

A Guide to Virtual Hearings For Practitioners in the Housing Court

Pre-Hearing Preparation

1. Documents and Exhibits

- As there is no way to hand documents to a clerk as you would during a typical in-person hearing, you must be certain that all of the documents you intend to show the judge and/or introduce as exhibits are in to the court ahead of time.
- Such documents would include any returns of service (if there was a Short Order of Notice, etc.) as well as any potential exhibits you would like to introduce into evidence.
- Some exhibits can be attached to the complaint or motion at the time of filing. The court has asked litigants to send any other documents to easternhousingcourt@jud.state.ma.us. If you do not have access to email, you can call the Housing Court to arrange for other means of delivery; U.S. mail is not recommended due to the intermittent staffing of the Clerk's Office and the possibility that the documents may not reach the judge in time.
- After sending these documents, you should confirm that the court has received them and that they will be brought to the judge's attention prior to the hearing.
- You should also make sure that all witnesses have a copy of what was submitted with the same pagination so that you can refer judge and witness to the same page of a pre-submitted document during your examination.

2. Logistics

- Be sure that all witnesses have details as to how to call in (or connect to) the hearing and that they are familiar ahead of time with what they need to do to join and participate in the hearing. Any new technology should be tested ahead of time to ensure the microphone/speaker/camera work.
- If you are participating in a Zoom hearing, carefully set your camera so that it captures a good view of your face and upper torso. You don't want the camera to cut off part of your face, for instance. Make sure that you are not in front of a window, which will make you backlit and hard to see. To practice, you can start a new meeting in the Zoom application and it will show, without other participants, how you will look in an actual meeting.
- An interpreter can and should be requested for any virtual hearings at which a participant doesn't comfortably speak English. You should also make any other accommodation requests that are necessary for you to fully participate in the hearing.
- The court will use its recording system to record a virtual hearing in the same way it records in-person hearings. You should not make any unauthorized recordings of your own as this may be a violation of Massachusetts law as well as the Court's rules.

3. What to Expect at the Hearing

- While some judges may allow an attorney to summarize the expected testimony, most Housing Court judges will conduct virtual hearings in a manner similar to an in-person hearing. You should therefore prepare to formally examine all witnesses.



- The judge will expect compliance with all applicable court rules and the Rules of Civil Procedure and evidence. For example, potential exhibits need the appropriate foundation and you should move that each such document be formally admitted, even if you sent it to the judge ahead of time.
- Make sure that you and your witnesses are aware that most judges will expect participants to behave in a virtual hearing as they would in court – there should not be any interrupting or speaking out of turn. Sometimes a phone hearing (or even a Zoom hearing) can seem less formal. That does not mean that anyone can chime in with a comment at any given moment.

During the Hearing

- You should plan to call in or connect to the hearing a few minutes prior to the noticed time to ensure there are no technical issues.
- Be sure to warn all witnesses that once they are on the call/meeting, anything they say can be heard by the clerk and anyone else present and it may even be recorded on the record. This is true even if the judge has not joined the hearing. You and your witnesses should be aware that the line you will be calling in to is not a private line – the same number and passcode are used for all hearings and it is the Court's position that others can listen in as they would in a courtroom during an in-person hearing.
- All participants should also be aware that if they are participating in a Zoom hearing, they can be seen even if they aren't speaking so they should be careful to behave in the same way they would if they were in court.
- The courtroom clerk will join the call/meeting first to confirm that everyone is there and to ensure that documents, etc. are in order for the judge.
- In the event one party is not present, the Clerk may wait and sometimes will attempt to reach the missing party, however the hearing will eventually proceed one-sided if a participant cannot be located (and assuming there was appropriate notice to the missing party). In such cases, you should still expect to introduce any necessary evidence to allow the judge to make a decision.
- When everyone is present or after having waited a sufficient amount of time for parties to appear, the clerk will then request that the judge join the call/meeting and start the hearing. If the judge does not give an overview of how the hearing will be conducted and you have questions about procedure or logistics, you should ask them at the outset so that you are clear regarding the judge's expectations.
- When the judge is ready for the parties to proceed with testimony, the clerk will swear in the witnesses using the same oath that is used in the courtroom.
- While it is in everyone's interest to conduct any hearings as efficiently as possible, there are no time limits on virtual hearings and you should not worry about having enough time to present your case. Only one case is scheduled for any particular date and time and you should expect your case to proceed as soon as all the parties and witnesses are present.

After the Hearing

- Any orders issued as a result of the hearing will be posted on masscourts.org for download. The Clerk's Office will also email a copy to those participants who have provided email addresses.
- The court is also mailing decisions as they would after a typical in-person hearing.

These guides were created in collaboration with the Massachusetts Access to Justice Commission.

