

FORMAL GUIDANCE OF THE BUSINESS LITIGATION SESSION REGARDING HEARINGS, TRIALS, AND ELECTRONIC FILINGS

The undersigned judges of the Superior Court, who are assigned to sit in the Business Litigation Sessions of the Superior Court during calendar year 2022, jointly adopt the following Formal Guidance regarding hearings and trials in the BLS. We do so to provide attorneys with practical guidance about some of our preferences and practices.

Hearings, Conferences, and Trials.

- ***Participation by Less Senior Attorneys.*** We welcome and encourage active participation by less senior attorneys in all court proceedings.¹ To facilitate this, we will let two or more lawyers handle different parts of a hearing, give a supervising attorney time to confer with and provide guidance to a less senior colleague during a court proceeding, and permit a more senior attorney to add something after a less senior colleague finishes arguing a motion. The BLS judges will accommodate other reasonable requests that would allow less experienced counsel to play an active role in a court proceeding.
- ***Hearings and Conferences by Video.*** Conducting a hearing or conference by remote video can save time and money, and may make it easier for clients and the public to observe or listen to a court proceeding. On the other hand, there often is value to bringing counsel and parties together in court, and some judges find in-person hearings on substantive motions to be more productive. We are committed to using video conference technology where appropriate to streamline and to provide better access to court proceedings.

Counsel may ask that a particular hearing or conference be held in person or by video conference, with a brief explanation why they favor one or the other for that hearing. We prefer that counsel include that information in any request for hearing made when a motion is filed. In-court hearings can also be simultaneously broadcast by video conference to make it easier for clients or others to observe the proceedings.

It generally works best for all parties to participate in the same way, either in person or by video conference. Where appropriate, however, we may allow hybrid proceedings, with some parties appearing in person and others participating by video conference.

¹ This is the policy of the entire Superior Court, not just BLS judges. See the Superior Court Policy Statement Regarding Less Experienced Counsel (Dec. 1, 2017) at: <https://mass.gov/news/superior-court-policy-statement-re-newer-attorneys> .

- ***Trials and Evidentiary Hearings by Video.*** We strongly prefer to conduct trials and evidentiary hearings in person. But we will consider other arrangements where necessary or appropriate. It may sometimes make sense for a particular witness to testify by video conference during a trial that otherwise will take place in person, for example if the witness lives far away and will testify for a very short time, or cannot reasonably attend in person.
- ***Video Conference Details.*** We will post the video conference log-on information for each BLS judge on our contact information web page.²

Electronic Filings. The BLS judges ask that parties do the following when electronically filing documents in a BLS case.

- ***Filings Requiring Immediate Attention.*** Any party that needs a judge to pay immediate attention to an electronic filing should alert the session clerk. If the filing has not yet been docketed, the clerk may ask for a copy to be emailed.
- ***Courtesy Copy.*** Parties should provide to the court courtesy ***paper copy*** of any electronically-filed papers that need immediate attention, electronically-filed memoranda longer than twenty pages, and electronically-filed papers with exhibits or attachments that exceed twenty pages in total. The paper copy of voluminous exhibits should include a table of contents and tabs that make it easy to find each exhibit.

In addition, we would also welcome a courtesy ***digital copy*** of complex filings on a thumb drive or disc, with each document and each exhibit in a separate pdf file; contact the clerk if cloud-based storage may be a better option. Any physical electronic media should be labelled with the case name and docket number, and each file should have a readily identifiable name corresponding to the document title or exhibit number or letter.

Business Litigation Session 1 Judges

/s/ H  l  ne Kazanjian
Justice of the Superior Court

/s/ Peter B. Krupp
Justice of the Superior Court

Business Litigation Session 2 Judges

/s/ Michael Ricciuti
Justice of the Superior Court

/s/ Kenneth W. Salinger
Justice of the Superior Court

² <https://www.mass.gov/info-details/judges-and-contact-for-the-superior-court-business-litigation-session> .