

Best Practices for Courts in Zoom hearings Involving Self Represented Litigants

Here are some quick tips developed by the Texas Access to Justice Commission (TAJC) on best practices for handling virtual/remote hearings in cases involving self-represented litigants (SRLs).

1. Important Considerations

- a. **Lack of Internet or Reliable Internet:** Many people do not have access to the internet, or reliable internet, in the home. Public access to the internet via libraries, coffee shops, and other local options is problematic due to privacy issues and may not currently be an option due to stay in place orders.
- b. **Limited Phone Data/Call Minutes:** Some people may only have phones with a limited number of call minutes or data plan minutes, so they may not be able to use their phones to participate in a video hearing or even to participate by phone. You may need to work with the litigant to determine how they can have meaningful participation in the hearing.
- c. **Email:** Some SRLs may not have email. Those who have an email address may not be able to check their email due to a lack of internet access. Those who have access to their email may not understand the importance of checking their email regularly for information about their case. Please explain the need to check email daily or arrange an alternative way to contact SRLs for notice of upcoming virtual hearings.
- d. **Consequences of Failing to Act:** Many people do not understand the consequences of failing to respond to a case or act timely in a case. Please explain these consequences to litigants.
- e. **Plain Language.** When communicating orally or in writing with a SRL, please use language at a 3rd grade reading level when possible. Short, clear sentences are best. Avoid legalese (for example, most people do not know what “default” means), terms of art, and acronyms.
- f. **Caretaker Responsibilities and Privacy Concerns:** Many schools, preschools, day care centers, in-home nursing care and the like have closed. Due to social distancing and stay at home orders, people may not have access to a friend or family member who can take over these responsibilities during a hearing. Be sensitive to a litigant’s ability to participate in a hearing without interruption. Privacy concerns are especially important in cases involving domestic violence or children in the household. Make reasonable accommodations to address privacy concerns and a litigant’s need to give medication to a family member, feed a baby, etc.

2. Notices of Hearing and Materials to Provide with Notice to SRLs

- a. **Send written notice in plain language by mail to the address on file when possible.**
 - i. Comment: Email notice is challenging for the above-mentioned reasons.
 - ii. *Note:* Include a short notice in Spanish, and any other languages that are common in your court, instructing SRLs with limited English proficiency to contact the court to get language assistance such as translation of the notice and the materials provided with the notice.
- b. **Provide step-by-step instructions in plain language on how to access and use Zoom, including a contact person who can assist them if needed. Make sure that your form notices do not instruct the person to appear in person.**
 - i. *Note:* TAJC is developing a set of instructions that can be sent to SRLs. It will be distributed to courts as soon as it is ready.
- c. **Provide step-by-step instructions in plain language on how to submit exhibits for the hearing, including a contact person who can assist them if needed.**
- d. **Provide step-by-step information in plain language on court procedure for hearings.**

- i. *Note:* TAJC is developing basic information on court procedure that you can modify to accommodate your local rules. It will be distributed to courts as soon as it is ready.
- e. **Provide a way for SRLs to inform the court of the following:**
 - i. Their phone number and email address, if any;
 - ii. Lack of internet or reliable internet;
 - iii. Lack of ability or limited ability to access the hearing by phone;
 - iv. Lack of ability to submit evidence electronically;
 - v. Lack of childcare or coverage for other caregiver responsibilities;
 - vi. Whether they are ready to have the hearing or need a continuance;
 - vii. How long they think the hearing or trial will take to present their side of the story, including witnesses and evidence;
 - viii. Whether they need any ADA accommodations;
 - ix. Whether they need, or a witness needs an interpreter, and if so, what language(s); and
 - x. How many witnesses they want to testify on their behalf.
- f. **Provide a list of legal resources serving your area:**
 - i. *2019-2020 State Bar Referral Directory.* The Legal Access Division of the State Bar of Texas publishes a list of local and statewide legal aid and pro bono providers as well as lawyer referral services in their [Referral Directory](#).
 - ii. *Texas Law Help.* The Texas Legal Services Center, a legal aid organization, hosts [Texas Law Help](#), a website that provides free information and resources, including a LiveChat feature for low-income people.

3. Hearings

- a. **At the beginning of the hearing:**
 - i. *Address potential technical difficulties.*
 - 1. Ask litigants about the reliability of their computer, internet, or phone.
 - 2. Tell litigants what to do if they experience problems with their internet, computer, or phone, such as instructing the litigant to click on the Zoom link again if their connection drops, or to call back to the Zoom number provided.
 - 3. Provide litigant with a call back number not associated with the Zoom hearing in case they cannot reconnect.
 - 4. Obtain the litigant's phone number or other emergency contact in case it is needed.
 - ii. *Assess need for ADA accommodations or an interpreter.*
 - 1. Ask litigant if they need ADA accommodations or an interpreter.
 - 2. Address as needed.
 - iii. *Caretaker responsibilities and privacy issues.*
 - 1. Ask litigant if there any caregiver responsibilities or privacy issues.
 - 2. Invite them to let you know if these issues arise during the hearing.
 - iv. *Overview of hearing.*
 - 1. Review what will happen during the hearing in plain language.
 - 2. Provide information about the proceeding and any procedural requirements involved, including how to upload evidence. If the litigant is participating by phone only, tell the litigant how to provide their evidence to the court.
- b. **During the hearing:**
 - i. *Oath.* If a party is unable to participate by video, have them recite the oath while on the phone rather than require a notary. It is impossible to have a notary present when

stay in place orders exist. Additionally, if the litigant does not have access to the internet at home or a computer, they likely do not have the funds to pay a notary.

- ii. *Reasonable Accommodations.* A judge may make reasonable accommodations to ensure all litigants the right to be heard without violating the duty to remain impartial. A judge may consider the totality of the circumstances, including the type of case, the nature and stage of the proceeding, and the training, skill, knowledge, and experience of the persons involved when making reasonable accommodations. For example, a judge may:

1. Construe pleadings and briefs liberally,
2. Ask neutral questions to elicit or clarify information,
3. Modify the mode and order of evidence as permitted by the rules of procedure and evidence, including allowing narrative testimony,
4. Explain the basis for a ruling, and/or
5. Inform litigants what will be happening next in the case and what is expected of them.

c. At the end of the hearing

- i. *Litigant's email address.*

1. If litigant has access to reliable internet at home (not through a library or public place), ask litigant if they have an email address.
2. If so, tell them that notices of future court hearings will be emailed to the email address they gave you.
3. Admonish them to check it daily and warn them of the consequences of missing a hearing.
4. Tell them how to contact the court if their access to internet or telephone changes while their case is pending. Many people will lose access to their phones and internet if they lose income due to COVID-19. If that happens, they will need to receive notices by mail.

- ii. *Review next steps.* Tell the litigants what will happen next, what is expected of them, and inform them of the next hearing date, if known.