

Rule 601.02 Remote and In-Person Proceedings for Probate

(a) Purpose

The purpose of this rule is to provide greater access to justice, promote court efficiency, and facilitate remote and in-person 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 cases pending before the Probate / Mental Health Division of the Orange County Superior Court.

(b) Definitions

As used in this rule:

1. "Evidentiary hearing or trial" is any proceeding at which oral testimony may be provided.
2. "Non-evidentiary proceeding" is any proceeding other than an evidentiary hearing or trial.
3. "Oral testimony" is a spoken statement provided under oath and subject to examination.
4. "Party" is any person appearing in an action and that person's counsel, and any nonparty who may be subject to discovery in the action.
5. "Probate case" means any case regarding a guardianship, probate conservatorship, decedent's estate, trust petition, fiduciary accounting, or minor's compromise. It does not include a case regarding a conservatorship under the Lanterman-Petris-Short Act (an LPS conservatorship), a *Reise* hearing, or a case regarding an application for an elder or dependent adult abuse protective order.
6. "Proceeding" means a conference, hearing, or any other matter before the court, including an evidentiary hearing or trial.
7. "Remote appearance" or "appear remotely" means the appearance of a party at a proceeding through the use of remote technology.
8. "Remote proceeding" means a proceeding conducted in whole or in part through the use of remote technology.
9. "Remote technology" means technology that provides for the transmission of video and audio signals or audio signals alone. This phrase is meant to be

interpreted broadly and includes a computer, tablet, telephone, cellphone, or other electronic or communications device.

(c) Appearances in Non-Evidentiary Proceedings in Probate Cases

1. Unless otherwise ordered in a specific case, remote appearances are permitted and encouraged for the convenience of the public and parties for all non-evidentiary proceedings in probate cases. This includes ex parte application hearings where the court permits an appearance.
2. Parties shall provide online notice to the court of their intent to appear remotely by clicking on a court-provided hyperlink on the day of the hearing. By so clicking, that party is also agreeing to appear remotely for that proceeding. By the commencement of the hearing, parties intending to appear remotely at a non-evidentiary proceeding must provide notice of that intent to all parties entitled to receive notice. Any objections to deficient notice of remote proceeding may be made at the proceeding.
3. A party choosing to appear in person for any non-evidentiary proceeding may do so by appearing in the hearing courtroom at the scheduled time and date.

(d) Appearances in Evidentiary Hearings and Trials in Probate Cases

In probate cases, the mode of appearance for an evidentiary hearing or trial will be determined when that evidentiary hearing or trial is set.

(e) Mandatory Settlement Conferences in Probate Cases

In probate cases, the mode of appearance for a Mandatory Settlement Conference will be determined at the time the Mandatory Settlement Conference is set. Remote appearances are permitted and encouraged for all Mandatory Settlement Conferences.

(f) Appearances in Mental Health (LPS) Conservatorship Cases

When a petition is filed in an LPS conservatorship case, the matters will be set for appearance as noted on the transportation order filed by counsel. The proceeding will take place in person for a filed transportation order which indicates the person will be transported to court. The proceeding will take place remotely for a filed transportation order which indicates an appearance will be remote and will be deemed agreement and notice of intent to appear remotely.

(g) Appearances in *Riese* Hearings

The mode of appearance for *Riese* hearings will be determined in coordination between counsel, the *Riese* Hearing Officer, and the Facility. Hearings will be conducted remotely unless counsel for the patient coordinates the in-person setting with the *Riese* Hearing Officer and the Facility. Whether in-person appearances are permitted is subject to the safety protocols of the Facility.

(h) Appearances in Elder or Dependent Adult Abuse Cases

1. Unless the court orders otherwise, remote appearances are permitted and encouraged for elder or dependent adult abuse proceedings.
2. Parties shall provide online notice to the court of their intent to appear remotely by clicking on a court-provided hyperlink on the day of the hearing. By so clicking, that party is also agreeing to appear remotely for that proceeding. By the commencement of the hearing, parties intending to appear remotely at a non-evidentiary proceeding must provide notice of that intent to all parties entitled to receive notice. Any objections to deficient notice of remote proceeding may be made at the proceeding.
3. A party choosing to appear in person for any elder or dependent adult abuse proceeding can do so by appearing in the hearing courtroom at the scheduled time and date.

(i) Information About Appearing Remotely or In Person

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.occourts.org/media-relations/remotehearings.html>. The court's remote technology system is designed to ensure that all parties, whether appearing remotely or in person, can meaningfully participate in the conference, hearing, proceeding, or trial.

(j) Confidentiality, Privacy and Security Settings

1. Nothing in this rule is intended to modify any other rule, statute, or case law regarding confidentiality or access to confidential proceedings. Confidentiality requirements applicable to LPS conservatorships, *Riese* hearings, and elder and dependent adult abuse cases are equally applicable to both in-person appearances and remote appearances.
2. Any party appearing remotely must have the necessary privacy and security settings appropriate for the proceeding at which the remote appearance is made.

Persons appearing remotely shall ensure that their remote location affords the required level of privacy for the proceeding.

(k) Prohibition of Photography, Broadcasting, Recording, Streaming, and Filming

Photography, broadcasting, video recording, audio recording, electronic recording, filming, and streaming of court proceedings, whether in person or remote, is prohibited except as expressly authorized by California Rules of Court, rule 1.150, or Local Rule 180. Violation of this subdivision or [Administrative Order 21/12](#) may result in the imposition of monetary sanctions in amounts of up to \$1,500 per violation pursuant to Code of Civil Procedure section 177.5; a citation for contempt in violation of Code of Civil Procedure section 1209, subdivision (a)(5); prosecution for criminal violations of Penal Code section 166, subdivisions (a)(3, 4, or 5); and/or other sanctions as provided by law.

(l) Technology or Audibility Issues

In the event any party, official reporter, official reporter pro tempore, court interpreter, or other court personnel experiences technology or audibility issues that arise during any remote proceeding, that person is to alert the court by calling the technical support number posted on the court's website at <https://www.occourts.org/directory/probate/>. Information about potential technological or audibility issues that can arise and the options for appearing in person and through the use of remote technology are posted on the court website.

(m) Public Access

Media and public access to proceedings that are open to the public will be via remote access. Information regarding the procedures to obtain remote public access is available on the court's website at <https://www.occourts.org/directory/probate/>.

(n) Effective Dates

This rule is effective from April 1, 2022 until July 1, 2023, or until the sunset date of Code of Civil Procedure section 367.75 if its sunset date is extended beyond July 1, 2023.