

A Guide to Virtual Hearings for Practitioners in Probate Matters

1. *Keep Up to Date with Standing Orders and Probate Court Guidance*

- <https://www.mass.gov/guides/court-system-response-to-covid-19#-probate-and-family-court->
- Operating procedures, phone numbers and email addresses for specific counties and emergency matters can be found under “Division Protocols for Court Operations” on the Probate and Family Court’s website: <https://www.mass.gov/guides/court-system-response-to-covid-19>
- Review the Frequently Asked Questions page on the Probate and Family Court’s website: <https://www.mass.gov/guides/probate-and-family-court-faqs-related-to-covid-19>
- Phone numbers to coordinate hearings on emergency matters are as follows:

Barnstable: 508-375-6710

Hampshire: 413-586-8500

Berkshire: 413-442-6941, Ext. 7200

Middlesex: 617-768-5906

Bristol: 508-977-6040

Nantucket: 508-228-2669

Dukes: 508-627-4703

Norfolk: 781-830-1278

Essex: 978-740-4143 (Salem); 978-686-9692 (Lawrence)

Plymouth: 508-897-5400

Franklin: 413-775-7464

Suffolk: 617-788-8300

Hampden: 413-748-7758

Worcester: 508-831-2200

2. *Working with Other Attorneys*

- Assented to motions may be allowed administratively.
- Consider mediation and/or conciliation to resolve matters.
- Work cooperatively on discovery disputes and deadlines.
- Be considerate of technology barriers and disabilities of other parties.

3. *Filing Pleadings*

• **Emergency matters**

When in doubt, call the Probate Court and ask for their preference in how to file your emergency matter and ensure that it is promptly addressed.

• **E-Filing** - <https://efilema.tylerhost.net/ofsw eb>.

E-Filing has been encouraged by court personnel for as much as can be utilized, as it ensures that the case is immediately docketed and the judges can view the e-filed documents remotely much more quickly.

• **Filing by mail**

Mail filings are still being accepted, but be prepared for a bit longer of a lag time than usual between mailing and processing.

• **Original signatures**

Confirm with court personnel as to whether original signatures should still be mailed to the Probate



Court if the filings have otherwise been e-filed or filed via e-mail.

Review the order issued by the Supreme Judicial Court: <https://www.mass.gov/supreme-judicial-court-rules/supreme-judicial-court-order-concerning-electronic-signatures-of>

4. Communication with Court Personnel

- More than ever before, court personnel are increasingly responsive to e-mail communication. E-mail is the preferred mode as some personnel may be working remotely and not available at their usual telephone extensions. If you do not have the e-mail address for your matter's assigned sessions clerk, reach out to the Probate Court and ask for it.

5. Notices of Hearing

- For matters requiring in-hand service, the certificate of service must state the exact circumstances in which the person was served and a Motion to Accept Service as Rendered may be required.
- Consider acceptance of service from other attorneys.

6. Format of Hearings

- Work with court personnel to determine if a hearing is going forward and whether it will be held telephonically or by Zoom. Ultimately, this is the particular judge's preference.
- In-person hearings are being held on an extremely limited basis and only for certain emergency matters.
- Make sure you communicate any case specific needs to court personnel (i.e. technology barriers for clients, interpreters, disabilities, etc.) well in advance of any scheduled remote hearing so that the Probate Court has adequate time to address them.
- If there is an active restraining order in the case, remind the sessions clerk in advance of the hearing so that the judge has a copy of the order at his or her side for the hearing.
- Attorneys are expected to prepare their clients prior to the hearing, confirm with their clients that their technology is working and to ensure their clients have blocked off a sufficient amount of time to participate in the hearing. Incoming calls from the Probate Court sometimes appear as a blocked number, so make sure clients can receive calls from blocked numbers.
- Until further guidance is issued, it is likely that all evidentiary hearings and trials will be postponed until the Probate Court is re-opened at a later date.

7. Decorum During Remote Hearing

- Treat the hearing as if you were present in the judge's courtroom.
- Do not talk over one another. Defer to the judge as to his or her preference on who should speak at a given time. If a motion is being heard, expect the moving party to speak first and the responding/opposing party to speak second.
- If it is an uncontested s.1A divorce hearing, and you are the plaintiff, still be prepared to walk your client through the colloquy.
- Mute your telephone when you are not speaking. Be in a quiet room away from potentially distracting noise. Be careful with being outside if it is a windy day or there are other potential noise detractors such as lawn mowers, leaf blowers, etc.
- If participating in a hearing to be held on Zoom, make sure to check your camera view to ensure the background is appropriate and the lighting is correct. Also, you and your client should be dressed appropriately to appear before a judge.

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

