

## CHAPTER 20 REMOTE CIVIL PROCEEDINGS

### A. General

1. The purpose of this rule is to provide greater access to justice, promote court efficiency, and facilitate remote proceedings consistent with Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672. This rule sets forth the remote and in-person proceeding protocols for civil cases.
2. Technology and Capability. Parties and witnesses who intend to appear remotely must ensure that they have the appropriate technology and skill to appear remotely, and that the visual and audio quality of the device they use allows for the effective management of the proceeding.
3. The Court will follow the procedures set forth in California Rules of Court, rule 3.672, except as set forth herein.

### B. Definitions

The court adopts the definitions set forth by the Judicial Council in California Rules of Court, rule 3.672(c).

### C. Appearances

1. A party or witness may appear remotely at any of the following:
  - a. Any civil limited or unlimited proceeding, including *ex parte* hearings, law and motion, court trials, unlawful detainer matters, judgment debtor examinations, civil harassment restraining order hearings, domestic violence restraining order hearings, elder abuse restraining order hearings, gun violence restraining order hearings and settlement conferences; and
  - b. Any family law proceeding; and
  - c. Any probate law proceeding.
2. Notice of intent to appear remotely for the proceeding or the duration of the case may be provided to the court and all parties orally during a proceeding, or by filing and serving the *Notice of Remote Appearance* (Judicial Council Forms, form RA-010), within the time frames prescribed by California Rules of Court, rule 3.672(f), (g) and (h).
3. Any opposition to a remote proceeding shall be filed and served using the *Opposition to Remote Proceeding at Evidentiary Hearing or Trial* (Judicial Council Forms, form RA-015) consistent with California Rules of Court, rule 3.672(h)(3). In determining whether to conduct an evidentiary hearing or trial in whole or in part remotely where an opposition has been made, the court will consider the factors set forth in Code of Civil Procedure section 367.75 subdivision (b) and (f) and California Rules of Court, rule 3.672(d).
4. Any party may appear in person for any proceeding. (California Rules of Court, rule 3.672(j).) A party or witness choosing to appear in person can do so by appearing in the courtroom on the date and time of the proceeding. The court retains the discretion to require a party or witness to appear in person at any proceeding, consistent with Code of Civil Procedure section 367.75 subdivision (b) and California Rules of Court, rule 3.672(d).

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5. Notwithstanding California Rules of Court, rule 3.672 or any provision of this Local Rule, the court may permit a party to appear remotely upon a finding of good cause, unforeseen circumstance, or that the remote appearance would promote access to justice. (California Rules of Court, rule 3.672(j)(2).)
6. If any party requires assistance with a remote appearance they may call the court at: (831) 647-5800.
7. The remote appearance platform used by the Court for video teleconferencing is Zoom. Remote appearance information for each non-confidential department may be found at: <https://www.monterey.courts.ca.gov/remote> on the court's website.

D. Evidence – Physical and Electronic Evidence for Remote Trials or Evidentiary Hearings

1. Any documentary evidence (including, but not limited to, documents, text messages, emails, and photographs), must be attached to a declaration as an exhibit, served and filed at least five (5) court days prior to the hearing unless the court orders an earlier date. Any removable storage devices, including but not limited to CDs, flash drives and memory sticks, will not be considered for filing and the court will not consider documents offered on a removable storage device.
2. Any electronic sound or sound-and-video recordings, must comply with California Rules of Court, rule 2.1040. The person wishing to present any electronic sound or sound-and video recordings must provide the equipment necessary to listen to and/or view the recordings and provide the opposing party with a copy of the recording and any required transcript at least 5 court days prior to the hearing, unless for good cause the judicial officer makes an exception.
3. Any party wishing to present evidence must ensure they have the requisite skill and technology to enable all parties, whether appearing in person or remotely, to view the evidence during the hearing.

E. Small Claims Cases and Child Support Cases – Special Provisions

1. All Small Claims trials and Child Support hearings will be initially set for in-person appearances.
2. Parties may request to appear remotely by filing a *Notice of Remote Appearance* (Judicial Council Forms, form RA-010) at least ten (10) court days before the scheduled hearing. The court will evaluate the request, considering the factors set forth in Code of Civil Procedure section 367.75 subdivision (b) and (f) and California Rules of Court, rule 3.672(d).
3. If the court requires a party or witness to appear in person because one or more of the factors in Code of Civil Procedure section 367.75 is present, then the parties will be notified at least five (5) court days before the hearing date. If the proceeding will be conducted remotely, then notification to the parties regarding the date and time of the proceeding (which may be changed by the court) and “*Remote Appearance Instructions*” will be provided via email or U.S. mail.
4. Any opposition to a remote proceeding shall be filed and served using the *Opposition to Remote Proceedings at Evidentiary Hearing or Trial* (Judicial Council Forms, form RA-010) consistent with California Rules of Court, rule 3.672(h)(3). An *Opposition to Remote Proceedings at Evidentiary Hearing or Trial* should be filed at least five (5) court days before the proceeding, or as otherwise provided by California Rules of Court, rule 3.672(h)(3). In determining whether to

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conduct an evidentiary hearing or trial in whole or in part remotely where an opposition has been made, the court will consider the factors set forth in Code of Civil Procedure section 367.75 subdivision (b) and (f).

5. All written, physical and electronic evidence for remote hearings must be submitted as provided Section D of this Local Rule (above) or as provided in the “*Remote Appearance Instructions*” sent by the court.
  
- F. Probate – Special Provisions for Probate Court Confirmation of Sale of Real Property
  1. Notice of Sale
    - a. The Notice of Sale must include the information regarding the hearing on the Report of Sale and Petition for Order Confirming Sale of Real Property – the date, time, department, and that the hearing will be conducted in person and via electronic platform (video or audio) provided by the court.
    - b. The Notice of Sale shall also include information regarding the submission of overbids in writing at or before the hearing through the court’s e-filing system (see <https://www.monterey.courts.ca.gov/efiling>) or by email to: [emergencyprobate@monterey.courts.ca.gov](mailto:emergencyprobate@monterey.courts.ca.gov).
  2. Written Offers. Any overbidder who appears remotely shall submit an offer in writing at or before the hearing through the court’s e-filing system or by email to: [emergencyprobate@monterey.courts.ca.gov](mailto:emergencyprobate@monterey.courts.ca.gov) and shall notify the court at the hearing of the electronically-submitted overbid.
  
- G. Juvenile Justice (Delinquency) Proceedings
  1. All Juvenile Justice proceedings are set for in person appearances with the capability of allowing remote appearances. Because of the confidential nature of the proceedings, to assist in the effective management and resolution of Juvenile Justice cases and to achieve the goal of successful rehabilitation of youth, personal appearances are strongly encouraged and sometimes required. At all initial detention hearings, Minors’ appointed counsel will be available to meet with Minors and families prior to the start of court. Requests to appear remotely may be submitted as follows:
    - a. Minors and their parents/guardians, Indian custodians and CASA workers may seek approval from the Court through counsel for the minor or the Probation Department at (831) 755-3900 or by email to [acosta-sosam@co.monterey.ca.us](mailto:acosta-sosam@co.monterey.ca.us). Parties may also request to appear remotely by filing a *Notice of Remote Appearance* (Judicial Council Forms, form RA-010).
    - b. Victims may seek approval from the Court through the Victim Assistance Program of the District Attorney’s office at 831-755-5072 or by filing a *Notice of Remote Appearance* (Judicial Council Forms, form RA-010).
  2. The following proceedings shall be set for in person appearances:
    - a. All Initial and Detention hearings;
    - b. Any hearing at which the Minor intends to admit as true any allegation; and
    - c. Jurisdictional Hearings, Transfer Hearings and other Evidentiary Hearings.

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Requests for remote appearances at these hearings may be made orally in court when the matter is being set, or by filing a *Notice of Remote Appearance* (California Rules of Court, rule 3.672(f) and (h)). Any opposition to a remote proceeding may be made orally in court, or by using the *Opposition to Remote Proceeding at Evidentiary Hearing or Trial* (Judicial Council Forms, form RA-015) consistent with California Rules of Court, rule 3.672(h)(3). In determining whether to conduct an evidentiary hearing in whole or in part remotely where an opposition has been made, the court will consider the factors set forth in Code of Civil Procedure section 367.75 subdivision (b) and (f) and California Rules of Court, rule 3.672(d). The court retains discretion to require in-person appearance as permitted by law.

### 3. Courtesy Notices by Email

As a courtesy to all parties and the court, any notice of intent to appear remotely or opposition to the notice must be promptly emailed to all parties and the court.

4. Confidentiality. All statutory confidentiality requirements in Juvenile Justice proceedings are applicable to both in-person appearances and remote appearances. Parties or persons appearing remotely shall ensure that their remote location affords the required level of privacy for the proceeding. (California Rules of Court, rule 3.672(b)(3).)

### H. Juvenile Dependency Proceedings

Any party or person authorized to be present in any juvenile dependency proceedings may appear remotely as provided in California Rules of Court, rule 3.672, subsection (i). A request to appear remotely may be made orally or in writing. If the request is in writing, *Request to Appear Remotely – Juvenile Dependency* (Judicial Council Forms, form RA-025) may be used. In all other respects, remote appearances are governed by Code of Civil Procedure section 367.75 and California Rules of Court, rule 3.672(i) and this Local Rule.

### I. Procedures

Information regarding the ability to appear in person or through the use of remote technology is available on the court's website at <https://www.monterey.courts.ca.gov/remote>. The court's remote technology system is designed to ensure that all persons, whether appearing remotely or in person, can meaningfully participate in the conference, hearing, proceeding, or trial.

### J. Technology or Audibility Issues

In the event a party, witness, official reporter, official reporter pro tempore, court interpreter, or other court personnel experiences technology or audibility issues that arise during a remote conference, hearing, proceeding, or trial, the person is to alert the court. A party or witness may raise their hand, place a comment in the "Chat" box (if available) or call the court's general number at (831) 647-5800 to obtain assistance.

### K. Privacy and Security Settings

Nothing in this rule is intended to modify current rules, statutes, or case law regarding confidentiality or access to confidential proceedings. (California Rules of Court, rule 3.672(b)(3).)

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L. No Electronic Recording

No electronic recording of court proceedings, including remote court proceedings, other than by a court reporter or electronic recording authorized by the court, shall be permitted without advance written approval of the court. The parties, or anyone attending the proceeding, may not record the proceeding or any part of it unless specifically authorized by the judicial officer. (California Rules of Court, rule 1.150(d).)

M. Effective Dates

This rule is effective from March 31, 2022 until July 1, 2023, or until the sunset date of Code of Civil Procedure section 367.75. The following local rules regarding telephonic appearances at a court proceeding are suspended from March 31, 2022 until July 1, 2023 or until the sunset date of Code of Civil Procedure section 367.75: Local Rules 6.9(A), 6.12(F)(5), 6.13(C), 6.14, 7.7, 10.1(G), 10.2(A), 10.6(E)(3), and 10.8(A).