

**SAN JUAN COUNTY SUPERIOR COURT**  
**REMOTE BENCH TRIAL PROTOCOL AND PROCEDURES**

Civil bench trials will be conducted remotely via Microsoft Teams until further Court order due to the COVID-19 health crisis. These additional rules will apply to all civil bench trials unless a specific request is made and good cause is established to proceed in person or via a modified procedure.

*These procedures do not apply to domestic violence protection order proceedings given the short time provided by statute between a petition being filed and the hearing.*

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- 1) **Video Appearance:** All parties and witnesses shall appear at trial by video absent prior court approval. Motions to waive the video appearance must be made and heard before trial. Counsel and parties should have their video “on” throughout the trial unless that party establishes good cause for the Court to order a contrary procedure.
  - 2) **Testing the Remote Platform:** Attorneys and self-represented parties shall schedule a joint “test” of the remote trial proceedings through the Teams platform with the Court Administrator 3-5 court days before trial.
  - 3) **Submission of Trial Brief and Other Required Documents:** Consistent with LCR 38, each party shall file and submit a trial brief and any additional documents required in family law proceedings by **12:00 noon two court days** before trial. Filed documents should comply with the Clerk’s e-filing procedure or be filed in hard copy. Proposed orders should be provided electronically via one email to the Clerk for lodging and to the Superior Court Administrator as working copies in both PDF and Word versions. Courtesy copies of trial briefs and other required documents shall be submitted to Superior Court Administration in hard copy or electronically in PDF format.
  - 4) **Remote Trial Participant Contact Information:** By **12:00 noon one court day** before to trial, each party must submit to Superior Court Administration and the Clerk a document that includes the name, telephone number, and e-mail address of each party, attorney and witness who will be appearing at trial on behalf of that party on the form provided by Superior Court Administration. This document will not be filed. Rather, it is provided to ensure contact information for attorneys, parties and witnesses appearing remotely.
  - 5) **Exchange of Exhibits and Witness Lists:** Absent a court order to the contrary, the parties shall exchange exhibit and witness lists and copies of exhibits by **12:00 noon one court day** before the trial. Exhibits shall be exchanged in hard copy unless parties stipulate to exchange electronically.

6) **Submission of Exhibits:**

- a) Each party shall inform the Clerk, Superior Court Administration, and each other, by **12:00 noon two court days** before trial if they reasonably expect to offer more than 50 exhibits between their case in chief and rebuttal.
- b) If no party indicates an intent to offer more than 50 exhibits, then Plaintiff(s)/Petitioner(s) shall be pre-assigned exhibit numbers 1-50 and Defendant(s)/Respondent(s) shall be pre-assigned exhibit numbers 51-100. In a case where there are additional parties, the Clerk will pre-assign additional exhibit increments.
- c) Each party shall submit their original exhibits to the Clerk by **12:00 noon one court day** before trial in the following format: in hard copy; unbound and without hole punches; with slip sheets between each exhibit indicating the intended exhibit number; and with the entire set of exhibits secured by binder clips(s). If a party submits more than 50 exhibits, the exhibits must be submitted by **12:00 noon two court days** before trial in order to allow additional time for marking.
- d) Each set of exhibits shall be submitted to the Clerk with an exhibit list in hard copy and electronic Word version prepared by the submitting party, **on the Clerk's form**, as available on the Clerk's webpage, Superior Court webpage, or on request. The party should include pre-assigned numbers as described above, as well as the description of the exhibit that party intends the Clerk to use on the master exhibit list. Please consider when preparing exhibits that the Clerk will mark them in the lower right corner with a 1" by 3" label.
- e) Each party shall submit a courtesy copy of their exhibits and exhibit list in a tabbed binder to Superior Court Administration by **12:00 noon one court day** before trial.
- f) The parties are encouraged but not required to confer in advance about exhibits, including to reduce duplication in exhibits being marked for identification, and to create a joint exhibit list with consecutive numbering if desired. If the parties create a joint exhibit list with consecutive numbering, they need not use the pre-assigned exhibit numbers addressed in part (b) above.
- g) If the parties stipulate to the admissibility of exhibits, they shall do so in writing or on the record the first day of trial.
- h) Each party shall submit original sealed deposition transcripts that they intend to offer at trial to the Clerk by **12:00 noon one court day** before trial.
- i) Each attorney and self-represented party shall sign and file an *Exhibit Certification* certifying that the exhibits provided to the parties, Superior Court Administration, and witnesses are identical to the original set of exhibits and do not contain any notes, highlighting, post-its, or any other changes or additions. That certification shall be filed with the Clerk and a copy shall accompany the exhibits provided to the Judge and other parties.
- j) The Clerk will circulate by email to all attorneys and self-represented parties the master exhibit list by 8:30a.m. on the morning of the first day of trial. The Clerk will circulate by email the updated exhibit list to all attorneys and self-represented parties each successive morning prior to trial resuming for the day.

- 7) **Remote Trial Process:** The trial will proceed in the following manner:
- a) The Judge will appear in the Courtroom, as will the Courtroom Clerk.
  - b) Counsel, parties, and witnesses are expected to appear by video unless otherwise ordered by the Court. Requests may be made to appear in person if someone is unable to appear remotely or if it would cause hardship or prejudice to do so, including because of poor cell coverage or internet connectivity. Mere preference, however, will not be a sufficient basis.
  - c) Anyone wishing to view the trial can use the publicly available Teams link from the Superior Court website to observe but not participate in the trial. Observers must have their audio on mute. Observers who fail to mute themselves or otherwise cause disruptions during the trial may be removed from the proceedings. ***Video and audio recording of the trial is strictly prohibited. The parties are to instruct all witnesses and family/friends of this prohibition.***
  - d) The audio of the proceeding (except for domestic violence proceedings) will be livestreamed via a link on the Superior Court website.
  - e) Until otherwise ordered by emergency order modification, the Courtroom will remain physically open to the public if any person chooses to observe in person.
  - f) The Court invokes ER 615. Other than parties, no witness may observe the trial until after that person has testified and is excused by the Court. Attorneys/self-represented litigants are to instruct their witnesses on this prohibition. Attorneys/self-represented litigants are encouraged to make certain their witnesses are prepared to proceed at the scheduled time. No attorney, party, or witness may communicate with another witness about any previous testimony in the case until after both witnesses have testified and been excused by the Court.
  - g) If an attorney needs to speak privately with a client, they must inform the Court and the Court will pause the proceeding or take a recess, as necessary, so that the attorney and client can confer confidentially off the record. Counsel and parties should mute their devices prior to communicating to ensure that their communication is not heard by others in the proceeding.
  - h) During trial, the parties will refer to and use the exhibits as numbered. Unless otherwise ordered, the attorney or self-represented party offering the witness shall share their screen so that all participants can simultaneously view the exhibit and confirm they are referring to the same document. Each time an exhibit is offered for admission the first time, the Clerk shall hand the Judge the original, marked exhibit for the Judge to confirm that the exhibit shared on the screen is the same as the original exhibit submitted to the Clerk. The original, marked exhibit shall be the version admitted and maintained as part of the official record.
  - i) **Witness Access to Exhibits:** Each witness must have their own set of exhibits that a party expects the witness to refer to in its case-in-chief, in the event that the technology prevents the party/attorney from sharing their screen for any reason. The copy of exhibits provided to the witness may not contain any

- notes, highlighting, post-its, or any other changes. If exhibits are subject to protective orders, a party must get permission from the Court to provide that exhibit to its witness. Witnesses are HEREBY ORDERED to destroy or return all copies of exhibits to the parties providing them for testimony.
- j) Publishing Depositions: Any original, unopened depositions that are intended to be used shall be delivered to the Clerk's Office by noon the day before trial. The courtroom clerk will unseal and publish depositions only upon the Court so ordering during trial.
  - k) Witnesses are prohibited from referring to notes or consulting with any person during testimony unless specifically permitted by the Court on the record. For transparency, witnesses shall identify any individuals who are present in the room with them on the record. Attorneys and self-represented parties shall instruct their witnesses accordingly.
- 8) **Post-Trial Process:** Any sealed depositions that have not been published will be discarded if not retrieved by the parties from the Clerk's Office by 4:00 pm within five (5) court days after closing arguments have concluded. Once exhibits have been marked and submitted, they will be held by the Clerk's Office and either discarded or returned to the offering parties depending on the parties' signed stipulation for return of exhibits.
- 9) **Remote Trial Etiquette:**
- a) Every trial participant shall either use an appropriate virtual background or be situated in a location with an appropriate background. Please avoid backgrounds/virtual backgrounds that are distracting. Also avoid backlighting, such as being in front of a window.
  - b) Every effort should be made to be in a place that is quiet and without distractions.
  - c) Please dress and act in a way that is appropriate for court proceedings; do not eat, smoke, or chew gum.
  - d) Please speak clearly, and at a slightly slower pace than you would normally speak.
  - e) If possible, use a headset or earbuds to increase your ability to hear and to minimize feedback.
  - f) If more than one device (computer, phone or tablet) is used in the same room, feedback can be a problem. Frequently this can be fixed by having the microphone and speaker of only one device active at a time. **Please mute your device when you are not speaking.** Headsets/earbuds can also solve this problem.
  - g) Attorneys, parties and witnesses with video capability should have the video on, unless you have permission of the Court to proceed without video.
  - h) The use of the chat function to communicate to the Court or the participants is prohibited, as such a communication cannot be made part of the record. **The only exception to this is if someone is unable to hear or be heard and the chat function is the only means by which to communicate.**

- 10) **Non-Compliance with Remote Trial Protocol:** One party's failure to comply with the requirements set forth in this protocol does not relieve the other party from complying. Failure to comply may result in imposition of sanctions, striking of pleadings, refusing to permit the non-complying party to participate in the remote trial or any other relief deemed appropriate by the Court.
  
- 11) **Local Court Rules:** To the extent these procedures are in any way inconsistent with the San Juan County Superior Court Local Court Rules (LCR), this procedure controls and the Local Court Rules are hereby modified on a temporary basis to permit these remote proceedings.

**Superior Court of Washington, County of San Juan**

<p>_____, Petitioner/Plaintiff,</p> <p>_____, Respondent/Defendant.</p>	<p>No. _____</p> <p><b>REMOTE TRIAL PARTICIPANT CONTACT INFORMATION</b></p> <p><b><i>NOT FOR FILING</i></b></p>
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This Remote Trial Participant Contact Summary is provided by or on behalf of:  
\_\_\_\_\_  
*(Plaintiff/Petitioner or Defendant/Respondent).*

**PARTICIPANT CONTACT INFORMATION**

List the names, phone numbers and email addresses of the parties, attorneys, and the people who you plan to have testify on your behalf. This information may be used by court/clerk staff during trial.

	NAME	EMAIL ADDRESS	PHONE NUMBER	VIDEO CAPABLE?
<b>Party Submitting</b>				
<b>Attorney 1 for Party Submitting</b>				
<b>Attorney 2 for Party Submitting</b>				
<b>Witness</b>				
<b>Witness</b>				

<b>Witness</b>				
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<b>Witness</b>				
<b>Witness</b>				

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print name*

**NOTICE:** This form must be completed and submitted to the San Juan County Clerk's Office and Superior Court Administration and must be served on all other parties. This must be done by noon one court day before your trial date.

**Superior Court of Washington, County of San Juan**

<p>_____, Petitioner/Plaintiff,</p> <p>_____, Respondent/Defendant.</p>	<p>No. _____</p> <p><b>EXHIBIT CERTIFICATION</b></p>
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My name is \_\_\_\_\_. I am the \_\_\_\_\_ in this action (identify which party or attorney for which party). I certify that I have prepared or supervised the preparation of the exhibits for submission to the Clerk, Court, and participants, including the original set of exhibits for submission to the Clerk's Office for marking; one identical copy in a tabbed binder for submission to Superior Court Administration as Judge's working copies; and additional copies for the participants (attorneys, parties, witnesses), submitted either in hard copy or electronically, as agreed between the parties. I certify that the exhibits provided to the participants are identical to the exhibits provided to the Clerk and to Superior Court Administration, even if some were provided in hard copy and some were provided electronically, and that none of the exhibits provided contain any notes, highlighting, post-its, or any other changes or additions that are not contained in the original exhibits.

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true.

Signed at (city and state): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print name*