

**F I L E D**  
Clerk of the Superior Court

**MAR 28 2022**

By: A. Husted, Deputy

**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO**

**IN RE: AMENDMENTS TO LOCAL  
RULES FOR REMOTE APPEARANCES  
IN CIVIL CASES**

**GENERAL ORDER OF THE  
PRESIDING DEPARTMENT**

**ORDER NO. 032822-59**

**THE COURT FINDS AND ORDERS AS FOLLOWS:**

On or about December 29, 2021, the Judicial Council suspended the majority of California Rules of Court, rule 3.670 and added California Rules of Court, rule 3.672, effective January 1, 2022. The stated purpose of California Rules of Court, rule 3.672 is “to promote greater consistency<sup>1</sup> in the practices and procedures relating to remote appearances and proceedings in civil cases. To improve access to the courts and reduce litigation costs, to the extent feasible courts should permit parties to appear remotely at conferences, hearings, and proceedings in civil

<sup>1</sup> Per California Rules of Court, rule 3.672 a “civil case” consists of any case “defined in rule 1.6(3), including all cases except criminal cases and petitions for habeas corpus, other than petitions for habeas corpus under Welfare and Institutions Code section 5000 et. seq., which are governed by this rule.” California Rules of Court, rule 1.6(3) defines a “civil case” as a case “prosecuted by one party against another for the declaration, enforcement, or protection of a right or the redress or prevention of a wrong. Civil cases include all cases except criminal cases and petitions for habeas corpus.”

1 cases consistent with Code of Civil Procedure section 367.75.” (Cal. Rules of Court, rule 3.672,  
2 subd. (a).)

3 California Rules of Court, rule 3.672, allows trial courts to create their own local rules for  
4 remote appearances.<sup>2</sup> In accordance with the changes made by California Rules of Court, rule  
5 3.672 and Code of Civil Procedure 367.75, this Court hereby amends the following San Diego  
6 Superior Court Local Rules: Rule 2.5.8 (Civil), Rule 4.4.5 (Probate), Rule 5.2.5 (Family), Rule  
7 6.1.15 (Juvenile), 6.9.4 (Juvenile), as indicated in Attachment A, effective immediately.<sup>3</sup>

8 Nothing in this order is intended to nor shall diminish the legal and lawful authority of an  
9 individual judicial officer’s right to control the order in his or her courtroom (Code Civ. Proc. §  
10 128) or make discretionary decisions that deviate from this order but otherwise comply with the  
11 law.

12 This Order shall go into effective immediately<sup>4</sup> and shall expire at 11:59 p.m. on  
13 December 31, 2022, unless otherwise ordered by this Court.<sup>5</sup>

14 **IT IS SO ORDERED.**

15  
16 Dated: March 28, 2022

  
17 **HON. MICHAEL T. SMYTH**  
18 **PRESIDING JUDGE**

19  
20 <sup>2</sup> The terms remote and virtual for purposes of the rules are synonymous.

21 <sup>3</sup> San Diego Local Rules, rule 6.1.15 and rule 6.9.4 were amended, effective January 12, 2022, by way of “Order  
22 Authorizing Remote Proceedings in Juvenile Dependency Cases (Code Civ. Proc., § 367.75(h); Cal. Rules of Court,  
23 Rule 3.672(i))” and “Order Authorizing Remote Proceedings in Juvenile Justices Cases (Code Civ. Proc., § 367.75;  
24 Cal. Rules of Court, Rule 3.672(e)),” issued by the Honorable Judge España, Presiding Judge, Juvenile Court of San  
25 Diego County. Nothing in this Order changes the prior amendments nor their effective date. This Order simply  
26 delineates the changes that were made and consolidates all of the local rule changes for remote appearances into one  
27 location for ease of reference.

28 <sup>4</sup> However, no litigant’s substantive rights shall be prejudiced for failing to comply with these rules until 20 days  
after the changes have been posted on the court’s website and distributed. (Cal. Rules of Court, rule 3.672, subd.  
(e).)

<sup>5</sup> By way of this order, this Court is also rescinding immediately and indefinitely General Order of the Presiding  
Department NO. 010122-44.

## **ATTACHMENT A**

### **AMENDMENTS TO SAN DIEGO SUPERIOR COURT LOCAL RULES FOR REMOTE APPEARANCES**

(Cal. Code of Civil Proc. § 367.75; Cal. Rules of Court 3.670)

**Rule 2.5.8 (Civil)**

**Rule 4.4.5 (Probate)**

**Rule 5.2.5 (Family)**

**Rule 6.1.15 (Juvenile Dependency)**

**Rule 6.9.4 (Juvenile Delinquency)**



## DIVISION II CIVIL

### **Rule 2.5.8**

#### **Remote Telephone Appearances**

In accordance with the provisions of California Rules of Court, rule 3.670(o), the court designates CourtCall, LLC, as the provider that must be used for telephonic court appearances. A party that intends to appear telephonically for a hearing listed in the rule must provide notice as specified in California Rules of Court, rule 3.670(h). The party must also arrange the appearance with CourtCall, including following any notice requirements and payment of fees as required by CourtCall. Information on arranging an appearance and payment of fees may be obtained directly from CourtCall at (888) 882-6878. The court may deny a request to appear telephonically and require the parties to appear in person pursuant to California Rules of Court, rule 3.670(h).

Pursuant to California Rules of Court, rule 3.672, and consistent with the requirements of Code of Civil Procedure section 367.75, anyone appearing in a civil action, including any nonparty who is subject to discovery, may appear remotely at all hearings except as follows. Remote appearances are not permitted for: (1) judgment debtor exams; (2) order to show cause hearings in which the order demands an in-person appearance; and (3) warrants of attachment. The following rules apply to proceedings in which remote appearances are authorized.

#### **A. Unlimited and Limited Civil Cases (except Civil Restraining Order Actions):**

A party who intends to appear remotely for a hearing, including an evidentiary hearing, but excluding a trial or ex parte hearing, must provide notice to the court and all parties or persons entitled to receive notice of the proceedings at least five court days prior to the hearing by filing and serving a "Notice of Remote Appearance" (JC Form #RA-010). Any witness who intends to appear remotely for an evidentiary hearing must provide the same notice.

A party who intends to appear remotely for a trial must provide notice to the court and all parties or persons entitled to receive notice of the proceedings at least two court days prior to the trial readiness conference by filing and serving a "Notice of Remote Appearance" (JC Form #RA-010). Any witness who intends to appear remotely for a trial must provide the same notice at least two court days prior to the trial unless a party has previously provided such notice.

A person who wishes to oppose the use of remote technology at an evidentiary hearing or trial must do so in writing by filing and serving an "Opposition to Remote Proceedings at Evidentiary Hearing or Trial" (JC Form #RA-015) no later than noon on the court day before the evidentiary hearing or trial readiness conference, and must deliver a courtesy copy to the department. Failure to do so shall be deemed to be a waiver of any objection to the remote appearance.

For ex-parte hearings, a moving party intending to appear remotely must file a "Notice of Remote Appearance" (JC Form #RA-010) together with ex parte papers and notify the other side when ex parte notice is given. If a non-moving party intends to appear remotely, the non-moving party must file and serve a "Notice of Remote Appearance" (JC Form #RA-010) by 4:00 p.m. the court day prior to the ex-parte hearing.

#### **B. Small Claims and Civil Restraining Order Cases**

Written notice of a remote appearance is permitted, but not required for small claims and civil restraining order cases, including evidentiary hearings and trial. If notice is in writing, the



party must file and serve a "Notice of Remote Appearance" (JC Form #RA-010). Oral notice of a remote appearance may be given in open court at the commencement of proceedings.

Any witness who intends to appear remotely must provide oral or written notice as set forth above.

A party who wishes to oppose the use of remote technology at an evidentiary hearing or trial may oppose either: (i) orally in open court at the commencement of the evidentiary hearing or trial; or (ii) in writing by filing an "Opposition to Remote Proceedings at Evidentiary Hearing or Trial" (JC Form #RA-015). Failure to do so shall be deemed to be a waiver of any objection to the remote appearance.

**C. Rules Applicable to all Civil Cases including Small Claims and Civil Restraining Order Cases**

Notice of a remote appearance or opposition to a remote appearance may not be given by calling or emailing the court.

Notice that a party intends to appear remotely for the duration of the case must be provided concurrently with any other notice of a remote appearance or earlier.

The hearing on whether a person may appear remotely for an evidentiary hearing or trial when there is an objection may be conducted remotely. If the court sustains the objection, the evidentiary hearing or trial may be continued to a later time or date to allow the parties and/or witness(es) to appear in person.

Parties and witness are advised that the use of remote technology may result in technological or audibility issues that could require a delay or a halt to the proceedings.

All confidentiality requirements applicable to proceedings held in person apply equally to remote proceedings.

Further information on how to appear remotely and the types of proceedings and cases for which the court has the technological capabilities to allow remote appearances may be found on the court's website at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). The mandatory Judicial Council forms may be found on the Judicial Council's website at [www.courts.ca.gov](http://www.courts.ca.gov).

Prior to each hearing for which an appearance will be made remotely parties must refer to the court's website, including the general instructions for their particular case-type and departmental rules, as well as the Notice of Hearing, for current and detailed instructions on how to appear. Directions will be posted on the website on how to alert the court of technology or audibility issues during a remote proceeding.

## **DIVISION IV PROBATE**

### **Rule 4.4.5**

#### **~~Virtual Appearances~~**

~~A party who intends to appear virtually must refer to the court's website for the most up-to-date information regarding virtual appearances.~~

#### **Remote Appearances**

A party or witness who intends to appear remotely must provide notice to the court and all parties or persons entitled to receive notice of the proceedings prior to the commencement of the proceedings. By appearing remotely, a party or witness is deemed to have given notice of intent to appear remotely and to consent to the remote appearance of any other party or witness.

A party who opposes the use of remote technology at an evidentiary hearing or trial may oppose either: (1) orally on the record prior to the commencement of the proceedings; or (2) in writing by filing and serving the Judicial Council form "Opposition to Remote Proceedings at Evidentiary Hearing or Trial" (Form RA-015) prior to the commencement of the proceedings. Failure to timely oppose the use of remote technology will be considered consent to proceed remotely.

A party or witness who intends to appear remotely must refer to the court's website ([www.sdcourt.ca.gov](http://www.sdcourt.ca.gov)) for the most up-to-date information regarding remote appearances. Information on the options for appearing remotely or in person, the potential technological or audibility issues that could arise when using remote technology, and the process to alert the judicial officer of technology or audibility issues may be found on the court's website.



**DIVISION V  
FAMILY**

**Rule 5.2.5**

**A. ~~Virtual~~ Remote Appearances in Family Court**

A party or witness who intends to appear ~~virtually~~ **remotely** (~~via~~ **by** telephone, **audio**, or video) must refer to the Family Law section of the court's website for the most up-to-date information regarding ~~virtual~~ **remote** appearances. ~~For a telephone appearance request in the Family Support Division, see rule 5.10.3.~~

**B. Remote Appearance Notice Requirements for RFO Hearings**

1. A party who intends to appear remotely at a 20 or 40-minute request for order hearing must provide notice to the court and all parties or persons entitled to receive notice of the proceedings at least two court days prior to the hearing. Notice to the court must be given by filing the mandatory Judicial Council form "Notice of Remote Appearance" (JC Form #RA-010) and must specify whether the party intends to appear remotely throughout the case or for a specific hearing and whether the party intends to appear by videoconference or audio only (including telephone). Notice to the other parties and persons entitled to receive notice of the proceedings may be provided in writing, electronically, or orally in a way reasonably calculated to ensure notice is received at least two court days prior to the hearing.

2. Parties shall not call the courtroom clerk or the business office to provide notice.

3. Notwithstanding the rules above, at any time during a case, a party may notice the court and all other parties or persons who are entitled to receive notice of the proceedings that the party intends to appear remotely during the duration of a case. Notice must be in writing by serving and filing RA-010. If any party appears in the case after this notice has been given, RA-010 must be served on that party.

4. At any time during a case, all parties to the action may stipulate to waive notice of any other participants' remote appearance. This stipulation may be made orally during a court proceeding or in writing filed with the court using RA-010.

5. Notwithstanding the rules above, any party or witness may ask the court for leave to appear remotely without notice. The court may permit the party or witness to appear remotely upon a finding of good cause, unforeseen circumstances, or that the remote appearance would promote access to justice.

6. Any party or witness, including a party or witness who has given notice that they intend to appear remotely, may choose to appear in person without providing advance notice to the court or other parties.

**C. Remote Appearance Notice Requirements for Evidentiary Hearings and Trials**

1. A party who intends to appear remotely at an evidentiary hearing or trial must provide notice to the court and all parties or persons entitled to receive notice of the proceedings at least ten court days prior to the hearing or trial, and when possible before any trial setting or trial readiness conference. Notice to the court must be given by filing the mandatory Judicial Council form "Notice of Remote Appearance" (JC Form #RA-010). Notice to the other parties and persons entitled to receive notice of the proceedings may be provided in writing, electronically,



or orally in a way reasonably calculated to ensure notice is received at least ten court days prior to the hearing.

a. A party who has requested to appear throughout the case must still submit a separate Notice of Remote Appearance for any evidentiary hearing and/or trial.

b. If the judicial officer hearing an evidentiary hearing or trial has made an order regarding remote appearance at a specific evidentiary hearing or trial prior to submission of a Notice of Remote Appearance, and that order identifies the evidentiary hearing or trial on JC Form #RA-020 or in the court's minute, a separate request need not be submitted.

2. Any witness who intends to appear remotely at an evidentiary hearing or trial must provide notice in writing at least ten court days prior to the hearing or trial.

3. The court will attempt to resolve the issue of remote appearances at evidentiary hearings and trials at a Trial Setting Conference or other case management hearing, and if orders regarding remote appearance have been made in advance of the hearing or trial, the parties will need to appear ex parte before the judicial officer assigned to the evidentiary hearing or trial to address any modification of the orders already issued. This ex parte appearance shall not require "Request for Order" (JC Form #FL-300), however, it will require the "Notice of Remote Appearance" (JC Form #RA-010).

4. A party who wishes to oppose the use of remote technology at an evidentiary hearing or trial must do so in writing by filing and serving the mandatory Judicial Council form "Opposition to Remote Proceedings at Evidentiary Hearing or Trial" (JC Form #RA-015) no later than five courts day before the hearing.

5. The portion of the hearing in which it is determined whether to conduct an evidentiary hearing or trial through the use of remote technology, over objection, may be conducted remotely. If the court sustains the objection, the matter may be continued to a later time or future date to allow the parties and/or witness(es) to appear in person. Failure to oppose the remote proceeding prior to the commencement of the proceeding shall be considered an agreement by the party to proceed remotely.

**D. Remote Appearance Notice Requirements for Ex Parte Hearings**

1. For ex parte hearings, a moving party intending to appear remotely must file RA-010 with the court no later than 12:00 p.m. on the court day before the hearing, which should be submitted with the ex parte pleadings. Notice to the other parties must be provided by 2:00 p.m. on the court day before the hearing by service with the moving ex parte pleadings.

2. If a non-moving party intends to appear remotely, the non-moving party may provide notice by filing RA-010 by 4:00 p.m. the day prior to the ex-parte hearing and notifying the moving party in writing, electronically, or orally in a way reasonably calculated to ensure notice is received by 4:00 p.m. the day prior to the ex-parte hearing or in open court prior to the commencement of the ex-parte hearing.

3. Notwithstanding the rules above, any party may ask the court for leave to appear remotely without notice at the ex parte hearing. The court may permit the party to appear remotely upon a finding of good cause, unforeseen circumstances, or that the remote appearance would promote access to justice.

4. A party may appear remotely at an ex parte before receiving a ruling on the remote appearance request. However, if the court determines a remote appearance is not appropriate or failure to timely request a remote appearance has impacted the court's ability to rule on the request,



the court may trail or continue the ex parte so that a party can appear in person, at the discretion of the court.

**E. General Remote Appearance Rules Applicable to Family Court**

1. All confidentiality requirements, whether statutory, constitutional, or derived from case law, applicable to proceedings held in person, apply equally to remote proceedings.

2. Parties and witness are advised that the use of remote technology may result in technological or audibility issues that could require a delay or a halt to the proceedings. No party or witness in any action is required to appear remotely. Any party who appears remotely without objection, including self-represented parties, shall be deemed to have agreed to do so.

3. Further information on how to appear remotely and the types of proceedings and cases for which the court has the technological capabilities to allow remote appearances, may be found on the court's website at <https://www.sdcourt.ca.gov/sdcourt/familyandchildren2>. Prior to each hearing for which an appearance will be made remotely, a party or witness who intends to appear remotely (by telephone, audio, or video) must refer to the Family Law section of the court's website for the most up-to-date information regarding remote appearances. Directions will be posted on the court's website at <http://www.sdcourt.ca.gov/virtualhearings> on how to alert the court of technology or audibility issues during a remote proceeding. In addition, the mandatory Judicial Council forms may be found on the Judicial Council's website at <http://www.courts.ca.gov>.

## DIVISION VI JUVENILE

### Rule 6.1.15

#### Presence of Parties at Court Hearings

~~A. Parties will be physically present at court hearings, as required by law or rule of court.~~

**A. Remote Proceedings.** Court hearings may be conducted as remote proceedings as set forth in California Rules of Court, rule 3.672(i), except as follows:

1. A request for a remote appearance by a witness may be made orally at the time the matter is set for a contested hearing ("trial") or at the pretrial status conference. During the period between the pretrial status conference and the trial, a request for a remote appearance by a witness may be made by email correspondence to the court and to the other parties or their counsel.

2. A request to compel the physical presence of a witness or a party may be made orally at the time the matter is set for a contested hearing ("trial") or at the pretrial status conference. During the period between the pretrial status conference and the trial, a request to compel the physical presence of a witness may be made by email correspondence to the court and to the other parties or their counsel.

~~B. Parties are to be physically present in court when they elect to physically appear, are subject to a subpoena or citation, or are ordered to appear by the court.~~

#### **CB. Presence of Children**

1. Children under four years of age are excused from attending all court hearings.

2. Children four years of age or older who wish to attend court shall be present unless the court finds that attending would be detrimental to the child. The court should excuse the child only for the portions of the proceeding which the court finds to be detrimental.

~~D. If any party, except for an Indian tribe governed by California Rules of Court, rule 5.482(g), requests to attend court by telephone or video conference because an in-person appearance is not feasible, the court may grant the request so long as the court has the capacity and virtual appearance will not interfere with the orderly conduct of the hearing.~~

**C. Tribal appearances.** In any proceeding governed by the Indian Child Welfare Act involving an Indian child, the child's tribe may appear by any means described in California Rules of Court, rule 5.482(g).

### Rule 6.9.4

~~Reserved for future use.~~

#### **Presence of Parties at Court Hearings:**

A. Absent an order otherwise determined on a case-by-case basis by the judicial officer assigned to a case, any party or witness may appear remotely at any hearing in a juvenile justice case, subject to the following:

1. No party or witness is required to appear remotely.

2. All statutory confidentiality requirements applicable in a juvenile justice proceeding held in person apply equally to a remote proceeding.

3. A request to appear remotely must be made as described below.

#### **B. Uncontested Matters**

1. Any uncontested matter may be set as a remote hearing if agreed to by the parties at the time the hearing is set. If the hearing is conducted remotely, any person entitled to be present may appear remotely without submitting a request.



2. If the hearing is set as an in-person hearing, any person entitled to be present may request to appear remotely. The request may be made orally or in writing no later than the time the case is called for hearing.

3. The court may change the hearing from in-person to remote at any time, as deemed necessary by the court for the health and safety of those scheduled to be present. Notice of the change may be made after consultation with justice partners or, in the case of emergency, no later than the time the case is called for hearing.

C. Adjudication Hearings and Contested Evidentiary Hearings

1. An adjudication hearing or a contested evidentiary hearing will be set as an in-person hearing.

2. The parties may agree to a remote hearing.

3. A request to allow a party or a witness to appear remotely may be made orally or in writing but must be made at the time the case is set for hearing or by the time of the settlement conference or pretrial status conference. Any party may ask the court to compel the physical presence of a witness or a party. During the period between the settlement conference or pretrial status conference and the trial, a request to allow a remote appearance by a witness or a party or a request to compel the physical presence of a witness or a party may be made by email correspondence to the court and to the other parties or their counsel. At any time, the parties may stipulate to a remote appearance by a witness.