



# ZOOM TRIALS AND REMOTE COURT PROCEDURES FOR FAMILY LAW CASES

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# ZOOM TRIALS

- 1) General advice & logistics
- 2) Overview of ShareFile
- 3) Getting your exhibits admitted
- 4) Working with witnesses
- 5) Answers to questions you were too afraid to ask

## GENERAL ADVICE

### DO YOU HAVE TO DO YOUR TRIAL BY ZOOM?

Basically, YES! Some judges are doing some trials in-person but vast majority are happening by Zoom. If you want an in-person trial, you will need to take it up with your assigned judge.

*What is a situation where an in-person trial might be allowed?*

- 1) the trial will be short
- 2) the trial involves few participants
- 3) **one or both parties lacks the available technology**

**NOTE:** if you ask for an in-person trial, there is a good chance your trial will be continued especially if there are temp orders in place and there is no urgency.

## GENERAL ADVICE & PRACTICE TIPS

### THE GOOD NEWS!

- Zoom and ShareFile are simple/intuitive platforms to use
  - You and your client can get the free version of Zoom; ShareFile is free (only the attorney needs to have ShareFile)
- Being able to do a trial from your office has advantages:
  - in cases involving domestic violence, it is less stressful for your client to not have to be in the same room as the opposing party
  - convenient to be able to work in your office during breaks

## GENERAL ADVICE & PRACTICE TIPS

- For your first Zoom trial especially, you need extra prep time to PRACTICE and navigate the tech side of things
- If your client doesn't have access to the necessary technology, or doesn't have a distraction free place they can go for the duration of the trial, you will need to figure this out

## GENERAL ADVICE & PRACTICE TIPS

### LOCATION AND SET-UP

- If possible, do the trial from your office and having your client there too (in a separate office or a conference room)
  - ***Be aware of safety implications in domestic violence cases***
- If your client is not going to be in same location as you, make sure you practice plenty using the set-up both of you will be using for trial
  - client will need childcare (kids should be out of the home or client should be doing it from somewhere else)
  - client needs to understand that wherever they are, **THEY ARE IN COURT** (no multitasking, no checking their phone, no getting up to run to the bathroom except during breaks, no turning their camera off)
  - You cannot do this with your client using a phone or a tablet
- **DO NOT WAIT UNTIL THE LAST MINUTE TO FIGURE OUT THE LOGISTICS!**

# GENERAL ZOOM CONSIDERATIONS

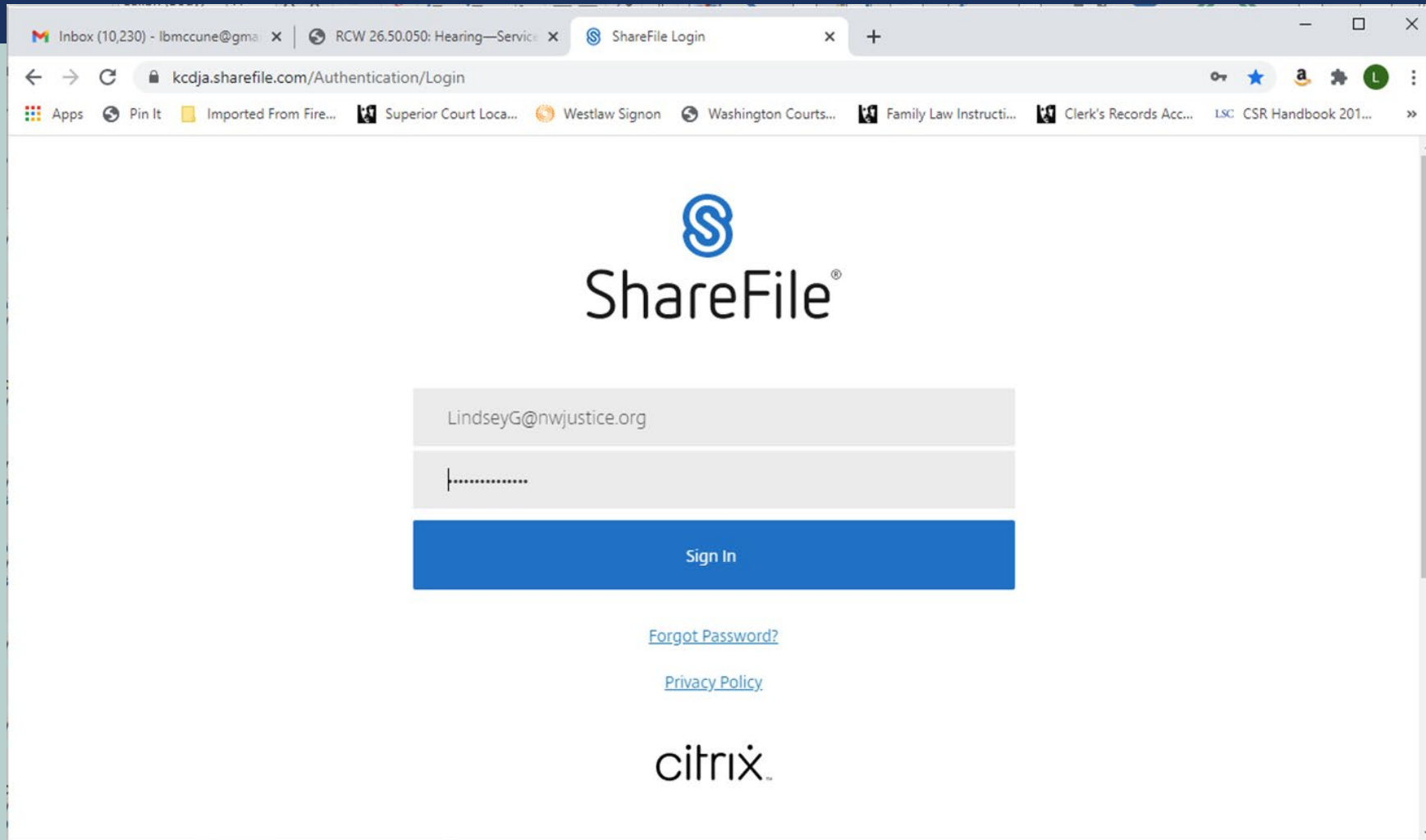
- Audio issues: figure out whether you/your client need headsets
  - if you do, have a back-up plan if your headset dies (wireless headsets have a short battery life)
  - make sure you AND YOUR CLIENT are well acquainted with the **mute button**, how to turn the camera on and off, etc.
- Figure out how much of your office will be visible on screen
  - your background should be neutral and professional
  - avoid virtual backgrounds; they are distracting and take-up bandwidth
- Clean up your desktop background and your web browser!
  - you will be sharing your screen and the court will see whatever you have on your computer
- Practice A LOT
  - Doing a Zoom trial is not the equivalent of being on a Zoom meeting
  - You need to be very familiar with sharing your screen (starting and stopping) and other basic Zoom features

## SHAREFILE BASICS

- Your Zoom pre-trial order will include a deadline for getting your ShareFile folder from the clerk. Send an email to the address listed in the order. Follow-up by live chat if needed.
- The clerk will email you a link to your ShareFile Trial folder
- The first time you use ShareFile, you will need to register (it's fast and easy)
- Unless your trial judge (or pre-trial order) says otherwise, all your trial materials will be submitted via ShareFile
- Make sure you use the correct naming convention for any documents you upload to ShareFile.
  - Exhibit 1-Petitioner Jon Smith-text messages dated 1.1.2019
  - Exhibit 101-Respondent Jane Smith-FCS Parenting Plan Evaluation



# SHAREFILE LOGIN SCREEN



The screenshot shows a web browser window with the following elements:

- Browser Tabs:** "Inbox (10,230) - lhmccune@gma...", "RCW 26.50.050: Hearing—Service...", and "ShareFile Login".
- Address Bar:** "kcdja.sharefile.com/Authentication/Login".
- Page Header:** "ShareFile" logo and text.
- Form Fields:**
  - Username field: "LindseyG@nwjustice.org"
  - Password field: "....."
- Buttons:** A blue "Sign In" button.
- Links:** "[Forgot Password?](#)" and "[Privacy Policy](#)".
- Footer:** "citrix" logo.

Dashboard

Folders

Shared Folders

Favorites

ShareConnect

Folders > King Co. Superior Court Departments > Dept. 6 - Judge Young > [Redacted] (Trial Folder)

19-3-[Redacted] (Trial Folder) More Options



Select All

Sort By Name

Folders > King Co. Superior Court Departments > Dept. 6 - Judge Young > 19-3-[Redacted] (Trial Folder)

19-3-[Redacted] (Trial Folder) More Options

Select All

- Upload
- Create Folder
- Create Note
- Create URL



Exhibit 1-Petitioner [Redacted]

315 KB



Exhibit 2-Petitioner [Redacted]

584 KB



Exhibit 3-Petitioner [Redacted]

794 KB



Exhibit 4-Petitioner [Redacted]

140 KB

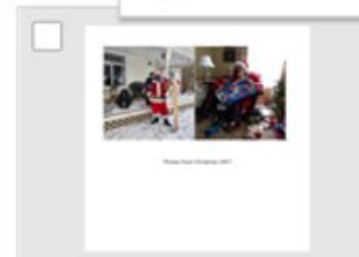
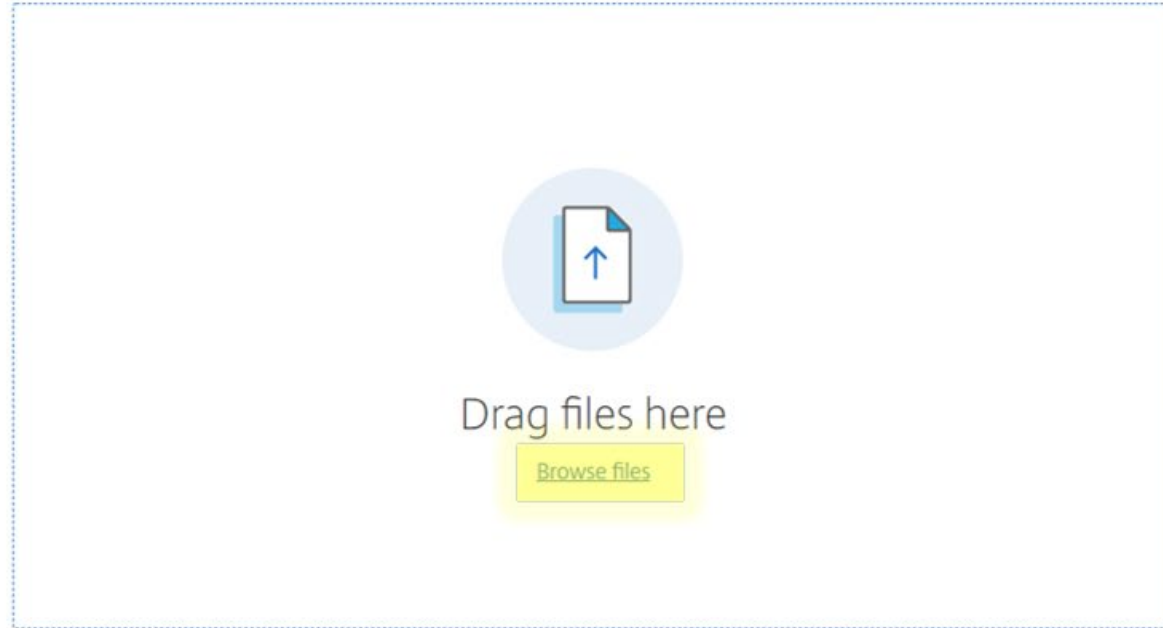


Exhibit 5-Petitioner [Redacted]

297 KB

Upload to "19-3- [REDACTED] (Trial Folder)"



Upload

Cancel

- Have all your exhibits in a designated file on your computer
- Name them using correct format
- Upload them directly from folder to ShareFile
- You can upload in batches

🏠 Dashboard

📁 Folders ▾

👤 Shared Folders

☆ Favorites

🔗 ShareConnect

🔄 Workflows &gt;

✉ Inbox &gt;

⚙ Personal Settings

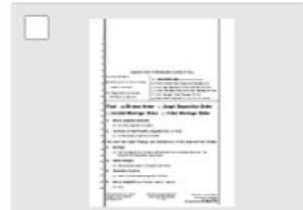
18 MB



Respondent- Witness Li...

174 KB

208 KB



Respondent-final divorc...

157 KB

4 MB



Respondent-Financial D...

1 MB

2 MB



Respondent-Findings an...

178 KB

227 KB



Respondent-Joint State...

397 KB



Respondent-Parenting P...

163 KB



Respondent-proposed ...

49 KB



RESPONDENT's Stateme...

353 KB

Email me when a file is:  Downloaded from this folder  Uploaded to this folder

- Check box to receive notification when a new document is uploaded
- You cannot easily delete once uploaded (need to contact the clerk)

Folders > King Co. Superior Court Departments > Dept. 6 - Judge Young > 19-3- [REDACTED] (Trial Folder)

Exhibit 101-Respondent [REDACTED] FCS Parenting Plan Eval dated April 20 2020.pdf

Details

Exhibit 101-Respondent [REDACTED]  
FCS Parenting Plan Eval dated April 20 2020.pdf [Rename](#)

315.35 KB

Modified: 8/20/20 11:40 AM  
MD5: a5cb8a93b6c03a8dd0f8a4ec13da10d5

[Download](#) [Print](#) [Email With Citrix...](#)

[Get A Link](#) [Delete](#) [Check Out](#)

[Copy](#)

Notes [Add Note](#)

Superior Court of Washington  
County of King

[REDACTED]  
Petitioner(s),

No. 19-3-[REDACTED]

Find in document

Page 1 of 23

125%

Items in "19-3-[REDACTED] (Trial Folder)" ^

- Easy to rename an exhibit if you upload with wrong naming convention
- You can download the opposing party's exhibits

# Navigating ShareFile During Trial

The screenshot displays a web browser window with the following elements:

- Browser Tabs:** "Inbox (10,230) - [redacted]" and "Superior Court Clerk's Office - Se [redacted]".
- Address Bar:** "kcdja.sharefile.com/home/shared/foa6c768-2be3-4c38-8b8e-efb6bcf12390".
- Navigation:** "Folders > King Co. Superior Court Departments > Dept. 6 - Judge Young > 19-3-[redacted] (Trial Folder)".
- File Name:** "Exhibit 17-Petitioner [redacted]-Information from [redacted].pdf".
- Document Content:** A PDF viewer showing a document titled "The American School of Asuncion: 2019-2020 Fact Sheet - United States Department of State". The document includes a header "ASSISTED SCHOOLS" and a main title "The American School Fact Sheet".
- Right Sidebar (Details):**
  - File Name: "Exhibit 17-Petitioner [redacted]-Information from [redacted].pdf"
  - Size: "301.69 KB"
  - Modified: "8/24/20 11:27 AM"
  - MD5: "fde15c378bd8481035e0c159197c1dfe"
  - Actions: "Download", "Print", "Check Out", "Copy".
  - Notes: "Add Note".
- Bottom Bar:** "Find in document" search box, "Page 1 of 6", and "102%" zoom level.
- Footer:** "Items in '19-3-[redacted] (Trial Folder)' ^".



8/22/2020

The American School of Asuncion: 2019-2020 Fact Sheet - United States Department of State

Travelers

← ASSISTED SCHOOLS

\*\*\*

# The American School of [REDACTED] Fact Sheet

OVERSEAS SCHOOLS FACT SHEET

OFFICE OF OVERSEAS SCHOOLS

FEBRUARY 18, 2020

Share <

## \*\*\* SCHOOL CONTACT INFORMATION

[REDACTED]

Find in document

Page 1 of 6

110%

## USING CITRIX PROGRAM (ALLOWS YOU TO ACCESS SHAREFILE WITHOUT USING WEB BROWSER)

- You can download a program from Citrix (which is the company that operates ShareFile)
  - See link and instructions in resources sheet
- This creates a folder on your computer that duplicates everything that is in the web browser version of ShareFile
- It's easier to navigate and control because you can have everything open at once in different tabs and move between exhibits more fluidly; it's also easier to zoom in, highlight, etc.
- This is not advertised through the clerk's office because it is unsupported; so, if you have problems with it, they will not help you



# CERTIFICATION BY ATTORNEYS & EXCHANGING EXHIBITS

- Attorneys must certify in the JSOE:

*The undersigned certifies that the exhibits provided by respondent to the parties, and to any witnesses, are identical to the original set of exhibits provided to the Court. The exhibits provided to the parties and any witnesses do not have any notations, highlighted portions, or other characteristics that differ from the exhibits uploaded to ShareFile.*

- The Zoom order/addendum will tell you whether you have to provide hard copies to the other side
  - Most people seem to be agreeing to exchange everything either through ShareFile or by ShareFile + email

# GETTING YOUR EXHIBITS ADMITTED (THE NEW EXHIBIT DANCE)

- 1) “Your honor, I’d like to pull up what’s been marked as Respondent’s Ex. 101”
- 2) Click the “share screen” button in Zoom→ it should pull up a preview screen with all your open documents and windows and let you choose the one you want to share. Click the correct one (your browser that you should already have opened to ShareFile). Share your screen and then open exhibit 101
- 3) “Ms. Witness, are you able to see my screen?” [Yes.]
  - If you are having problems with this, you may ask the Court to pull up the exhibit for you; particularly with audio or video files, this may be necessary
- 4) Proceed with asking the witness questions to lay the foundation. You can scroll through to show the witness their signature, etc.
  - You can assign control of the exhibit to the witness but don’t do it unless you need to
- 5) Once you have laid the proper foundation, offer the exhibit into evidence
- 6) Move on with questioning, move on to next exhibit but remember to **STOP SHARING YOUR SCREEN** when you are done showing the witness the exhibits

# PROVIDING HARDCOPIES OF EXHIBITS TO WITNESSES

- In certain circumstances, you may want to provide a copy of the exhibit to the witness ahead of time so that they can refer to it more easily while testifying
- First steps are the same as previous slide. After you lay the foundation:
  - “Do you have a hard copy of this exhibit with you?” [Yes]
  - “Ms.Witness, is the document you have identical to the document that you see on my screen?” [Yes]. [Ask additional questions to have witness describe their document: what first page looks like, how many pages, signature, what page signature is on, etc.]
  - “Your honor, I ask that Ms.Witness be allowed to refer to her copy of exhibit 101 during her testimony. As I certified in the JSOE, the copy of this exhibit I provided to Ms.Witness is identical to what I uploaded into ShareFile.”
  - Judge will likely say ok, may ask if opposing party objects
  - **DON'T FORGET TO STOP SHARING YOUR SCREEN**
  - Proceed with questioning the witness

# WHAT ABOUT EXHIBITS FOR IMPEACHMENT?

- You may have exhibits that you don't want to upload to ShareFile ahead of time because they are for impeachment; or you may have exhibits that were obtained late or not uploaded to ShareFile for whatever reason. Here is how to get those exhibits in:
  - 1) Have exhibits in a separate file on your desktop (if you can, name each file with correct naming convention ahead of time)
  - 2) “Your honor, I have an exhibit that I would like to question this witness about that wasn't uploaded to ShareFile because it is for impeachment purposes. This is Ms. Witness' declaration dated 1/1/2019 and I'd like this marked for identification as Respondent's Exhibit #125 (you may need to ask the Clerk for the next available Ex. #). I'd like to pull it up on my desktop and share my screen to show it to the court and to counsel.”
  - 3) Unless Court instructs otherwise, share your screen so everyone can what you are referring to. From here, the Court will instruct you on how to proceed. Most likely, you will be allowed to question the witness and offer it into evidence as usual. The Judge may instruct you to upload it to ShareFile on the spot or they may instruct you to upload it by the end of the day.
  - 4) Judge may admit the exhibit subject to you uploading it to ShareFile; **DON'T FORGET!**

# WORKING WITH WITNESSES

- Convenience for witnesses is one advantage to doing a Zoom trial
- Is there a special Subpoena for a Zoom trial?
  - No. I used the normal Subpoena for trial and modified it as little as possible:

16            YOU ARE HEREBY COMMANDED TO APPEAR:  
17            On:    DATE|                            Time: 9:00 a.m.  
18            At:    **Virtual appearance<sup>1</sup> (remotely via zoom video and audio)**  
19                            Courtroom W-#– Judge [NAME]  
20                            King County Superior Court  
21                            516 Third Ave, W.  
22                            Seattle, WA 98104  
23                            [Courtroom phone #]  
24                            Email: [judge\[name\]@Kingcounty.gov](mailto:judge[name]@Kingcounty.gov)

<sup>1</sup> The undersigned attorney will ensure that the recipient is provided with the zoom link prior to the scheduled time.

# INSTRUCTIONS FOR WITNESSES

- This is the information I gave to my witnesses:
  - please make sure Zoom is installed on the computer you will be using
  - please make sure you are in a distraction free setting during your testimony
  - the Court is expecting witnesses to use video and audio
  - I will send you the Zoom link ahead of time and will let you know when to login; if you login and we are not quite ready for you, you will be in a virtual waiting room until the Court admits you
  - per the Court's general order on Zoom trials, recording any part of the trial without the court's permission is not allowed
  - the chat feature in Zoom will be disabled by the Court; if you have any trouble hearing or seeing the proceedings, please raise your hand and put your hand in front of your camera. This will alert me and the Court that there is a problem.
  - if you get disconnected and cannot rejoin by Zoom, please call in by telephone to the number that will be listed as part of the Zoom invitation
  - **the Court may have additional instructions for you; if those instructions differ from the instructions here, please follow the Court's instructions**

# INSTRUCTIONS FOR WITNESSES (CONT'D)

- **In case of emergency:** any trial participant (lawyer, witness, party) can call in to the Zoom meeting from a telephone. The court added this option to their Zoom account. The phone number will be included with the Zoom link.
  - **Make sure to provide this phone number to your client and witnesses ahead of time!** If they have a Zoom technical problem, they can always move to an old fashioned phone call.
- **How judges are instructing witnesses:**
  - Swear them in
  - Ask what city and state they are in; if they are out of state, ask if anyone objects to them being sworn in under WA law
  - Instruct the witness to immediately let the court know if they are having tech problems (difficulty hearing, can't see the exhibits, etc.); they may instruct the witness to put hand over the camera if there is a tech problem
  - Instruct witness that they cannot refer to anything other than the exhibits shown to them. If there is a situation where they want to refer to something, they need to ask and the court will instruct them from there.

# WITNESS MANAGEMENT TIPS

- Your Zoom trial order will require you to verify that your witnesses have the necessary technology to testify. This will take additional time; plan accordingly.
- Witnesses should use computers (not tablets or phones) if possible
  - If there is not other option, you will need to make it work
  - Consider providing hard copies of exhibits
  - If witness has poor connectivity, you may ask for permission to have audio only
- For professionals, work with opposing counsel (if possible) to schedule them at a set time otherwise, address this with the Court at the outset of trial and ask permission to call them out-of-order if necessary
- Witnesses can have notes, a calendar, etc. with them but may not refer to them without getting the court's permission
  - The Judges have all been trained to instruct witnesses on this immediately after swearing them in, so you should not have to worry about bringing it up
  - The Court does not seem to be requiring the formalities of refreshing recollection (unless there is an objection, presumably)



## OTHER RANDOM PRACTICE TIPS

- **If Domestic Violence is an issue at trial, consider asking your client about her height/approx. weight and the size differential between the parties**
- **When questioning your witnesses, you probably don't need to mute yourself in between questions but you should test this when practicing**
- **Watch the clock carefully and be ready promptly with your turned camera on**
  - Being on the Zoom call with your camera off is the equivalent of being in the hallway outside the courtroom while your briefcase/notepad are at counsels' table: the Court knows you are somewhere nearby, but you are not in front of them
- **Consider printing out your notes (for opening, closing, and witness questions)**
  - When you are reading notes from your screen, on camera, you appear distracted and you don't make "eye contact" with the camera
  - Referring to hardcopy notes looks more natural

# FAQ & INFREQUENTLY AQ

- **Do you have to stand at the beginning and end of each Zoom session? What about when addressing the Court?**
  - Most Judges are not expecting parties/attorneys to stand as if you were physically in the courtroom
  - If the bailiff doesn't say "all rise," you can take that as a cue that it is fine to remain seated
  - If the bailiff does say "all rise," I recommend you do it, but then ask the Judge at the outset if they want you to stand while addressing the Court during the Zoom trial
- **How should I interrupt a witness if I want to object?**
  - Note: for remote hearings on FL motions, generally, you are not supposed to interrupt the other side even to object; wait until it's your time then make your objection for the record
  - In trial, you can object as you normally would but you may not be heard clearly. You should also move your hand in front of your camera to get the court's attention
  - **You may want to ask the judge for further instruction at the outset of trial**

# FAQ & INFREQUENTLY AQ (CONT'D)

- **What does a Zoom trial look like from the Court's perspective?**
  - Most Judges have two large monitors on the bench; one would have the Zoom screen and the other may have ShareFile plus whatever the judge is using to take notes
  - The bailiff and the clerk may or may not be in the courtroom with the Judge; they may be working remotely. They will be on the Zoom call but will not have their cameras on
  - Most judges are not asking for hardcopy trial notebooks and are just going based on what is in ShareFile
- **Will the Court do a practice session via Zoom?**
  - Some judges may do this but not all; some judges are having everyone dial-in to the Zoom trial 10-15 minutes early to make sure there are no tech issues
  - Some judges are doing pre-trials and other motions via Zoom
  - In general, the expectation is that you will find other ways to practice!

## FAQ & INFREQUENTLY AQ (CONT'D)

- **Can I speak privately (securely) with my client during a Zoom trial?**
  - Yes; you can ask the Court and the judge can put you and your client in a breakout room
  - The breakout rooms are not recorded and only the Court can control who is allowed in
  - No one (even the Court) can spy on you in the breakout room; you can see who is in there with you. The Court could enter (though they wouldn't) but you would see them enter the breakout room.
  
- **Can I wear sweatpants?**
  - Remember the mantra: **you are still in court!**
  - That said...probably, yes.

# PARTING THOUGHTS: WHAT THE COURT WANTS YOU TO KNOW

- **There is a massive backlog of cases that need to go to trial**
- **Now more than ever, the court needs and expects members of the bar to be:**
  - **Efficient** in presenting our cases and extra mindful of the Court's time
  - **Reasonable** and cooperative
    - ADR should be attempted whenever possible
    - Even in cases where trial is necessary, attorneys should not be arguing over things that are irrelevant or trivial
  - Diligent and **prepared** → this is all new; it's hard for everyone, but we all have to learn and adapt.
- **The Court knows this is difficult and Judges are being patient and understanding when things don't go as planned (note: this does not mean they are being patient when attorneys are inefficient, unreasonable, and ill-prepared!).**

# ACKNOWLEDGMENTS

**MANY THANKS to:**

- **King County Superior Court**
- **ELAP**
- **Coalition Ending Gender –Based Violence-Family Law Workgroup**
- **Olivia Ortiz (UW Law class of 2021; former Rule 9 intern extraordinaire)**

**QUESTIONS???????**