judicial region and court in which the hearing will take place. Ultimately, the Best Practices are subject to the discretion of the adjudicator hearing the matter. They should be read through and consulted well in advance of the hearing along with any directions from the court.

All parties should act professionally and collaborate when preparing for and attending remote hearings. They need to work together in advance of the hearing to resolve as many issues as possible or to narrow the issues in dispute.

All parties should become familiar with the technology to be used and should work together to ensure that everyone is able to appropriately access and be involved in the hearing. Ideally, a remote hearing would be conducted via videoconference. If a party is unable to access or use appropriate technology, alternative arrangements and/or accommodations need to be made. Any concerns that a party has with respect to accessing or using the necessary technology should be raised as early as possible.

Prior to the hearing, all parties should discuss and agree upon procedural issues, which may then need to be discussed with the adjudicator or court staff, including but not limited to:

- the hearing format and technology (where a court-wide technology platform has not already been implemented)
- whether any language interpretation or court reporting services are required
- the format of, procedure for, and timetable for the exchange of any documents before and during the hearing
- the use of a common platform from which documents can be downloaded by the parties and the adjudicator (where a court-wide platform has not been implemented)
- attendance of and procedures for witnesses or other necessary parties at the hearing, including how documents will be shown to witnesses during examinations
- what to do if technology issues happen during the hearing, including the exchange of phone numbers and email addresses

All parties should test the hearing technology well in advance to ensure that it works properly. Where possible, the parties should have:

- a computer with a stable Wi-Fi connection that has speakers and a webcam
- two screens – one to run the video and audio and the other to view documents at the same time

- a way to communicate outside the court platform with their client/team and the other parties

Parties should be mindful of the location from which they are attending the hearing. There should be no background noise and there should be appropriate lighting for the video. Parties should also close any programs or applications not in use during the hearing to avoid distractions and to reduce the drain on Wi-Fi bandwidth.

The Best Practices contain guidelines regarding the preparation and attendance of witnesses at the hearing, including doing a test run of the technology with the witness, showing them how they will see documents during the hearing, and advising the witness that the court may ask them to conduct a video survey of their physical space to demonstrate they are alone and do not have access to prohibited materials.

The following information for managing documents for the hearing is included:

- recommended format and naming practices
- guidelines for a joint brief of documents
- how to manage documents during the hearing and mark them as exhibits

The Best Practices also contain relevant considerations for managing hybrid hearings, i.e. hearings that are conducted in part in-person and in part remotely.

Remote hearings remain court hearings, and as such, the etiquette used in court should be maintained to the extent possible and as required by the particular court. Parties should join the hearing early and be prepared in advance. Appropriate business attire is required. Recording of the hearing (either by video or audio recording, photograph or screen capturing) is not permitted, unless expressly authorized by the judge or a Practice Direction.

These Best Practices also have the following appendices:

- Appendix A contains on-screen tips for counsel, parties and witnesses
- Appendix B contains information regarding the recommended hardware and software
- Appendices C, D, and E provide advanced features of and tips for Zoom, MS Teams, and CaseLines
- Appendix F outlines various key resources for parties
- Appendix G covers the court reporter's perspective and tips
- Appendix H includes various checklists
- Appendix I contains a sample virtual hearing protocol, and
- Appendix J provides acknowledgments