

459th District Court

Rules and Procedures for Remote Hearings

As of: April 23, 2020

1. **Communications with Court.** All communications regarding a scheduled hearing in this Court will be directed to 459.Submission@traviscountytx.gov and will be entitled: “HEARING;” cause number, case style, and subject matter (e.g. HEARING; D-1-GN-20-123456, Joe v. Snuffy, Record Requested). All counsel of record and self-represented parties *must* be copied on all correspondence with the Court.
2. **Rules and Procedures are Cumulative.**
 - a. These Rules and Procedures are cumulative with The Texas Rules of Civil Procedure, Texas Rules of Evidence and Travis County Local Rules, which are applicable in all remote hearings.
 - b. All participants in the hearing shall comply with Local Rule Chapter 12 in both conduct and appearance.
3. **Videoconferencing.** This court will use Zoom videoconferencing. It is free to download at zoom.us or you can download the app directly to your cell phone.
 - a. Ensure your computer has: internet access; a video camera; and a microphone.
 - b. A telephone number will be provided for participants who cannot meet these requirements.
 - c. Only the participants for each hearing will be provided with the Meeting ID for that hearing. Anyone receiving the meeting ID or access information may only disseminate that information to other hearing participants. They may not disseminate that information to anyone besides hearing participants and may not post such information to public forums or social media, or otherwise publicize it.
 - d. **Video or audio recording of the hearings is prohibited.**
4. **Open Courts.** The Open Courts provision of Texas law allows all Texans access to Court Proceedings. As a result:
 - a. Hearing Schedules will be posted to the District Court website.

- b. Hearings will generally be broadcast via the Court’s YouTube channel at: https://www.youtube.com/channel/UCF_rPoUGrNEGiqEtiAPTLEg. However, the Court will entertain any requests that the hearing not be livestreamed on YouTube.
- c. The Court’s YouTube broadcast will have a 60 second delay and, should it become necessary during the hearing, by party request or by sua sponte action, the Court will stop streaming.
- d. The Court’s broadcast will be deleted from YouTube immediately after the conclusion of the hearing.
- e. **The public may view or listen to proceedings but video or audio recording is prohibited.**

5. Prior to the Hearing.

- a. **Provide Email Addresses.** All participants should ensure the Court has their email addresses at the earliest opportunity but no later than three days before the hearing. Participants who fail to provide their email address may not receive notice of the Meeting ID and so may not be able to join the hearing.
- b. **Court will Email Hearing, Upload, and Exhibit Links.**
 - i. This Court will email hearing participants a link to:
 - (1) the hearing;
 - (2) a Box “Upload Folder,” which parties will use to upload exhibits and other files (for more details on “Box” see paragraph 6 below); and
 - (3) a Box “Offered – Admitted” folder, which is for use during the hearing.
 - ii. It is the responsibility of each lawyer or litigant to ensure that all witnesses they intend to call receive notice of how to join the Zoom hearing.
- c. **Notify Court of Telephone Attendees.** Any participant who can only attend via telephone must notify the Court. Additionally, anyone who knows of a hearing participant (e.g. litigants or witnesses) who must attend via telephone should notify the Court of such.
- d. **Provide Exhibit List.** Provide an exhibit list to the Court and all other parties.
- e. **Upload:**

- i. **Exhibits.** (note: please ensure that you use the guidance immediately below as well as the guidance in paragraph 6, “Uploading Documents to Box,” when uploading exhibits).
 - (1) If parties intend to offer any exhibits during the hearing, they must upload those files to the Court through Box.
 - (2) Each proposed exhibit must be saved separately and in PDF format.
 - (3) Each proposed exhibit must be appropriately pre-marked (e.g. Plaintiff’s Exhibit 1, Respondent’s Exhibit 4, etc.).
 - (4) **WARNING:** Uploading proposed exhibits to Box does not constitute an offer or admission of those exhibits. Any exhibit not offered during the hearing will be deleted from the Box shared folder and not included in the record.
- ii. **Motions, Responses, and/or Replies.** Upload any motions, responses, or replies that are relevant to the hearing.
- iii. **Proposed Orders.** Upload proposed orders in both PDF and Word format.
- iv. **Other Materials.** Parties may upload any other non-evidentiary materials, including demonstratives, presentations, trial briefs, and cases for the judge’s reference.
- f. **Test Your Setup.** Prior to the hearing, you should test your internet connection, camera, and microphone with Zoom through a test meeting at <https://zoom.us/test>.

6. Upload Everything At Least Two Hours Prior to Hearing. The Court may not consider documents that are uploaded within two hours of the hearing unless there is good cause for the late upload.

7. Uploading Documents to Box.

- a. Box is a program that the parties will use to upload proposed exhibits and other documents to the Court.
- b. All documents should be in PDF format and titled with the party’s designation and a clear description of the document.
- c. If multiple parties share the same designation (e.g. multiple plaintiffs), the parties shall ensure that each exhibit and/or document is uniquely marked to clearly denote the submitting party.

- d. All parties should be notified whenever documents are uploaded to Box and such notification should include the titles of the documents that were uploaded.
- e. Parties should make efforts to:
 - i. Minimize the number of uploads of documents.
 - ii. Minimize the upload of duplicative documents.
 - iii. Upload documents as long as possible prior to the hearing.
- f. Uploading documents to Box does not constitute filing with the District Clerk's Office. Any document required to be filed must still be filed with the Clerk's Office.
- g. If you have questions on how to upload documents, you may go to:
<https://support.box.com/hc/en-us/articles/360044196633-Upload-to-Box-With-the-File-Browser>)

8. During the Hearing.

- a. **Format Your Name Before Entry.** While in the Waiting Room for the hearing, please format the name that appears on your Zoom picture so that it reads: Full Name, Position (e.g. Attorney for Mr. Snuffy; Witness; etc.), Party (e.g. Plaintiff, Petitioner, Respondent, etc.). Do so by moving your mouse cursor over your picture, click on the three dots that appear on the top right, and then click on the option to change your name.
- b. **Speak One at a Time.** During the hearing, participants must speak one at a time and pause prior to speaking, in case there is any audio/video lag, and so that the court reporter can make a clear record.
- c. **Use Mute When Not Speaking.** Participants shall mute themselves when not speaking in order to avoid any potential background noise.
- d. **Presentation of Testimony.** The parties are encouraged, to the extent possible, to agree to the presentation of testimony through affidavits or deposition transcripts.
- e. **Witnesses.**
 - i. **Use Real Names.** Witnesses must log into Zoom using their real names or they will not be allowed to testify.
 - ii. **No Electronic Devices.** During their testimony, witnesses shall turn off any electronic device that is not being used for the hearing. This includes their phones, other computers, or any other electronic device of any kind.

- iii. **No Notes Except as Directed.** Witnesses shall not have anything in their hands while they are testifying and shall only testify from memory except that they may look at documents as requested by the attorneys for the Court.
- iv. **No Other Communication While Testifying.** The attorney examining a witness is the only person who may communicate with that witness while they are giving testimony and the attorney may only do so by oral questioning. No one else shall communicate with any witness in any manner while they are giving testimony. To be clear, there should be no texting, calling, emailing, using Zoom private chat, or other forms of communication with the witness during their testimony.
- v. **Objections.** Witnesses shall stop testifying if they hear someone say objection. The witness must wait for the Court to rule on the objection before resuming testimony.

f. **Excluding Witnesses or Others.**

- i. If TEX. R. EVID. 614 is invoked, each attorney is responsible for admonishing their respective witnesses regarding “The Rule.”
- ii. When witnesses, or anyone else, is excluded from the hearing, they shall be put in a virtual “waiting room,” until they are called to the hearing to testify. When someone is placed in a waiting room, they are expressly forbidden from viewing or listening to the proceeding, or getting information about the proceeding in any manner whatsoever.

- g. **Breakout Rooms.** If anyone needs to converse privately, they may request the Court set up a “breakout room.” If the Court does so, it will transition the appropriate participants into a private video conference without other participants in the hearing present. The Court will not be present for this private video conference, the conference will not be recorded by the Court, and the participants may not record their conversation through Zoom, or by any other means, without the express permission of the Court.

h. **Handling Exhibits During Hearing.**

- i. Attorneys and litigants are encouraged to keep “Box” open during the Hearing so that they can quickly access those documents and see which documents have been admitted.
- ii. When attorneys or litigants want the Court and/or a witness to look at a document, they may open the document from the “admitted exhibits” folder

and use the “Share Screen” button on Zoom in order to display the document to all attendees.