



Supplement to Rules of Procedure of the State Bar of California

**Interim Rules Effective
July 29, 2024**

TITLE 5. DISCIPLINE

DIVISION 1. GENERAL RULES

Rule 5.17 Appearances for Non-Trial Events in the Hearing Department

- (A) **General Provision Authorizing Parties to Appear Remotely.** Prefiling Settlement Conferences, Settlement Conferences, and all hearings as defined in rule 5.4(37) except evidentiary hearings and trials will take place remotely by video or telephone. The court will publish information for remote appearances for proceedings open to the public on the State Bar Court website.
- (B) **Notice by Party to Appear In Person.** Notwithstanding paragraph (A), a party may appear in-person upon notice to the court that is served on the opposing party.
- (1) **Notice to the Court.** The notice must be in writing and filed with the court as far in advance as possible but no fewer than 10 days before the appearance. The notice must be in writing and may be submitted using the State Bar Court *Notice re Remote or In-Person Appearance* form.
 - (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.
 - (3) **Notice by the Opposing Party.** On receipt of notice under paragraph (B)(2), should the opposing party elect to also appear in-person, that party must notify the court and all other parties no fewer than two court days before the appearance. 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.
 - (4) **Court Discretion to Order Remote Appearance or to Reschedule Proceeding.** If a party has provided notice of the party's intent to appear in-person under this paragraph, the court may, in its discretion and in the interests of justice, order that the proceeding be conducted remotely or rescheduled.
- (C) **Court Discretion to Require In-Person Appearance.** Notwithstanding paragraph (A), the court has discretion to require an in-person appearance, to conduct a proceeding partially remotely by video or telephone, or to continue the matter if, at any time during the proceeding being conducted remotely, 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 effective management, resolution or ability to accurately prepare a recording; or
 - (3) The court otherwise determines that an in-person appearance is necessary.
- (D) The Hearing Department ruling to require a remote appearance under subparagraph (B)(4) or to require an in-person appearance under paragraph (C) is the final ruling in the State Bar Court and is not reviewable.

Rule 5.18 Appearances for Evidentiary Hearings and Trials in the Hearing Department

- (A) **General Provision Requiring Parties to Appear In Person.** Except as permitted by this rule, parties 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.
- (C) **Oral Notice by Party to Appear Remotely.** Notwithstanding paragraph (A), a 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).
- (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.
- (E) **Court Determination on Opposition.** In determining whether to 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 effective management, resolution, or ability to accurately prepare a recording;
 - (3) Whether limited access to technology or transportation asserted by a party affects the ability to appear remotely; and
 - (4) Whether the interests of justice are best served by permitting a party to appear remotely in whole or in part over another party's opposition.
- (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 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 effective management, resolution, or ability to accurately prepare a recording; or
 - (3) The court otherwise determines that an in-person appearance is necessary.
- (G) Review.** Hearing Department rulings regarding paragraph (E) are reviewable under rule 5.150.

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