

# BEST PRACTICES

## Facilitating Pro Se Litigants with Remote Appearance Technology

May 6, 2020

### Introduction

This guide sets forth best practices and logistical considerations with respect to facilitating pro se litigants with remote appearance technology.

The court should be mindful of the following considerations:

1. Ensure the technology is sufficient to allow the court to preside over and resolve the matter effectively.
2. Leverage remote appearance solutions that present little or no cost to pro se litigants.
3. Recognize costs to the litigants of using phone minutes and/or data if free and stable Wi-Fi is not readily available to them.
4. Verify the required equipment needed for all participants, ease of use, and the ability to access the solution remotely.
5. Control access to the proceeding for participants and determine the necessary level of privacy required for the event.
6. Ideally, use the same mode of remote appearance technology for all parties participating in the court event.
7. Account for ADA requirements and web content accessibility standards.

*Match each proceeding with the remote appearance medium that (1) complies with due process standards and general law, and (2) reliably achieves the purpose of the proceeding. In many instances a phone conference will satisfy the purpose of a court event, in others, a video conference may be required or preferable.*

### Best Practices for Judges

#### Planning for the Proceeding

1. Explore the full functionality of the remote appearance platform (i.e. waiting rooms) and attend regular training for the platform and other related technologies.
2. Allow for proper spacing and allotment of time for hearings, as pro se litigants may need extra time to present their case and work through any technology issues.
3. Ensure clear public information about the availability of non-confidential court proceedings via live streaming or other access.
4. When possible, obtain reliable email addresses for the parties, and verify their ability to access a stable internet connection if a video conference is to be used.
5. Determine whether any language interpretation will be needed by any participant, and the effect that need might have on effective participation via remote appearance technology. Schedule and group hearings to optimize the use of interpreter resources.

#### Noticing for the Proceeding

6. Provide notice to the litigant of the intent to use Zoom or similar free remote appearance platform along with connection instructions.
7. Require that notices of hearing contain a phone number and a link to the Zoom hearing, or similar free remote appearance platform, for the specified date and time.

## Starting the Proceeding

8. Start each hearing by laying the ground rules. Describe how the hearing will be conducted and how the platform will be used.
9. Announce the case number prior to commencement of the proceeding and require all parties to announce themselves to assist with the court record, tagging, and transcription.
10. Address parties on the record to verify that they are waiving their right to be present in the courtroom for the proceedings. In addition, if there is a victim involved, ensure that the victim's rights are addressed on the record.
11. Assure all sides they will be heard, but that the use of the technology requires a rigid rule of speaking one-at-a-time. The judge will invite comment from each person and allow opportunities to respond. The judge runs the hearing and by name invites testimony, argument, etc. from each person so the record is clear and the hearing is orderly.
12. Despite not being physically in the courtroom, the court should continue to remind participants the proceeding is live, is being recorded, and that courtroom decorum rules apply.
13. The court should advise participants if the proceeding is being recorded and note restrictions on the unauthorized recording of the proceeding.

## During the Proceeding

14. Judges should encourage the use of gallery view in the remote video settings, allowing all parties and participants to see each other in the hearing.
15. Be prepared to postpone the hearing if the pro se litigant has issues using the technology.
16. Finalize orders and file and serve through the CAPS Viewer or E-Portal.

## Logistics

### Contact Information / Procedures

1. Provide extra notice of hearings. Consider mailing the virtual hearing information to the pro se litigant with clear instructions on how to contact the court to arrange remote participation.
2. Provide a telephone option, toll-free if possible, as an alternative for video appearance if appropriate.

### Procedural Practices

3. Judges and/or court staff must act as hosts to control remote meetings. Appoint the case manager or other staff as co-host so that they can help manage the waiting room and rename participants as needed.

### Document Handling

4. Consider the need for an electronic signature workflow solution, with detailed instructions, when responding or filing.
5. Provide the capability for all parties to deliver all potential evidence to the court in advance.

*Consider attaching the companion best practices guide, Representing Yourself and Using Remote Appearance Technology with the Courts, to pro se litigant communications. The companion guide has been posted to many court and clerk websites and shared with justice stakeholders.*

### Technology Features of the Remote Appearance Platform

6. When hosting hearings, the court should enable the "Waiting Room" function in Zoom. The "Waiting Room" allows the host to control who is admitted to the hearing and prevent participation by individuals who are not litigants in that case.
7. Train self-help staff and/or all staff so that they can troubleshoot with the pro se litigants. Provide a Zoom Procedure Guide to all staff.