

TIPS FOR APPEARING AT AND CONDUCTING VIDEO HEARINGS AND TRIALSⁱ

HARDWARE AND SOFTWARE:

- **Use A Reliable Computer or Similar Device** - Lawyers, parties and witnesses need access to a reliable device with a functioning camera, speaker and microphone. A laptop computer is ideal, a tablet next best and, if necessary, a smartphone. **A smartphone should never be used to participate in a hearing or trial while driving.**
- **Know How to Use the Video Platform** - Lawyers should familiarize themselves with the different video platforms that courts might use to conduct hearing and trials, including:
 - Google Hangouts/Meets – *See* Standard Operation Procedure for Court Hearings Using Google Hangouts/Meet, available on the New Mexico Courts website at <https://www.nmcourts.gov/wp-content/uploads/2020/12/Google-Meets-Standard-Operating-Procedures.pdf>
 - Polycom Realpresence - *See* Standard Operation Procedure for Court Hearings Using Polycom Realpresence, available on the New Mexico Courts website at https://www.nmcourts.gov/wp-content/uploads/2020/12/PolyCom_General_Instructions-Attorneys-4_13-3.pdf
 - Zoom
- **Test Your Equipment** – Test your equipment before the hearing, and ensure your clients and witnesses do the same. Try to minimize the use of other devices that might slow or interrupt your internet connection and speed.

PREPARE:

- **Get the Link/Invitation** - Make sure that you, your clients and all witnesses that you intend to call have the hearing/trial invitation or video link, and know how to access that link.

- **Prepare Exhibits** – Have all exhibits and other documents you intend to use available in PDF format and easily accessible to share with the Court and other counsel via screen share, or in whatever manner the Court directs. Having all the exhibits in a single PDF portfolio makes sharing them easier and more efficient.
- **Prepare Client(s) and Witnesses** – Explain the procedures, protocol, and etiquette to your clients and all witnesses you intend to present, including impressing upon them **that a video court proceeding should be treated exactly as an in-person proceeding** with respect to dress, tone, demeanor, and respect to the Court and to all other participants.

DURING THE HEARING/TRIAL:

- **Find a Quiet Place Free of Distractions** – Find a quiet room for participation in a hearing or trial. Close your door, tell others, in advance, that you will be in a hearing/trial and should not be disturbed.
- **Surroundings** – Be aware of your lighting and background. Try to use a light source behind your camera rather than behind you. Also have a simple background behind you. Remember, everyone participating in the hearing/trial will see what is behind you. Remind your clients and witnesses to likewise be attentive to their lighting and background.
- **If Possible, Sit Upright in a Chair or Stand** – Try not to slouch, move around, sit on the floor, or recline on a couch or in bed. Instead, assuming that you are physically able to do so, sit upright in a chair or stand and remind your clients and all witnesses of these same procedures.
- **Dress for Court** - Dress as you would for an in-person court appearance and instruct your clients and witnesses to do the same.
- **No Food, Drinks, or Smoking** – Other than water, avoid eating and drinking during a hearing/trial just as you would at an in-person hearing. If you do drink water, make sure that your microphone is muted while drinking. Likewise avoid smoking. Instruct your clients and witnesses to follow these same procedures.

- **When Speaking** – Look directly at the camera and use your normal voice. Most video platforms have difficulty handling more than one speaker at a time, so be attentive to not talking over others, including the judge, other counsel, and witnesses. Try to pause before speaking, identify yourself when beginning to speak, and speak slowly and deliberately. **When not speaking, mute your microphone.** Make sure to instruct your clients and witnesses to follow these same procedures.
- **A Separate Computer** – If your client is in the same room with you, consider having your client use their own computer or similar device to sign into the hearing/trial. This allows both you and the client to directly face the camera. Be sure to mute the audio when not speaking on all devices in the same room to eliminate feedback.

ⁱ For more on the tips discussed above, and for and other helpful tips and information please see Fritz Riesmeyer and Curry Sexton, *Tips for Remote Video Hearings and Trials: Technology, Witnesses, Evidence and Etiquette*, American Bar Association, ABA Groups, Section of Litigation, Committees, Business Torts & Unfair Competition, Practice Pointers, June 5, 2020, <https://www.americanbar.org/groups/litigation/committees/business-torts-unfair-competition/practice/2020/tips-for-remote-video-hearings-and-trials/> and JoAnna J. Smith, *Practical Tips to Help You Master Video Hearings*, American Bar Association, ABA Groups, Section of Litigation, Committees, Ethics and Professionalism, Articles, May 1, 2020, <https://www.americanbar.org/groups/litigation/committees/ethics-professionalism/articles/2020/practical-tips-to-help-you-master-video-hearings/>