

COMMONWEALTH OF MASSACHUSETTS
THE APPEALS COURT



JOSEPH F. STANTON
CLERK

**POLICY REGARDING MOTIONS FOR
REMOTE ORAL ARGUMENT
IN PANEL CASES**

The Appeals Court will conduct oral arguments in panel cases in person at the John Adams Courthouse unless the Appeals Court as a whole for some reason (e.g., public health emergency) changes the practice for a particular time period. Cases the court schedules for off-site (“away”) sittings will not be conducted remotely. The Single Justice may conduct argument in whatever format he or she deems best in the circumstances.

In individual panel cases, where there is good cause, the court may allow parties to participate remotely (a) by telephone, (b) by remote video conferencing, or (c) by some combination. In all cases, public access to the argument will be maintained.

Any party may file a motion for remote oral argument (“Motion for Remote Oral Argument”). All motions for remote oral argument must be made in writing, electronically filed, with service on all parties, as soon as practicable and no later than 21 days before the scheduled argument, unless based on an unforeseeable circumstance that arises thereafter.

The motion must state (i) the reason(s) establishing good cause for the request, (ii) that the moving party has conferred with all parties, (iii) the position of all parties with respect to the movant’s request and whether they also desire to argue remotely, and (iv) if applicable, the reason(s) why the motion is untimely. Motions that do not include the required information may be summarily denied without prejudice to refile with the required information.

Agreement of all parties to argue remotely shall not, in itself, be sufficient to constitute good cause. Factors that the court will consider in determining good cause include health, hardship, safety, whether all parties consent, the issues presented in the case, the timing of the request, and the panel’s preference based on the case and circumstances of the motion.

The court will act on the motion as soon as practicable. The court may alternatively order the argument rescheduled or postponed.

Notes regarding good cause factors:

Health. Generalized concern about contracting illness, standing alone, does not constitute good cause. However, if there is a particularized showing that in-person argument poses a health risk, good cause may be found. Any counsel diagnosed with, or experiencing symptoms of, a contagious disease is expected to notify the court at once and to express a preference between remote argument and postponement.

Hardship. The generalized hardship of appearing for in-person argument that is caused by things such as distance from the courthouse, the expense of appearing in person, the time required to appear in person, or scheduling conflicts, is not good cause. Rather, good cause based solely on hardship requires a showing of unusual circumstances. Factors that may be considered include whether the party is self-represented, the details of a particular scheduling conflict, unusual financial circumstances that make the cost of in-person argument prohibitive, or other exceptional circumstances.

Safety. If in-person argument would pose a safety risk (such as in the case of inclement weather) to the litigants, counsel, judges, or court personnel, the court may order remote argument unless rescheduling the in-person argument would resolve the safety concern.

Cases involving a self-represented party confined to an institution. A self-represented party confined to an institution will be allowed to participate via remote technology, preferably using a videoconference platform. Consistent with the court's existing practice, the other party(ies) must participate using the same platform.

Effective: September 9, 2022