

Remote Hearing Etiquette Guide for Counsel and Clients

Special Considerations for Attorneys

- Continue to zealously advocate for your client and protect your client's interests. If your client is tangibly disadvantaged by having a remote hearing, file for a continuance. If your client's case is continued and she is disadvantaged by not having a hearing, file a motion requesting a remote hearing (or an in-person hearing under appropriate circumstances). Make these strategic determinations based on the individual needs of clients.
- Client counseling is crucial during this time. Walk your client through how the hearing might go and what to expect. Make a plan for the hearing with your client in advance. This is particularly true for child clients.
- The closure of courts means that attorneys are not engaging in "hallway conversations" and other informal in-person communications that can move cases forward. Attorneys should coordinate conference calls and emails prior to the hearing to resolve issues and enter the virtual courtroom well-prepared.
- Where possible, negotiate stipulations and other areas of agreement to efficiently resolve matters (i.e. the return of a child to her parent) where all parties agree.
- File written reports and motions liberally. Written pleadings not only can resolve issues for your client, they also create a clear record.
- Take special care with witness testimony. As always, make a record via objections. The file-transfer or screen share functions can be used to submit exhibits, impeach witnesses, or refresh a witness's recollection.
- Hold the child welfare agency accountable to make reasonable efforts to prevent removal and finalize permanency. Even during difficult times, the agency must make efforts that are reasonable under the circumstances.
- There are numerous ways to communicate directly and confidentially with your clients during a virtual hearing. These include, but are not limited to:

Developed by Sabrina Ayers Fisher, Director, Office of the Public Advocate, Maricopa County, in conjunction with the Client Consultation Subcommittee of the Task Force on Conducting Juvenile Court Proceedings Safely in a Community Experiencing the Spread of an Infectious Disease. Rev. April 30, 2020.

o Some platforms have a “private chat” function which can only be viewed by two participants.

o Text your client during the hearing. Explain to the court that you are texting your client and ask for breaks if needed.

o Ask for a break to call your client. Step away from the camera and mute your microphone when you do so.

o Some platforms have “breakout rooms.” Ask to be placed in a breakout room with your client, and then rejoin the main hearing.

• Help your client navigate the “digital divide,” via smart device app help, Wi-Fi, community resources, brainstorming, available DCS resources, and, if needed, motion practice before the court.

Best Practices--Do's and Don'ts—for Parties, Participants, and Attorneys on Teleconferencing for Court Hearings

When attending your court hearing telephonically or by teleconferencing, you want to do your best on how you present to the judge.

THINGS TO DO:

***Make sure your device is working properly** before the hearing. If possible, test your device and connection and practice using the device, camera and/or microphone.

***Find a quiet, private space/location** to make your call into the hearing. There should be no pets, or other distracting sounds, noises, distractions in the background from where you call from. **Pay attention.**

***Call in on time.**

***Mute your phone or microphone** when you are not speaking. **When you begin to speak, say your full name**, it helps to keep the record clear.

***Wear proper clothing as if you were coming to court in person. Wear solid colors not patterns.** It makes it easier to be seen on camera. **Look into the camera** when you are talking and be sure to **speak clearly and slowly** in case of audio lag.

***Be aware of what is behind you.** If possible, avoid sitting in front of a window which makes you difficult to see. The best background is a solid background or wall.

***If you need to talk to your lawyer during the hearing,** please inform the court that you need to discuss something with your lawyer and need a break. You will be told how to communicate with your lawyer in private.

***If you need to use the facilities or restroom,** please ask the court for a recess.

***Be respectful.** Remember this is a hearing even though it is by teleconference. You want to put your best effort forward as you would if you came to court in person.

*** Do wait until the hearing is over to eat, chew gum or candy; do make sure to mute if you need to blow your nose or say something brief to someone nearby.**

***What do I do if the call fails/drops or I lose connection during the hearing?** The court will recess and wait for you to re-connect to the teleconference.

DON'TS:

***Don't talk over other people. Raise your hand** if you need to speak to signal you have something to say.

***Don't talk about an issue with everyone on the line.** If you need to talk to your attorney about an issue during the hearing, let the court know you need a break and you will be given time to discuss it **privately** with your lawyer.

***Do not multi-task.** Keep focused on your hearing.