

**Rule 5.18 Appearances for Evidentiary Hearings and Trials in the Hearing Department****(A) General Provision Requiring Parties and Witnesses to Appear In Person.**

Except as permitted by this rule, parties and witnesses must appear in-person at evidentiary hearings and at trial as defined in rule 5.4(62).

**(B) Stipulation by Parties to Appear Remotely.** Notwithstanding paragraph (A), parties may provide notice to the court through a stipulation that either party or both parties intend to appear remotely at an evidentiary hearing or trial. The parties may stipulate orally at the initial status conference or in writing within 10 days after the court serves notice of the evidentiary hearing or trial pursuant to rule 5.102.

**(B)(C) Oral Notice by Party to Appear Remotely.** Notwithstanding subparagraph (A), a party may appear remotely by video or telephone upon notice to the court that is served on the opposing party. may provide oral notice at the initial status conference of an intent to appear remotely at an evidentiary hearing or trial. The court's order following the status conference must state whether any party gave notice of an intent to appear remotely and whether there was opposition. In response to an oral notice of an intent to appear remotely, a party may make an oral showing to the court as to why a remote appearance should not be allowed. A party may also file a written opposition as set forth in paragraph (D)(3).

- (1) **Notice to the Court.** ~~Within 10 days after the court sends notice of the evidentiary hearing or notice of the trial date pursuant to rule 5.102, a party may provide notice of the party's intent to appear remotely. The notice must be in writing and may be submitted using State Bar Court Form *Notice re Remote or In-Person Appearance*.~~
- (2) **Notice to the Opposing Party.** ~~The party must serve the notice on the opposing party pursuant to rule 5.26 or 5.26.1. If notice is not provided electronically pursuant to rule 5.26.1, the party must also provide notice by telephone or in-person within 10 days after the court has sent notice of the evidentiary hearing or notice of the trial date pursuant to rule 5.102.~~
- (3) **Notice by the Opposing Party.** ~~On receipt of notice under subparagraph (B)(2), should the opposing party elect to also appear remotely, that party must notify the court and all other parties within five days after the notice is served. The notice must be in writing, may be submitted using State Bar Court Form *Notice re Remote or In-Person Appearance*, and must be served on all parties pursuant to rule 5.26 or 5.26.1. If notice is not provided electronically pursuant to rule 5.26.1, the party must also provide notice by telephone or in-person within five days~~

after the notice is served.

**(D) Written Notice by Party to Appear Remotely.** Notwithstanding paragraph (A), a party may provide notice of an intent to appear remotely at an evidentiary hearing or trial in writing within 10 days after the court serves notice of the hearing or trial date pursuant to rule 5.102. The notice may be submitted using the State Bar Court *Notice re Remote or In-Person Appearance* form.

- (1) **Notice to the Opposing Party.** The party must serve the notice on the opposing party pursuant to rule 5.26 or 5.26.1.
- (2) **Notice by the Opposing Party.** On receipt of notice under subparagraph (1), should the opposing party elect to also appear remotely, that party must notify the court and all other parties within five calendar days after the notice is served. The notice must be in writing, may be submitted using the State Bar Court *Notice re Remote or In-Person Appearance* form, and must be served on all parties pursuant to rule 5.26 or 5.26.1.
- (3) **Opposition to Remote Proceedings.** In response to a notice of an intent to appear remotely provided under this paragraph or paragraph (C), a party may make a written showing to the court as to why a remote appearance should not be allowed. The opposition may be submitted using the State Bar Court *Opposition to Remote Proceedings at Evidentiary Hearing or Trial* form. The opposition must be filed with the court and served on the parties within five calendar days after the notice of the party's intent to appear remotely is served, or, when notice is given orally under paragraph (C), within five calendar days after the court's status conference order stating that such notice was given is served. The party must serve the opposition on the opposing party pursuant to rule 5.26 or 5.26.1.

**(C) Opposition to Remote Proceedings.** In response to notice of a remote proceeding provided under subparagraph (B), a party may make a showing to the court as to why a remote appearance or remote testimony should not be allowed by serving and filing the State Bar Court Form *Opposition to Remote Proceedings at Evidentiary Hearing or Trial*.

- (1) **Notice of Opposition to the Court and Parties.** The Opposition must be filed with the court and served on the parties within five days after the initial notice of the party's intent to appear remotely. The party must serve the notice on the opposing party pursuant to rule 5.26 or 5.26.1. If notice is not provided electronically pursuant to rule 5.26.1, the party must also provide notice by telephone or in-person within five days after the initial notice of the party's intent to appear remotely.

**(2)(E) Court Determination on Opposition.** In determining whether to conduct an evidentiary hearing or trial in whole or in part through the use of remote technology allow a remote appearance over opposition, the court must consider the following:

- (1) Whether an in-person appearance would materially assist in the determination of the proceeding or the effective management or resolution of the case;
- (2) Whether the quality of the technology or audibility at a proceeding prevents the effective management, or resolution, of the proceeding or inhibits the ability to accurately prepare a recording of the proceeding;
- (3) Whether there is any limited access to technology or transportation asserted by a party that affects the ability for a party or witness to appear remotely; and
- (4) Whether the interests of justice are best served by permitting a party or witness to appear remotely in whole or in part over another party's opposition.

**~~(D)~~(F) Court Discretion to Require In-Person Appearance.** If an evidentiary hearing or trial is conducted remotely in full or in part, the court has discretion at any time during the proceeding ~~being conducted remotely~~ to require an in-person appearance if the court determines that:

- (1) An in-person appearance would materially assist in the determination of the proceeding or the effective management or resolution of the case;
- (2) The quality of the technology or audibility at a proceeding prevents the effective management, or resolution, of the proceeding or inhibits the ability to accurately prepare a recording of the proceeding; or
- (3) The court otherwise determines that an in-person appearance is necessary.

**~~(E)~~(G) Review.** ~~The court's decision~~ Hearing Department rulings regarding paragraph ~~(C)~~ (E) is are reviewable under rule 5.150.