

REVOKED (March 29, 2021)

Notice Regarding Videoconference Appearance Technology (Zoom) (July 6, 2020)

Beginning July 6, 2020, the Court of Appeal for Ontario will be using the Zoom video conferencing platform for remote hearings.¹

This Notice contains:

- a. an overview of the process for Zoom appearances at the Court of Appeal for Ontario;
- b. best practices for participating in Zoom appearances at the Court of Appeal for Ontario; and
- c. information for members of the public and the media about how to request access to observe a Zoom hearing at the Court of Appeal for Ontario.

A. Process for Participants in Zoom Appearances

Zoom appearances are scheduled during the court's ordinary sitting times.

To participate in a Zoom appearance by video, participants will need an internet connection and a computer or similar device with a webcam, microphone, speaker, and sufficient bandwidth. Participants are encouraged to use headsets or earbuds to improve the audio transmission.

(i) Appeals and Panel Motions

The process described below applies to Zoom hearings for appeals and panel motions, and not to single judge motions, which are dealt with later in this notice.

Before the Hearing of the Appeal or the Panel Motion

Three weeks before the hearing, participants in an appeal/panel motion will be sent an email with the following information:

1. The date of the hearing;
2. The start time of the hearing;
3. The time assignments for oral argument; and
4. An electronic counsel slip.

Each party must fill out and return a copy of the counsel slip to the court's e-filing e-mail address at coa.e-file@ontario.ca within three days of receiving the email. All information on the counsel slip must be filled out, except the name and contact information for the other parties. If the information on the counsel slip changes for any reason before the hearing, an updated counsel slip must be filed immediately.

Each party must identify on the counsel slip whether the matter is subject to a sealing order or publication ban. If the matter is not subject to a sealing order or publication ban, but a party anticipates that sensitive information will be discussed during the hearing or is requesting that the matter be heard in-camera, the party is asked to send a letter to coa.e-file@ontario.ca at the time the counsel slip is submitted, identifying the nature of the sensitive information.

Two weeks before the hearing, participants will be sent an email with the following information:

1. A hyperlink to access the Zoom hearing;
2. The meeting ID and password for the Zoom hearing; and
3. The telephone numbers to access the Zoom hearing.

Unless a hyperlink to access the Zoom hearing has been posted on the Court of Appeal's website, this information cannot be shared except with clients, directly interested persons or on request to the Registrar at coa.registrar@ontario.ca.

The Zoom hearing will be set for 30 minutes **before** the appeal is scheduled to begin to allow participants and court staff to address any issues with technology.

Filing Electronic Documents

Participants are reminded that they must adhere to the court's practice directions and guidelines regarding the electronic filing of documents, and in particular, the deadlines for filing electronic documents. The court's current practice directions regarding COVID-19 are available at <https://www.ontariocourts.ca/coa/en/notices/covid-19/ochome.htm>. The court's general practice directions and guidelines are available at <https://www.ontariocourts.ca/coa/en/notices/>. Please note that the court's practice direction regarding the naming of electronically-filed material does not apply to counsel slips.

Accessing Zoom

Participants can download or subscribe to Zoom at <https://zoom.us/>. It is not necessary to purchase a subscription to Zoom. Participating in a hearing scheduled by the Court of Appeal for Ontario is free.

User tutorials for Zoom are available at <https://support.zoom.us/hc/en-us/articles/206618765-Zoom-Video-Tutorials>.

On the Day of the Hearing of the Appeal or Panel Motion

Participants can join the hearing by clicking on the link provided, or by opening Zoom, clicking on the “Join” or “Join a Meeting” icon, and entering the meeting ID and password provided. Participants should label themselves with their full names and roles in the proceeding, not with pseudonyms or aliases.

Alternatively, if a participant is unable to participate by videoconference, the participant may seek the permission of the panel or the presiding judge to join the hearing by audio conference only. A participant joining by audio only will need to call the phone number provided and follow the directions regarding entering the meeting ID and password. Participants should only join by audio if they experience technical issues with the videoconference and only with the approval of the panel or the presiding judge.

The Zoom hearing will be open to participants beginning 30 minutes before the appeal/panel motion is scheduled to be heard. Participants must sign into Zoom well in advance of the scheduled hearing to address any issues with technology. When joining Zoom, participants will be placed in a waiting room and then admitted into the hearing by court staff when the pre-hearing check-in is ready to commence.

A pre-hearing check-in will occur approximately fifteen minutes before the scheduled hearing time. All participants in the appeal/panel motion must be present for the pre-hearing check-in.

During the Hearing of the Appeal or Panel Motion

Subject to any direction of the panel or presiding judge, only counsel/parties providing submissions will appear on video in the virtual courtroom.

Screensharing should be used only with permission of the court.

Participants should be aware that hearings on Zoom will be audio recorded by the court for internal court purposes only, as is currently the case with in person appeals.

Participants must not make any recording of the hearing (audio or video) and must not take photos or screenshots of the proceedings.²

If you experience any technical difficulties with Zoom, please consult the Zoom Help Center at <https://support.zoom.us/hc/en-us> as Zoom is a third-party remote appearance service. During a hearing, the court registrar may contact counsel or a party by phone or email as indicated on the counsel slip if that person appears to be experiencing connection issues with the virtual courtroom. Parties should ensure that they have their phones with them at all times so that they can be reached, should the need arise.

(ii) Single Judge Motions

Once hearing dates are confirmed and materials are filed in accordance with the court’s current practice directions regarding COVID-19, participants in a single judge motion will be sent an email by the Motions’ Clerk with the following information:

1. The date of the hearing;
2. The start time of the hearing;
3. The time assignments for oral argument; and
4. An electronic counsel slip.

Each party must fill out and return a copy of the counsel slip to the court’s e-filing e-mail address at coa.e-file@ontario.ca as soon as possible before the hearing. All information on the counsel slip must be filled out, except the name and contact information for the other parties. If the information on the counsel slip changes for any reason before the hearing, an updated counsel slip must be filed immediately.

Each party must identify on the counsel slip whether the matter is subject to a sealing order or publication ban. If the matter is not subject to a sealing order or publication ban, but a party anticipates that sensitive information will be discussed during the hearing or is requesting that the motion be heard in-camera, the party is asked to send a letter to coa.e-file@ontario.ca at the time the counsel slip is submitted, identifying the nature of the sensitive information.

The process for Zoom appearances described above for appeals and panel motions applies, with necessary modifications, to single judge motions.

B. Best Practices for Zoom Appearances

The following are best practices for appearances by Zoom at the Court of Appeal for Ontario. These practices are for guidance and are not intended to be exhaustive. Participants should follow any direction given by the panel or presiding judge. They may also wish to consult the Advocates’ Society’s [Best Practices for Remote Hearings](#).

1. Identify an appropriate environment for the hearing and improve internet connectivity.
 - a. Choose a professional environment with a neutral backdrop and adequate lighting.
 - b. If possible, choose a location near a modem and/or connect directly to the internet via ethernet for better connectivity.
 - c. If connecting by Wi-Fi, to reduce potential connection problems, minimize the use of bandwidth by other members of the household or office.
 - d. Choose a quiet location with minimal distractions.
2. Prepare hardware and software in advance.
 - a. Fully charge and plug in devices during the hearing.Â
 - b. Place devices on a stable and stationary surface. Handheld devices should not be used.

- c. Test accessing Zoom and the internet connection in advance of the hearing, in the location that will be used for the hearing (see <https://zoom.us/test>).
 - d. Ensure devices that will be used during the hearing meet Zoom system requirements (see <https://support.zoom.us/hc/en-us/articles/201362023-System-Requirements-for-PC-Mac-and-Linux>).
 - e. Select a screen name for Zoom containing your full name and role in the proceeding (e.g. Jane Doe, Counsel to the Appellant).
 - f. Position the camera on your computer or similar device in a way for it to be level with your face and 1-2 feet away from where you will be seated for the hearing.
3. Plan for communicating with others.
- a. Consider how counsel will communicate with clients, co-counsel, and opposing parties (if necessary) privately during the hearing.
 - b. Exchange telephone numbers and email addresses in advance to communicate in the event technological or other issues arise during the hearing.
4. Take steps to minimize background noise.
- a. Mute your microphone if you are not speaking. Participants who have not muted their microphones may be muted by the court.
 - b. Put cell phones and other devices on silent and mute notifications on your computer to avoid interrupting the hearing.
5. Adapt oral argument for a remote hearing.
- a. Gowning is not required for any Zoom appearances at this time. Parties and counsel should wear appropriate business attire.
 - b. Consider speaking more slowly than usual, to adapt to lag times in the video or audio technology.
 - c. Consider whether to proceed more slowly than usual when referring to documents, as it may take longer for judges to locate the electronic documents.

C. Public and Media Access to Zoom Hearings

Members of the public and media who wish to observe a Zoom hearing must send a request in writing to the Registrar at coa.registrar@ontario.ca at least 48 hours before the scheduled hearing.

Please remember that copying, recording, publishing, broadcasting or disseminating any court hearing, or any portion of it, including a hearing that is conducted over Zoom, is prohibited and is an offence under s. 136 of the Courts of Justice Act, R.S.O. 1990, c. C.43.

1. The court's existing third-party remote appearance service, CourtCall, may be used in certain cases. The notice relating to the use of CourtCall is available at <https://www.ontariocourts.ca/coa/en/notices/tele-video.htm>. Unless otherwise directed, Zoom will be used even if a case management direction issued before July 6, 2020 indicated that the hearing would proceed by CourtCall.

2. See s. 136 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43.