

**BEST PRACTICES: FACILITATING REMOTE APPEARANCE TECHNOLOGY  
FOR THE COURT AND THE LITIGANTS IN THE DOMESTIC RELATIONS  
DIVISIONS<sup>1</sup>**

**FLORIDA SUPREME COURT ADMINISTRATIVE ORDER 20-23, AMENDMENT 1** requires the trial courts to conduct:

1. Essential and critical proceedings in a manner that employs all methods feasible to minimize risk of COVID-19 exposure to all; and
2. Non-essential and non-critical court proceedings using electronic means unless a judge determines that remote conduct of the proceeding is subject to an exception<sup>2</sup>
3. Alternative Dispute Resolution Proceedings, Status, Case Management and Pretrial Conferences, non-evidentiary and evidentiary motion hearings and Non-Jury Trials (except for juvenile delinquency and termination of parental rights petitions in dependency cases unless the parties in those cases agree to remote hearing) are Non-Essential Proceedings and *must be conducted remotely*.
4. In an effort to assist litigants and attorneys with these new processes, these are some ideas on “best practices” designed to effectuate the virtual process. This is by no means a comprehensive list. As is stated throughout this posting, if you have questions or concerns regarding how to conduct your virtual hearing or trial, please set up a technology case management with the Court and opposing party/attorney so that the Court can address your concerns prior to your actual hearing.

**IN GENERAL:**

The Court, the parties, and attorneys shall explore the full functionality of the remote appearance platform (ie: utilize waiting rooms, screen sharing)

1. When setting hearings, properly space and allot a reasonable time for the issue recognizing that hearings may take longer than expected.
2. Provide reliable email addresses and telephone numbers to the Court for the Court to facilitate communication with attorneys and self-represented litigants.
3. Use the JACS system to schedule your hearing and coordinate your hearing with the opposing attorney or party prior to contacting the Judicial Assistant to secure your date and time. You will be provided with a “confirmation number” which must appear on the hearing notice.
4. Sign up for the e-portal so that the Court can communicate promptly and effectively.
5. JACS system

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<sup>1</sup> Adapted from the Supreme Court of Florida Memorandum of May 11, 2020

<sup>2</sup> The exceptions are that the remote conduct of the proceeding would be: (a) inconsistent with the United States or Florida Constitution, a statute, or a rule of court that has not been suspended by administrative order; or (b) infeasible because the court, the clerk, or other participant in a proceeding lacks the technological resources necessary to conduct the proceeding or, for reasons directly related to the state of emergency or the public health emergency, lacks the staff resources necessary to conduct the proceeding.

## NOTICES:

1. Notices for telephonic hearings shall contain a telephone conference line and a participant code for the parties and the Court to conduct the hearing. Each Court has a specific telephone participant code. Please see your Judge's guidelines and procedures for more information.
2. Notices for virtual hearings shall state the date and time of the hearing and the virtual platform that will be utilized.
3. If the Court provides you an individual link that does not appear in the Notice, the following language should appear on any notice for a public hearing: *"To protect the security of the hearing/trial the virtual link is not included in this notice but shall be forwarded to the attorneys of record or the self-represented litigants the week before the hearing. If this is a hearing open to the public, any member of the public may contact the Judicial Assistant should they wish to be present and the link shall be provided."*
4. Some Judges may have a dedicated link available in their guidelines and procedures. If you are unsure as to how a division is handling virtual hearings, please contact the Judge's Judicial Assistant.
5. Parties and Attorneys shall familiarize themselves with the systems utilized by the Court:  
Some Websites to get you started:
  - a. <https://support.zoom.us/hc/en-us/articles/201362033-Getting-Started-on-Windows-and-Mac>
  - b. <https://support.office.com/en-us/teams>
  - c. <https://help.webex.com/en-us/>

## WHAT TO EXPECT AT A VIRTUAL HEARING:

1. You will be placed in a "waiting room" for admission by the Hearing Host (generally the Court) and "admitted" into the hearing once the Court is ready to begin.
2. The Court will lay the ground rules at the start of the hearing; describing how the hearing will be conducted.
3. All sides will be heard; however, the use of technology requires a rigid rule of speaking one at a time. The Court will invite comment from each person to allow opportunities to respond. The Court will run the hearing and by name invite openings, testimony, argument etc. from each person so that the record is clear and the hearing is orderly. (For instance muting when others are talking)
4. Remember that the proceeding is live and courtroom decorum rules apply.
5. No one is to record the proceeding without the Court's permission; however a party or their counsel may retain an official court reporter to make an official record of the proceeding.
6. Just as non-participants in a live Courtroom are to maintain silence and not interfere in the proceedings, members of the public are permitted to enter the hearing space, but must identify themselves and maintain silence during the proceeding. This means keeping yourself on "mute", this audio setting is usually found in the upper right corner of your video block.

7. Before the hearing, make sure that you are properly named when you log on. Nicknames and names like “IPHONE 234” or GALAXYABC” do not help the Court to identify who should be let in to a hearing and may result in a delay in admission.

**EVIDENCE and WITNESSES:** Virtual Evidentiary Hearings or Non-Jury Trials require extra planning and attention. Please review these requirements for a positive experience.

1. Any documents or photographs you wish to have the Court consider as evidence must be provided by e-mail or hand delivery to the Court **AND** to all other parties (or their attorneys if represented) in PDF format or JPG format prior to the hearing. Please review an individual Judge’s guidelines and procedures for the exact amount of time exhibits must be provided prior to the hearing or trial.
2. Emails sending any exhibits must be clearly marked as stipulated into evidence or not stipulated into evidence and titled in a manner that gives a short description of the exhibit, which party is moving forward with the exhibit, and include an identification letter. (*an Example would be “Pet A BOA Stmt 5/2019”*)
3. An Evidence Control Sheet for each party shall also be provided **with letters** for identification and NOT exhibits numbers, which the Court will determine as evidence is admitted. There should also be a column to indicate whether the exhibit is opposed and, if so, on what basis. Bate stamp numbering is strongly encouraged for any document over 20 pages.
4. Documents and other items of evidence that are too voluminous to be e-mailed shall be hand delivered to the Courthouse, opposing party/counsel. Please plan accordingly as an appointment may be needed to access the Courthouse and properly deliver the items.
5. Witness lists must be emailed to the Court and to all other parties (or their attorneys if represented) in advance of the hearing or trial pursuant to the Uniform Pretrial Order and/or the individual Judge’s guidelines and procedures. The Witness List must include the name of the Witness and how they will be identified at the virtual hearing so that the Court/Host can leave these witnesses in the “waiting room” for sequestration purposes.
6. Attorneys are responsible for providing the witnesses the virtual hearing links. It is ultimately the attorneys/parties’ responsibility to ensure that their witnesses and others receive the link to the hearing.
7. Discovery, Evidence, and other rules of procedure still apply, unless suspended or amended by The Florida Supreme Court, as does the right to due process in all court proceedings. **HOWEVER**, the Courts and parties are encouraged to be flexible during the public health emergency for the equitable resolution of cases.
8. If you have a particularly complex issue or concern about scheduling an evidentiary hearing or trial, contact the Court’s Judicial Assistant who may direct you to set a preliminary hearing to discuss processes and procedures that are not covered here.
9. At the virtual hearing, it is expected that the party presenting any evidence will understand how to utilize the “screen sharing” technology available through the virtual conference platform. The Court will not be responsible for the printing or dissemination of documents that are emailed to the Court. Any items actually admitted into evidence will then be forwarded by the Court to the Clerk of Court for marking and physical entry into the court file.

10. You should be prepared to know how to share your documents with the group. Just like in a courtroom, it's not appropriate for the Court to be showing the exhibits to the witnesses. If you're not sure how to do that or your hearing is more complicated, please ask the Court for a short case management prior to your hearing so that protocols and procedures can be addressed.

**PREPARING WITNESSES:**

11. It is the responsibility of the self-represented party (or their attorney if represented) to ensure that their witness(es) have the necessary technology to participate in the remote hearing and, if not, specify requirements for the provision of an affidavit from the party explaining and attesting to the inability for the witness to access such resources and to ensure that witnesses are aware of the protocols contained herein. The Court may schedule a technology case management on request to ensure that all parties and their counsel are comfortable with the technology to be used. Lawyers should always practice this technology with their clients prior to the hearing.
12. Witnesses (including litigants) must be alone, in a quiet place, may not use a virtual background, and the Court may require the Witness to share their surroundings to ensure that these procedures are followed. Only Official Court Reporters may record a proceeding. Unauthorized recordings of proceedings are strictly forbidden.
13. Pursuant to current COVID-19 CDC guidelines and orders from all levels of government, all participants must abide by social distancing requirements and limit in-person contact. As such, witnesses do not need to be present with the attorneys or self-represented parties during the videoconference hearing and it is preferred that such witnesses participate in the videoconference hearing remotely from their own home or office.
14. In the event the rule of sequestration is invoked, the witnesses will be removed from the videoconference and counsel or self-represented party will be responsible for contacting the witness when it is time for their testimony. For shorter hearings, witnesses may remain in the "waiting room" to be re-admitted by the Court.
15. The witness must be provided copies of all pre-marked exhibits prior to the hearing. Counsel and/or self-represented party is responsible for providing these instructions to any witnesses and ensuring their compliance.
16. Witnesses are discouraged from being in the same physical space as the attorney or self-represented party. However in the event a witness or a party testifying is in the same physical space as the attorney or self-represented party questioning the witness, the witness must be at least six (6) feet away from any other person in the room and the camera shall be directed at the witness.
17. The attorney or self-represented party may not assist the witness with answers in any way, including but not limited to gestures, notes or facial expressions, otherwise impact or influence the witness' testimony "off camera". Please note that using multiple devices in close proximity will cause feedback and may disrupt your video conference hearing.

**INTERPRETERS:** As Domestic Relations court is not considered a "Due Process" Court, interpreters are not provided. If you as an attorney, party or witness need the assistance of an

interpreter, you must procure an interpreter on your own, notify the other participants and their attorneys (if they are represented) that you will be utilizing an interpreter and the name of that interpreter at the time the hearing is scheduled. Please make sure that they have an official form of identification (such as a driver's license or state identification card) so that they may be sworn in by the Court at the time of the hearing. Interpreters and the individual being assisted must have headsets for interpreting to be simultaneous.

**ADA:** If you need an accommodation under the Americans with Disabilities Act, please notify the Court as soon as possible and advise us as to how we may assist you.

**MISCELLANEOUS:**

1. If you are sent a notice for hearing and do not have a phone or access to the internet please notify the Court in writing and the Court will find a way for you to participate or may postpone the hearing.
2. Do not ignore a notice for a virtual hearing. If you cannot make the hearing or have a conflict, notify the Court prior to the day of the hearing.
3. Do prepare for your virtual hearing. Do not wait until the last minute to download the video application before your scheduled hearing. Test your speaker, microphone, and camera before the hearing. Video call software websites often provide a test link to try your equipment before the actual event.
4. Dress appropriately; as you would if you were actually going to the Courthouse.
5. Limit distractions during your hearing. Put pets and other things that may be a distraction in a different room. Find a quiet place to participate in the hearing. If you cannot substantially eliminate background noise please use a headset.
6. Keep your device on mute when you are not speaking to avoid unintended noises or distractions. Keeping your phone, mobile device or computer on mute as this reduces feedback and limits background noise. More than one device connected to the hearing in the same room will cause feedback.
7. Pay attention to the proceedings; this is not the time to "multi task".
8. Do not interrupt or talk over others. It makes it hard for the Judge and others to hear. Wait to speak until asked to by the Court.