

1 THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 COUNTY OF SIERRA

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4 **IN RE: LOCAL RULES FOR REMOTE**  
5 **APPEARANCES IN CIVIL**  
6 **PROCEEDINGS**

**EXECUTIVE ORDER NO. 2022-01**

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9 THE COURT FINDS AS FOLLOWS:

10 On or about December 29, 2021, the Judicial Council suspended the majority of  
11 California Rules of Court, rule 3.670 and added California Rules of Court, rule 3.672, effective  
12 January 1, 2022. The stated purpose of Cal. Rules of Court, rule 3.672 is “to promote greater  
13 consistency in the practices and procedures relating to remote appearances and proceedings in  
14 civil cases. To improve access to the courts and reduce litigation costs, to the extent feasible  
15 courts should permit parties to appear remotely at conferences, hearings, and proceedings in  
16 civil cases consistent with Code of Civil Procedure section 367.75.” (Cal. Rule of Court, rule  
17 3.672, subd. (a).)

18 California Rules of Court, rule 3.672, allows trial courts to create their own local rules  
19 for remote appearances. In civil cases, the procedures must be “consistent with the requirements  
20 of Code of Civil Procedure section 367.75, posted on the court’s website, and include the  
21 following provisions: (A) A requirement that notice of intent to appear remotely be given to the  
22 court and to all parties or persons entitled to receive notice of the proceedings; (B) A clear  
23 description of the amount of notice required; and (C) For evidentiary hearing and trials, an  
24 opportunity for parties to oppose the remote proceedings.”

25 Currently, absent an order otherwise determined on a case-by-case basis by the judicial  
26 officer assigned to a case, the Sierra Superior Court gives parties and witnesses in civil cases<sup>1</sup>

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28 <sup>1</sup> Per Cal. Rule of Court, rule 3.672 a “civil case” consists of any case “defined in rule 1.6(3), including all cases  
29 except criminal cases and petitions for habeas corpus, other than petitions for habeas corpus under Welfare and  
30 Institutions Code section 5000 et. seq., which are governed by this rule.” Cal. Rule of Court, rule 1.6(3) defines a  
“civil case” as a case “prosecuted by one party against another for the declaration, enforcement, or protection of a  
right or the redress or prevention of a wrong. Civil cases include all cases except criminal cases and petitions for  
habeas corpus.”

1 the opportunity to appear remotely at most hearings, including evidentiary hearings and trials,  
2 with some limited exceptions.

3 Accordingly, THIS COURT HEREBY ORDERS that the following rules apply to  
4 proceedings in civil cases:

5 **A. Notice Requirements**

6 1. A party<sup>2</sup> who intends to appear remotely, other than on an ex parte application, must  
7 provide notice to the court and all parties or persons entitled to receive notice of the proceedings  
8 at least two (2) court days prior to the hearing. Notice to the court must be given by filing the  
9 mandatory Judicial Council form "Notice of Remote Appearance" Judicial Council form  
10 number RA-010 and must specify whether the party intends to appear remotely throughout the  
11 case or for a specific hearing and whether the party intends to appear by videoconference or  
12 audio only (including by telephone). Notice to the other parties and persons entitled to receive  
13 notice of the proceedings may be provided in writing, electronically, or orally in a way  
14 reasonably calculated to ensure notice is received at least two (2) court days prior to the hearing.

15 2. Parties and counsel shall not call the courtroom clerk or the business office to provide  
16 notice.

17 3. Notwithstanding the rules above, at any time during a case, a party may notice the court  
18 and all other parties or persons who are entitled to receive notice of the proceedings that the  
19 party intends to appear remotely during the duration of a case. Notice must be in writing by  
20 serving and filing form RA-010. If any party appears in the case after this notice has been filed,  
21 form RA-010 must be served by the party intending to appear remotely on such party how later  
22 appears in the case.

23 4. At any time during a case, all parties to the action may stipulate to waive notice of any  
24 other participants' remote appearance. This stipulation may be made orally during a court  
25 proceeding or in writing filed with the court using form RA-010.

26 5. Notwithstanding the rules above, any party or witness may ask the court for leave to  
27 appear remotely without notice. The court may permit the party or witness to appear remotely  
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29 <sup>2</sup> A "party" for purposes of this order is "any person appearing in an action and that person's counsel, as well as  
30 any nonparty who is subject to discovery in the action." (See Cal. Rule of Court, rule 3.672(c)(4).)

1 upon a finding of good cause, unforeseen circumstances, or that the remote appearance would  
2 promote access to justice. (See Cal. Rule of Court, rule 3.672, subd. (j)(2).)

3 6. Any party or witness, including a party or witness who at any time has given notice of  
4 intent to appear remotely, may thereafter choose to appear in person without providing advance  
5 notice otherwise to the court or other parties.

6 **B. Rules Specific to Evidentiary Hearings and Trials**

7 1. For remote evidentiary hearings<sup>3</sup> and trials, a party requesting to appear remotely, using  
8 Judicial Council form “Notice of Remote Appearance” Judicial Council form number RA-010,  
9 must describe what aspects of the proceeding the party wants to be conducted remotely and  
10 why.

11 a. A party who intends to appear remotely at an evidentiary hearing or trial must  
12 provide notice to the court and all parties or persons entitled to receive notice of the proceedings  
13 at least ten (10) court days prior to the hearing or trial, and when possible before any trial  
14 setting or trial readiness conference. Notice to the court must be given by filing the form RA-  
15 010. Notice to the other parties and persons entitled to receive notice of the proceedings may be  
16 provided in writing, electronically, or orally in a way reasonably calculated to ensure notice is  
17 received at least ten (10) court days prior to the hearing.

18 b. Any witness who intends to appear remotely at an evidentiary hearing or trial must  
19 provide notice in writing at least ten (10) court days prior to the hearing or trial.

20 c. The court will attempt to resolve the issue of remote appearances at evidentiary  
21 hearings and trials at a Trial Setting Conference or other case management hearing, and if  
22 orders regarding remote appearance have been made in advance of the hearing or trial, the  
23 parties will need to appear ex parte before the judicial officer assigned to the evidentiary hearing  
24 or trial to address any modification of the orders already issued. This ex parte appearance will  
25 require the party to file form RA-010 with the Court and provide notice to all parties in writing,  
26 electronically, or orally in a way reasonably calculated to ensure notice is received twenty-four  
27 (24) hours prior to the hearing.

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30 <sup>3</sup> For purposes of this order, any rule applicable to an evidentiary hearing is equally applicable to a long-cause hearing.

1 2. A party who wishes to oppose the use of remote technology at an evidentiary hearing or  
2 trial must do so in writing by filing and serving the mandatory Judicial Council form  
3 “Opposition to Remote Proceedings at Evidentiary Hearing or Trial” Judicial Council form  
4 number RA-015 no later than five (5) courts day before the hearing.

5 3. The portion of the hearing in which it is determined whether to conduct an evidentiary  
6 hearing or trial through the use of remote technology, over objection, may be conducted  
7 remotely. If the court sustains the objection, the matter may be continued to a later time or  
8 future date to allow the parties and/or witness(es) to appear in person. Failure to oppose the  
9 remote proceeding prior to the commencement of the proceeding shall be considered an  
10 agreement by the party to proceed remotely.

11 **C. Rules Specific to Ex Parte Hearings**

12 1. For ex parte hearings, a moving party intending to appear remotely must file Judicial  
13 Council form “Notice of Remote Appearance” Judicial Council form number RA-010, with the  
14 court no later than 12:00 p.m. (noon) on the court day before the hearing, which should be  
15 submitted with the ex parte pleadings. Notice to the other parties must be provided by 2:00 p.m.  
16 on the court day before the hearing by service via personal service, facsimile or email of the  
17 moving ex parte pleadings on all interested parties and/or counsel.

18 2. If a non-moving party intends to appear remotely, the non-moving party may provide  
19 notice by filing form RA-010 by 4:00 p.m. the day prior to the ex-parte hearing and notifying  
20 the moving party in writing, electronically, or orally in a way reasonably calculated to ensure  
21 notice is received by 4:00 p.m. the day prior to the ex-parte hearing.

22 3. Notwithstanding the rules above, any party may ask the court for leave to appear  
23 remotely without notice at the ex parte hearing. The court may permit the party to appear  
24 remotely upon a finding of good cause, unforeseen circumstances, or that the remote appearance  
25 would promote access to justice. (See Cal. Rule of Court, rule 3.672, subd. (j)(2).)

26 4. A party may appear remotely at an ex parte hearing before receiving a ruling on the  
27 remote appearance request. However, if the court determines a remote appearance is not  
28 appropriate or failure to timely request a remote appearance has impacted the court’s ability to  
29 rule on the request, the court may trail or continue the ex parte hearing so that a party can  
30 appear in person, at the discretion of the court.

1           **D. General Rules**

2       1. All confidentiality requirements, whether statutory, constitutional, or derived from case  
3 law, applicable to proceedings held in person, apply equally to all parties, witnesses and counsel  
4 utilizing remote proceedings.

5       2. Parties and witness are advised that the use of remote technology may result in  
6 technological or audibility issues that could result in a delay or a halt to the proceedings. (Code  
7 Civ. Proc. § 367.75, subd. (f).) No party or witness in any action is required to appear remotely.  
8 Any party who appears remotely without objection, including self-represented litigants or  
9 witnesses, shall be deemed to have agreed to do so. (Code Civ. Proc. § 367.75, subd. (g).)

10       3. Further information on how to appear remotely and the types of proceedings and cases  
11 for which the court has the technological capabilities to allow remote appearances, may be  
12 found on the court's website at <https://www.sierra.courts.ca.gov>. Prior to each hearing for  
13 which an appearance will be made remotely, a party or witness who intends to appear virtually  
14 (via telephone or video) must refer to the Remote Appearances section of the court's website for  
15 the most up-to-date information regarding virtual appearances. Directions will be posted on the  
16 court's website at <https://www.sierra.courts.ca.gov/new/remote-appearances-zoom> on how to  
17 alert the court of technology or audibility issues during a remote proceeding. (Code Civ. Proc. §  
18 367.75, subd. (e)(1).) In addition, the mandatory Judicial Council forms may be found on the  
19 Judicial Council's website at [www.courts.ca.gov](http://www.courts.ca.gov).

20       4. Nothing in this order is intended to nor shall diminish the legal and lawful authority of an  
21 individual judicial officer's right to control the order in the courtroom (Code Civ. Proc. § 128)  
22 or make discretionary decisions that deviate from this order but otherwise comply with the law.  
23 This order may be enforced pursuant to Code of Civil Procedure sections 1209 (a)(5) and  
24 177.5.<sup>4</sup>

25       5. To the extent any portion of this order conflicts with any Sierra Superior Court Local  
26 Rule, that portion of the rule is rescinded.

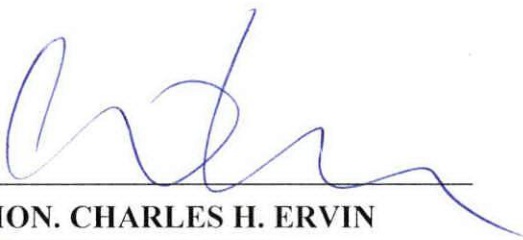
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28 <sup>4</sup> Code of Civil Procedure section 1209 (a)(5) states, "The following acts or omissions in respect to a court of  
29 justice, or proceedings therein, are contempts of the authority of the court:...(5) Disobedience of any lawful  
30 judgment, order or process of the court." Code of Civil Procedure section 177.5 states, "A judicial officer shall  
have the power to impose reasonable money sanctions, not to exceed fifteen hundred dollars (\$1,500)...for any  
violation of a lawful court order by a person, done without good cause or substantial justification."

1 6. This order shall go into effect immediately<sup>5</sup> and remain in effect until ordered otherwise  
2 by this court.

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4 **IT IS SO ORDERED.**

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6 Dated: MARCH 2, 2022



7 **HON. CHARLES H. ERVIN**  
8 **PRESIDING JUDGE**

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30 <sup>5</sup> However, no litigant's substantive rights shall be prejudiced for failing to comply with these rules until 20 days after it has been posted on the court's website and distributed. (Cal. Rule of Court, rule 3.672, subd. (e).)