



State District Courts Denton County, Texas

Sherry Shipman, 16th District Court Bruce McFarling, 362 District Court Jonathan Bailey, 431st District Court

Steve Burgess, 158th District Court Margaret Barnes, 367th District Court Tiffany Haertling, 442nd District Court

Brody Shanklin, 211th District Court Doug Robison, 393rd District Court Lee Ann Breeding, 462nd District Court

REMOTE HEARING GUIDELINES UNTIL COVID-19 CRISIS ENDS

Pursuant to the directive of the Texas Supreme Court, the Court of Criminal Appeals, and the guidelines agreed to by the Denton County District Courts, in order to prevent risk to court staff, parties, attorneys and the general public due to the COVID-19 pandemic, court hearings in civil and criminal matters may be conducted remotely “by teleconferencing, videoconferencing, or other means.” The Denton County District Courts have elected to hold essential court hearings¹ through use of the Zoom video conferencing software, or, in person hearings with no more than 10 persons in the courtroom at any one time and may require fewer persons depending on the circumstances and orders in place at the time of the hearing.

Non-essential court hearings² may only be held remotely and only after April 1, 2020.

Until further notice, the attorneys, parties, witnesses, and other attendees may attend the video hearing through Zoom by using a desktop computer, laptop, tablet, I-Pad or smartphone which has video and audio capability. When the District Court is the host and you are invited to attend a hearing through the Zoom meeting room, there is no cost for the attorneys and other attendees to attend such hearings. For use on desktop computers and laptops, attendees may

¹ Essential court matters are as defined in the *Second Amended Denton County District Courts Temporary Guidelines Regarding Health and Safety Concerns* issued March 20, 2020.

² Non-essential court matters are those matters not included in the list of essential court matters.

download the program at <https://zoom.us/download>. For smartphones, attendees may download the application as follows:

Apple

<https://apps.apple.com/us/app/id546505307>

Android

<https://play.google.com/store/apps/details?id=us.zoom.videomeetings>

At a reasonable time prior to the scheduled hearing, the Court will e-mail each attendee an invitation with a link which will enable the user to attend the hearing by using Zoom. The Denton County District Courts recommend that at least 24 hours prior to a scheduled hearing, that potential attendees familiarize themselves with the Zoom software at zoom.us, which offers several online tutorials.

Presentation of Witnesses by Zoom:

Each party shall e-mail to the court coordinator and all counsel at least 24 hours in advance of the scheduled hearing a list of all witnesses, with full names, e-mail addresses, and cell phone numbers who will testify at the video hearing. If a witness is not listed, the courts reserve the right not to call the witness.

Once the video hearing is commenced, with announcements made by the attorneys or pro se parties and opening arguments made, an invite will be sent to join the hearing as and when the witness is called to testify. Once the witness is excused the witness shall be electronically severed from the hearing.

Alternatively, all witnesses, when they link up to the video conference, will be placed in an electronic waiting room. When each witness is called to testify, that witness will be added to the live video hearing and, at the conclusion of the testimony of that witness, will then be dismissed from the live video hearing.

Each witness, other than a party, must be alone in the physical room where the witness is testifying. The witness prior to testimony and at conclusion of testimony will scan the room with his or her camera to insure that this rule is complied with. All other electronic devices other than the one for use in producing the video shall be turned off or not in the room. Further, no other programs or windows will be open on the witness's device or computer. Attorneys or other interested parties will not be allowed to pass the functional equivalent of notes by electronic means to the witness during the time that witness is testifying.

As to parties, they will be allowed to confer with their attorney via a Zoom video breakroom during any breaks in the hearing. A party may also be in the same room as his or her attorney but in such event the camera must be focused so that both the witness and attorney can be seen. No electronic devices other than the one with the camera will be allowed in the room while the party witness testifies. Attorneys may have appropriate computer programs open to enable the attorney to present exhibits via Zoom. No one else other than the party and his or her attorney may be in the room during the party's testimony. Scanning of the room with the camera will be done both before and after the hearing to ensure compliance with this rule.

Any time deadlines expressed by the court at the outset of the hearing will be strictly adhered to, taking into account that there may be some time lags for the sending of invites, joining a third party witness into the live hearing, the electronic sharing of documents and the remote nature of the hearing which may cause some delays.

PRESENTATION OF EXHIBITS FOR USE AT VIDEO HEARINGS

If you plan to introduce exhibits at the hearing, the documents must be emailed to the court, the court reporter and opposing parties at least 24 hours in advance of the video hearing. The documents should be premarked with Exhibit Stickers and identified by party name Example: "John Smith Ex. 1; Jane Smith Ex. 2".

If a Document has not been provided electronically 24 hours in advance of the hearing, the court reserves the right to exclude it from evidence and not consider it for any purpose.

Attorneys may present evidence via the "Share Screen" function on Zoom, via a Shared DropBox folder, or via any other method permitted by the Court.

ONLINE DEMEANOR

While we are going online we are still a courtroom. It is a courtroom now in cyber space, rather than physical space. At this time, an acceptable minimal standard is business casual. There is also the potential for proceedings to be live streamed to YouTube, in order to comply with the open courts provision of the Texas Constitution, if the courthouse were to be closed or otherwise not open to the public. For the sake of public perception, looking professional and acting professional is required.

SPECIAL PROVISIONS DUE TO SOCIAL DISTANCING AND GROUP SIZE LIMITS

If a client is served and hires you the day before or day of the hearing, it is the duty of the newly retained attorney to contact opposing counsel or the opposing pro se party and the court. Email address and phone number of the newly retained attorney shall be provided to the court and opposing party. Every reasonable effort should be made to schedule a remote video hearing.

Further, and most importantly, every reasonable effort must be made to settle before coming to the courthouse or holding the remote video hearing. If the hearing is an essential court hearing that is held in the courtroom, the court will limit the number of attendees so that there will not be more than 10 persons in the courtroom at any one time and may require fewer persons depending on the circumstances and orders in place at the time of the hearing.

RULES FOR FACE TO FACE VISITS WITH CHILDREN FOR COVID-19 CRISIS

At this time the District Courts allow video communication by, Facebook Video Messenger, FACETIME, Zoom, Skype, or any other video chat communication program between children, attorney ad litem, guardian ad litem, and CASA. This will satisfy the requirement for personal visits before each hearing until 30 days after the Governor of Texas ends the State of Emergency. When using a video conferencing device, when you desire to talk to the child privately please have child scan the whole room with the camera to ensure no one else is present. To extent possible, make certain any cell phone or laptop in the room with the child is off and has not been placed in the child's line of sight. Take reasonable steps to ensure the communication is truly private and uncoached are encouraged.

Entered this the 26th day of March, 2020.



The Honorable Brody Shanklin
Local Administrative Judge
Denton County District Courts