



To: Members of the Public and the
Northern District of California Bar

From: Office of the Clerk

Subject: Summary of proposed revisions to the Civil
Local Rules; invitation for public comment

Date: March 18, 2024

Clerk's Office Memorandum

The Judges of the United States District Court for the Northern District of California have approved modifications to Civil Local Rule 77-3, reflecting an updated policy for providing remote public access to court proceedings post-pandemic.

Pursuant to Civil Local Rule (L.R.) 83-2(b), the Court hereby posts the proposed modifications for public comment. (As the prior rule was completely withdrawn, no redline is attached.)

Comments or suggestions may be submitted to media@cand.uscourts.gov. **Any comments or suggestions must be received by Thursday, April 18, 2024, at 4:00 p.m. PDT.**

77-3. Remote Public Access To Court Proceedings [Revised]

- (a) **Generally allowed at judge’s discretion.** To the extent not prohibited by statute, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure, Ninth Circuit Judicial Council Policy, or this Local Rule, judges of this Court may, in their discretion, provide the public with remote video or audio access to court proceedings. This applies to proceedings conducted in the courtroom as well as proceedings where the judge and/or the attorneys are appearing remotely.
- (b) **Prohibitions on provision of remote access.**
 - (1) Remote public access will not be permitted where doing so would risk interfering with the integrity of the proceedings. This includes, but is not limited to, situations where remote public access would risk infringing on privacy interests, creating safety concerns, or materially affecting witness testimony.
 - (2) Remote public access to jury trials is prohibited.
- (c) **Objections to or requests for provision of public access.** Objections to the provision of remote public access by any party, witness, or person who is a subject of the proceeding, and requests by members of the public to provide remote public access, will be considered by the presiding judge. Parties to the case should file objections or requests by way of administrative motion pursuant to Civil Local Rule 7-11. Nonparties should make objections or requests using the form on the Court’s website. Absent a showing of good cause, any objection or request must be submitted at least 14 days before the proceeding.
- (d) **No capture or transmission of remote access permitted.** Persons with remote access to court proceedings are prohibited from recording, photographing, or retransmitting those proceedings.

Commentary

The Judicial Conference of the United States has published a policy against the video “broadcast” of court proceedings. This appears intended to apply to hearings where remote video access is provided over a platform such as Zoom. This policy is not binding on the courts; it is a recommendation that is owed respectful consideration. *See* 28 U.S.C. § 331; *Hollingsworth v. Perry*, 558 U.S. 183, 193 (2010); *see also, e.g., United States v. Slone*, 969 F. Supp. 2d 830, 834–35 (E.D. Ky. 2013); *United States v. Crusius*, 2020 WL 4340550, at *6 (W.D. Tex. July 28, 2020). The Judicial Conference policy approves providing remote audio access to civil and bankruptcy hearings that do not involve witness testimony. The Judicial Council of the Ninth Circuit, whose policies are binding within the Circuit, has left the decision about whether and how to provide remote video access to the district courts.

This Court has carefully considered the recommendation of the Judicial Conference but has determined based on its own experience from 2020 to 2023 that, except in very rare circumstances, providing the media and the public with remote video access improves transparency and confidence in judicial proceedings without having any negative effect on those proceedings. Additionally, the public’s interest in access to the courts is better served by providing video access as opposed to audio-only access, particularly in cases where the judge and attorneys are also appearing remotely rather than from the courtroom.