



Reference and Etiquette Guide for Electronic Hearings For Counsel/Self-Represented Parties Current Version: April 23, 2020

During the COVID-19 pandemic, the Court of Appeal has continued to hear appeals and applications but as of March 23, 2020, these have been conducted as electronic hearings and not in person.

Even though the hearings take place electronically and judges, lawyers, parties, media and court staff may attend remotely, it remains a formal setting. Following are some best practices to improve the electronic hearing.

Before the hearing

1. **Download and install the application:** Hearings will be conducted using the Cisco WebEx Meeting application where possible. Download the application [here](#) *to the device that you will be using on the day of the hearing*. (Click on the download for WebEx Meetings and not for WebEx Teams.) Once downloaded, follow the installation instructions. Enter your name and email address when prompted. *Enter your proper first and last name as this will be the name that is displayed to the judges, the clerk and all other participants*. You can then simply choose to proceed as “Guest”.
2. **Understand and test the application:** Once the application is downloaded and installed, familiarize yourself with the WebEx settings. Hover your arrow towards the bottom of the viewing screen to see the Control buttons (Mic, Video, Share content, Participants, Chat, More options, End or Leave Meeting).
 - a. Mic – Click to mute or unmute.
 - b. Video – Click on button to display or hide video
 - c. Share Content – Not to be used
 - d. Participants – Click to view a list of the participants that are connected
 - e. Chat – Not to be used
 - f. More options – Not to be used
 - g. End or Leave Meeting

Test the application by connecting with a colleague, friend or family member.

3. **Connecting to an electronic hearing:** You can join a WebEx hearing in one of two ways:

- a. **Audio/Video Connection:** Use a stand-alone webcam or the built-in camera/microphone on your laptop or desktop computer. This method requires a high-speed internet connection. A LAN (hard) line is optimal or wireless 5gh. (**preferred method**)
- b. **Audio Only Connection:** Use a cell phone or land line to dial into the WebEx telephone number (**least preferred method**). This method does not require an internet connection.

The Registry will provide information (e.g., a link or a telephone number) to access the electronic hearing in advance. If using option b, it is not necessary to download the WebEx application. You can simply dial into the number that is provided by the Registry.

If using option a, ensure that the WebEx application is downloaded to the device that you will be using on the day of the hearing and tested in advance of the hearing date.

4. **Audio/Video Connection:** If connecting to an electronic hearing using the audio/video connection described in 3a above, follow these tips:

- a. Have appropriate lighting. Try to face a window or situate yourself in an area where you are exposed to plenty of light. If it is not possible to sit facing a window, it will help to position a lamp behind your device so that you are exposed to plenty of light.
- b. Frame yourself wisely. Proximity is important. The farther away or more obscured you appear, the less engaging you will be. Your head and the top of your shoulders should dominate the screen. If your head is cut off at the top or bottom, you are too close. If your entire torso is in view, you are too far away. If only half of your head is in sight, please adjust your camera. If using a laptop or mobile device, try to position it so that it is higher than desk level so that the camera is directed at you rather than looking up at you. Placing a thick book under the device will work well.
- c. Set your device's volume to 50 so that your microphone does not pick up your speaker volume.

- d. Be aware of your surroundings. Ensure your background is professional, appropriate and free of excessive background noise. Try to attend from a room with a closed door to minimize visual and audio interruptions. This includes children and pets.
 - e. Ensure you have access to the mute button and use it when appropriate (see below).
 - f. Silence or mute all telephones in the room. Close down or disable all other apps and browser windows to eliminate notifications. Ensure that others around you are aware that you are in a meeting so as not to disrupt you or the proceedings.
 - g. If you are connecting from a boardroom:
 - i. Ensure the microphone is placed directly in front of those who will be speaking (and not off to the side).
 - ii. Ensure you have the ability to mute the microphone when necessary.
5. **Audio Connection:** Use a telephone only if there is no other option. If using a telephone, a land line is preferred over a cell phone. In either case, do not use the speaker phone function. Instead, use a hand-held phone or opt for a set of headphones with a built-in mic and mute feature. If possible, avoid the use of VOIP.
6. **Clients:** Make arrangements with clients. Clients can participate in their appeal or application by viewing the electronic hearing at their lawyer's office or by listening to the audio as arranged by their lawyer. Lawyers must make their own arrangements to have their clients participate. Clients must not call directly into the electronic hearing using the information provided by the Registry. If clients wish to attend the proceeding, lawyers must arrange for their client to sign in advance of the hearing the [Undertaking and Agreement of Non-Lawyer](#) provided by the Registry in the Scheduling letter. The executed Undertaking and Agreement must be retained on the lawyer's file and provided to the Court on request.
7. **Undertaking:** Self-represented litigants must provide a signed [Undertaking and Agreement of Non-Lawyer](#) to the Registry in advance of the hearing date.
8. **Materials:** Ensure you have access to all of the documents that you will need, such as transcripts and factums. If you are accessing documents electronically from a device, ensure everything is working beforehand.

During the hearing

9. **Be on time and ready to proceed:** Join the hearing 15 minutes in advance of the start time. (You should have already downloaded the WebEx application. If you have not, ensure that you do so at least 60 minutes before the start of the hearing. See #1 above under “Before the hearing”.) When prompted, click on “Open Cisco Webex Meeting” and then click on “Join Meeting”. You will either be placed in the electronic hearing or in the “Lobby”. Once the Court is ready and all participants have joined, the clerk will lock the meeting so that no others may join.
10. **Re-familiarize yourself with the WebEx settings.** See #2 above under “Before the hearing”.
11. **Introductions:** When you first join the electronic hearing, judges may or may not already be present. A clerk will be present. Identify yourself (and who you represent) when you join. If you have co-counsel attending from the same room, have them introduce themselves as well. If you have lawyers or law students from your firm attending from the same room, you should advise the Court. Only counsel of record should use the assigned video conference link. If you have made arrangements to have a client attend, advise the Court this this is so and confirm that you have obtained an executed Undertaking not to record or broadcast the proceedings from each of them.
12. **Dress appropriately:** Lawyers must continue to gown when appearing before a panel of three judges, although they may remain seated when speaking. Gowning is not required when appearing before a single appeal judge.
13. **Use pen and paper:** Avoid using a keyboard to take notes. The sound of typing can be distracting because your laptop’s internal microphone is in close proximity to your keyboard. It also prevents you from devoting your full attention to the hearing. Opt for a pen and paper to take notes instead.
14. **Minimize background noise:** Mute your microphone when not speaking. (But don’t forget to unmute before you start to speak.) When not muted, refrain from shuffling of papers. Microphones that are located close by will amplify the noise made by the shuffling creating a distraction to other participants. As is the case in a courtroom, all audio is recorded. Note that the clerk, as host, has the ability to mute (and unmute) microphones. Ensure that others around you are aware that you are in a meeting so as not to disrupt you or the proceedings.
15. **Speak clearly:** When speaking, ensure you speak clearly and slowly enough for everyone to follow what you are saying. Remember that sound quality is very

important in this medium. It is helpful if you identify yourself each time you speak to ensure the recording system clearly captures the discussions. Although there may be unavoidable lags due to slower connections, do your best to ensure no one speaks over anyone else. If you find it necessary to object to, respond to or comment on something that an opposing party has said and it cannot wait, if on video, raise your hand to signal to the court and the clerk that you wish to speak. If on the telephone, interject in the conversation when appropriate to let the Court know that you have something to say.

16. **Focus on your camera:** Direct eye contact is important. When speaking, look into the camera rather than at the picture of the person(s) you are speaking to. Ensure your device's camera is open and not obscured by post-it notes or otherwise concealed.
17. **Time limits:** Time limits for oral argument will be communicated to you by the Court. A warning will be provided when 5 minutes remain and again when the time has expired.
18. **No food or drink:** As in a courtroom, refrain from eating or drinking anything but water during the hearing.
19. **WebEx views:** Each participant will appear in the WebEx application in a separate box (including any participant that is attending by telephone in which case their image will be a telephone icon). If all judges are in one courtroom, there will be one box for all of them (displaying the entire bench). If one or more judges are attending from a second courtroom in the opposite city or remotely, there will be a separate box for each. View settings can be changed by clicking on the Layout button at the top right of the viewing window. There are three choices:
 - a. Active speaker video view – only the active speaker will appear on the screen
 - b. Active speaker and thumbnail video view – the active speaker will fill the majority of the screen while all other participants will be minimized and appear in a row at the bottom of the screen. This is the default view.
 - c. Grid view – all participants appear in equal sized boxes evenly displayed across the screen (the “Brady Bunch” look).

In options a and b, the image will change each time the speaker changes. In option c, the image never changes. You may find option c to be the least distracting.

In addition, there is a “Floating panel view” option. Clicking this button will change the current view to full screen for whatever option you choose. You may find full screen and option c to be the best for viewing and least distracting.

Your own image will appear in a smaller box. Click and drag it to change the position of it on the screen. You can also hover your mouse on top of your image and click on “Minimize my self view video”. If you do this, your image will disappear from your screen but will continue to be visible by all other participants.

Note that view options may be different if using a phone or tablet to connect rather than a laptop or desktop computer.

20. **Technical difficulties:** In the event of low bandwidth, the image and sound quality may be interrupted. It is possible that the image will disappear but sound will continue. In other words, while the participants may not be able to see each other, they may still be able to hear each other. Confirm that this is happening before continuing to speak. The image will reappear once bandwidth has returned to normal. If bandwidth issues continue to occur, it may be necessary for some of the participants to turn off their video. In the event that the session is terminated unexpectedly, please try re-connecting or wait for further instructions.