

# Video Conferencing Guidelines for Attorneys in Osawatomi Municipal Court

## COVID-19 and Court Appearances

In response to the worldwide COVID-19 pandemic, the Osawatomi Municipal Court is reducing, if not eliminating, the number of in person hearings. Most hearings will be held by video conference. In order to increase the effectiveness of these hearings, these procedures are in effect pending further notice.

## ZOOM

1. All video conferences will be conducted using the Zoom video conferencing app. The free app is available at the Apple or Android app stores or at <https://zoom.us/download>. Zoom downloads automatically when you join your first meeting. It works on desktops, laptops, tablets, and smartphones with video and audio capability. When a participant joins a video conference initiated by the court, there is no cost to the participants.
2. When a video hearing is scheduled, you will receive an invitation in your email that includes instructions and a link to join the meeting. You must accept the invitation. Upon acceptance, it will disappear from your inbox, and an entry will appear on the calendar associated with that e-mail account. If you do not accept the invitation it will not automatically show up on your calendar. At the appropriate time, double-click the calendar entry and follow the directions and hyperlinks to enter the hearing.
3. To use Zoom, you must have a device that supports audio and video. You need a camera, speakers, and a microphone. While desktop computers may require added equipment, most laptops, tablets, and mobile phones include the necessary equipment standard.
4. Some participants find it useful to have multiple devices available such as a laptop for accessing documents and calendars and another smart phone, tablet, or other device for video.
5. Break out rooms are available for private conversations between attorneys and clients, and for witnesses to wait. If you want a break out, please advise the meeting organizer in advance.
6. DO NOT WAIT UNTIL JUST BEFORE THE HEARING TO DOWNLOAD THE APP AND TO TEST YOUR EQUIPMENT. You may need to adjust security and firewall settings and/or allow permissions/access to cameras, microphones, and speakers. Spend a few minutes familiarizing yourself with the program before your first video conference.

## VIDEO CONFERENCING ETIQUETTE

1. Find an appropriate place to conduct your video hearing. All participants should be in a space free from distractions and interruptions. Remember, this is a formal hearing, just as if you were present in the courtroom.
2. Sit or stand still during the proceeding. Walking around or moving the camera can cause issues with those watching, with connectivity.
3. Just as in the courtroom, participants must not talk at the same time or interrupt one another. All independent recordings of the video conference are prohibited by anyone without prior written approval.
4. At the beginning of the conference, all persons in the video conferencing space must be identified,

including counsel, parties, witnesses, and spectators. If you are able, properly identify yourself on screen. Do not identify yourself as "Guest" or by phone or room number.

5. An attorney may only share the invitation information with his/her client. Prior to sharing the information with any other Individual, the attorney shall request prior permission from the court. All attorneys will notify their clients that Invitation information shall not be shared with any other Individual.
6. If more than one person is in the room, position the camera so that all persons can be seen. Maintain proper social hygiene and social distancing. This might make it difficult for everyone to be visible on camera.
  - a. The best practice is for each participant to log in separately.
  - b. You must advise the court if witnesses are in attendance as they may be required to wait in a break out room until called to testify.
7. Try not to have two Zoom applications running in the same room at the same time. If two or more active microphones are operative there will be feedback that makes hearing all participants impossible.
  - a. Please mute the microphone on all but one of the devices running Zoom.
8. Do not place papers, folders, or anything else that creates noise near your microphone. Shuffling papers and files creates ambient noise that will make it nearly impossible to hear the speaking party.
9. Dress in a soft solid color. Avoid busy patterns and narrow stripes. Dress appropriately for court just as you would if you were personally appearing.
10. When speaking, try to look directly at the webcam, not at the screen.
11. Position the camera at your eye level or slightly above eye level.
12. Be mindful of what is behind you, choose a solid neutral wall if possible - or use an appropriate virtual background.
13. Check the lighting. Light from a window behind you might blind the camera. Light above you in the center of a room might cast shadows. Ideally, position a lamp, or sit facing a window, where light is directly on your face. Also be aware that your monitor casts light that can make you look blue.
14. Remember to speak one at a time.
15. Pause prior to speaking. Video conferencing often has audio/video lag.
16. The judge might mute individuals or the entire participant group. If there is too much background noise or participants are unable to speak one at a time, the court may impose "mute all" on the conference, individually unmuting individuals when it is their turn to speak. In large docket sessions the session may be configured so that everyone is automatically muted upon entry.
17. Because audio tends to lag behind video, for evidentiary objections: Ask the objecting party to simply say "Objection" and make a visible signal such as waving or raising a hand to draw the court's attention, and allow the court to stop the witness, recognize the objecting party and then allow the objecting party to make their objection.
18. If you are in a large docket break out, one attorney or party may be asked to keep track of attendance for an individual hearing. Once all necessary participants are present, that person will notify the court using the chat feature. If you are asked to monitor attendance and are unsure of your responsibilities, please contact the division.
19. The Rules of Decorum generally apply in video conferences. In video hearings, counsel need not stand when addressing the court or witnesses.

## ADMITTING EXHIBITS

1. Exhibits or other submissions must be provided to the court at least forty-eight (48) hours before the hearing. Send all exhibits to the Court Clerk.
2. Exhibits must be marked before being emailed to the court. Do not make the exhibit file too large. Name the file by exhibit number.
3. When emailing exhibits to the court they must be copied to the City Prosecutor.
4. Rebuttal exhibits need not be produced in advance but should be prepared in advance so to be easily transmittable to the court and opposing party/counsel if needed.
5. Counsel might consider using a Drop Box for hearings with multiple exhibits. If using Drop Box please coordinate with the court well in advance of the hearing.
6. If exhibits are not provided to the court or to opposing parties as stated herein, the court shall exclude the exhibits.

## WITNESSES BY VIDEO

1. Witnesses, including parties must identify where they are, physically. They should be alone but may be in your office or any other video space with separate Zoom connection. If a witness must be subpoenaed to appear, please contact the court at least two (2) weeks prior to the hearing.
  - a. Please be aware that if you and the witness are in the same office using separate devices, the speakers and microphones for each device will cause an echoing affect and the devices need to be separated or use of only one speaker will cut down on the echoing.
2. The court may administer oaths by remote means including videoconferencing or teleconferencing. Your witnesses should be prepared for an oath similar to the following;

"We are conducting this hearing pursuant to K.S.A. 60-243. The witness is not located in the court room but is appearing through electronic means. I am allowing this testimony based on the good cause of a world wide pandemic. (to the witness) Do you swear or affirm under the penalty of perjury to tell the truth, the whole truth, and nothing but the truth? (assuming yes, next question) Do you submit to the jurisdiction of the State of Kansas and the United States of America for purposes of your testimony today, and any further proceeding as it relates to your testimony, including, but not limited to an action for perjury arising out of your testimony today? Based on the witness' answer in the affirmative, I find that adequate safeguards have been put in place and I will allow this hearing to proceed with the presentation of evidence electronically.
3. When a party or witness is testifying he or she may not have anything in their hand and may not refer to notes, papers, phones, computers, or anything else without permission from the court.
4. All electronic devices other than the device facilitating the testimony must be turned off unless the court gives permission otherwise.
  - a. All testimony must be from memory.
5. No one other than those identified to the court may be in the same physical space or room with the witness or in communication with the witnesses at any time.
  - a. The court may require all persons to leave the room during the witness testimony.
6. The witness may be required to wait in a "break out room" until his or her testimony is needed.
  - a. The court controls who will be allowed in the break out room.

7. The "witness sequestration rule" is invoked In all remote proceedings.
  - a. Witnesses should be advised that counsel and the court may ask at any time to see anything the witness sees or to adjust cameras to ensure compliance with all court orders and directions.
8. No program or window other than Zoom will be open on any computer or electronic device in the witness' presence during testimony unless allowed by the court,
  - a. No one is allowed to pass the functional equivalent of notes by electronic means to or from the witness during the time the witness is testifying.
9. Interpreters. If you, a client, or a witness needs an Interpreter, please contact the court at least two (2) weeks in advance to facilitate.
10. Cases needing interpreters need special attention when heard by video.
  - a. When on video, interpretation is done sequentially, not in "real time."
    - i. Real time is what we are used to. The interpreter uses a head set and interprets in real time.
    - ii. Sequential requires one person to speak at a time.
      1. The judge will indicate when each person may speak.
      2. No one can respond/reply until after the interpreter has finished and the Judge has indicated that it is that speakers turn.
      3. No one should speak for no more than 30 seconds without stopping to allow the interpreter to interpret. Tell them that you will stop them if they start to talk to long.
  - b. The Judge may use verbal cues and hand or other physical gestures to indicate when a speaker should start or stop.
  - c. Audio lag can cause the interpreter to miss words. Wait a second between when the interpreter stops and when you give permission to the speaker to resume.
  - d. Please review this information with clients and witnesses before any hearing.