

Local Rule for Remote Traffic and Infraction Appearances (2.150) (Ver. 2.2)

1. Authorization for Remote Appearances. This local rule has been adopted in response to the COVID-19 pandemic and authorized by the emergency orders promulgated by state and local officials, Rule 4.220, California Rules of Court, and Emergency Rule 3, California Rules of Court (Enacted April 6, 2020). In order to protect the health and safety of the public, including defendants, court users, witnesses, court personnel, judicial officers, and others, remote proceedings may be initiated by any department handling traffic or other infraction matters in the discretion of the judicial officer and as resources permit.

Remote proceedings may be utilized in either a physical courtroom or a remote courtroom, and includes, but is not limited to, the use of video, audio, and telephonic means for remote appearances; the electronic exchange and authentication of documentary evidence; e-filing and e-service; the use of remote interpreting; and the use of remote reporting and electronic recording to make the official record of an action or proceeding.

2. Definitions. For the purpose of this rule:

(A) "Infraction" means any alleged infraction including, but not limited to, a violation of the Vehicle Code or any local ordinance adopted under the Vehicle Code; state, local or municipal ordinance; or Fish and Game violation, except that the procedures for remote video trials authorized by this rule do not apply to any case in which an informal juvenile and traffic court exercises jurisdiction over a violation under sections 255 and 256 of the Welfare and Institutions Code.

(B) "Remote video proceeding" means an arraignment, trial, or related proceeding conducted by two-way electronic audiovisual communication between the defendant, any witnesses, and the court in lieu of the physical presence of both the defendant and any witnesses in the courtroom.

(C) "Due date" means the last date on which the defendant's appearance is timely under this rule.

3. Court Compliance. Any Solano County Superior Court that conducts remote video proceedings under this rule must comply with the following procedures and use the required forms in this section. In addition to following the standard provisions for processing traffic or other infraction cases, the defendant may request to proceed by remote video proceeding as provided below. The defendant's participation in remote video proceedings is strictly voluntary and shall not be undertaken absent the consent of the defendant.

4. Procedure for Arraignment. The following procedures apply to a remote video proceeding when the court grants a defendant's request to have an arraignment that is set for a date that is separate from the trial date:

(A) The defendant shall review a copy of the Instructions to Defendant for Remote Video Proceeding and agree to the terms (Solano Local Instructions STR-500-INFO.)

(B) To proceed by remote video arraignment, the defendant must sign and file a Notice and Waiver of Rights and Request for Remote Video Proceeding (Solano Local Form STR-510)

with the clerk by the appearance date indicated on the Notice to Appear or a continuation of that date granted by the court. The form may be filed electronically or via paper copy.

(C) Within ten (10) days of receipt of the Notice and Waiver of Rights and Request for Remote Video Arraignment, and approval by the court, the clerk of the court shall schedule a remote video arraignment. The clerk will thereafter notice the defendant of the remote proceeding as indicated below.

(D) To proceed by remote video arraignment, the defendant shall be required to provide a valid e-mail address which will be used by the clerk of the court to provide the approval and notice of the date and time of the remote video proceedings. The clerk shall provide an invitation to the meeting via e-mail, as well as the electronic link to the meeting. The defendant will be required to provide the necessary electronic audiovisual or other communication device for their use during the remote proceedings.

(E) If the citation or other charging document alleges one or more correctable offenses the defendant at arraignment may present proof of correction via video transmission, unless the court requires proof of correction to be submitted in either electronic or paper format.

(F) On the date and time of the remote video arraignment, the court will initiate the remote proceeding. The defendant will join the meeting as set forth in the instructions form. The defendant's acceptance of the invitation to attend the remote proceeding will be deemed an acknowledgement they have received, reviewed, and expressly consented to the terms of the remote proceeding.

5. Procedure for Arraignment and Trial. The following procedures apply to a remote video proceeding when the court grants a defendant's request to have an arraignment and trial on the same date:

(A) The defendant shall review a copy of the Instructions to Defendant for Remote Video Proceeding and agree to the terms (Solano Local Instructions STR-500-INFO.)

(B) To proceed by remote video arraignment and trial, the defendant must sign and file a Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial (Solano Local Form STR-505) with the clerk by the appearance date indicated on the Notice to Appear or a continuation of that date granted by the court. The form may be filed electronically or via paper copy.

(C) Within ten (10) days of receipt of the Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial, and approval by the court, the clerk of the court shall enter a not guilty plea on behalf of the defendant and thereafter schedule a remote video trial. The clerk will thereafter notice the defendant of the remote proceeding as indicated below.

(D) To proceed by remote video arraignment and trial, the defendant shall be required to provide a valid e-mail address which will be used by the clerk of the court to provide the initial approval and the notice of the date and time of the remote video proceedings. The e-mail address provided shall also be used for the clerk to send an electronic notice for access to the

court's secure portal for uploading of exhibits or other documents as set forth in the Instructions to Defendant for Remote Video Proceeding (Solano Local Instructions STR-500-INFO.)

(E) At the time of the notice of the remote proceeding, the clerk shall also provide an electronic link for access to the court's secure exhibit portal. The defendant will be required to provide the necessary electronic audiovisual or other communication device for their use during the remote proceedings.

(F) If the defendant elects to present exhibits or other documents for court consideration, he or she may do so either in hard copy format or via the court's secure exhibit portal no later than five (5) days prior to the remote proceeding. Written documents submitted via the portal shall be submitted in Adobe Portable Document Format (PDF). Video exhibits submitted via portal shall be submitted in one or more of the following formats: AVI, FLV, WMV, MP4 and MOV. Photographic exhibits submitted via portal shall be in one or more of the following formats: JPEG, PNG, or TIFF. Total file size for all submitted exhibits shall not exceed 50 MB.

(G) On the date and time of the remote trial the court will initiate the remote proceeding. The defendant will join the meeting as set forth in the instructions form. The defendant's acceptance of the invitation to attend the remote proceeding will be deemed an acknowledgement they have received, reviewed, and expressly consented to the terms of the remote proceeding.

(H) This rule does not prevent or preclude the court from imposing on a defendant who is found guilty any lawful fine, assessment, or other penalty, and the court is not limited to imposing money penalties in the bail amount, unless the bail amount is the maximum and the only lawful penalty. A defendant who is dissatisfied with the judgment in a remote video trial may appeal the judgment under rules 8.901-8.902.

6. Procedure for Trial. The following procedures apply to a remote video proceeding when the court grants a defendant's request at arraignment to have a trial set for a date that is separate from the date of the arraignment:

(A) The defendant shall review a copy of the Instructions to Defendant for Remote Video Proceeding and agree to its terms (Solano Local Instructions STR-500-INFO.)

(B) To proceed by remote video trial, the defendant must sign and file a Notice and Waiver of Rights and Request for Remote Video Proceeding (Solano Local Form STR-510) with the clerk by the appearance date indicated on the Notice to Appear or a continuation of that date granted by the court. The form may be filed electronically or via paper copy.

(C) Within ten (10) days of receipt of the Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial, and approval by the court, the clerk of the court shall thereafter schedule a remote video trial.

(D) To proceed by remote video arraignment and trial, the defendant shall be required to provide a valid e-mail address which will be used by the clerk of the court to provide the initial approval and the notice of the date and time of the remote video proceedings. The e-mail

address provided shall also be used for the clerk to send an electronic notice for access to the court's secure portal for uploading of exhibits or other documents as set forth in the Instructions to Defendant for Remote Video Proceeding (Solano Local Instructions STR-500-INFO.)

(E) At the time of the notice of the remote proceeding, the clerk shall also provide an electronic link for access to the court's secure exhibit portal. The defendant will be required to provide the necessary electronic audiovisual or other communication device for their use during the remote proceedings.

(F) If the defendant elects to present exhibits or other documents for court consideration, he or she may do so either in hard copy format or via the court's secure exhibit portal no later than five (5) days prior to the remote proceeding. Written documents submitted via the portal shall be submitted in Adobe Portable Document Format (PDF). Video exhibits submitted via portal shall be submitted in one or more of the following formats: AVI, FLV, WMV, MP4 and MOV. Photographic exhibits submitted via portal shall be in one or more of the following formats: JPEG, PNG, or TIFF. Total file size for all submitted exhibits shall not exceed 50 MB.

(G) On the date and time of the remote trial the court will initiate the remote proceeding. The defendant will join the meeting as set forth in the instructions form. The defendant's acceptance of the invitation to attend the remote proceeding will be deemed an acknowledgement they have received, reviewed, and expressly consented to the terms of the remote proceeding.

(H) This rule does not prevent or preclude the court from imposing on a defendant who is found guilty any lawful fine, assessment, or other penalty, and the court is not limited to imposing money penalties in the bail amount, unless the bail amount is the maximum and the only lawful penalty. A defendant who is dissatisfied with the judgment in a remote video trial may appeal the judgment under rules 8.901-8.902.

7. Witnesses. On receipt of the defendant's waiver of rights and request to appear for trial as specified above, law enforcement officers and other witnesses will testify remotely and be cross-examined by the defendant remotely. The defendant may offer the testimony of witnesses remotely. Upon good cause shown the court may allow witnesses from either side to appear live in court. Any such decision to allow live witnesses will be made on a case-by-case basis within the sound discretion of the court. The clerk or court will administer the oath to any witness.

8. Exhibits. Either side may offer exhibits as if the proceedings were held in open court. It shall be the responsibility of the party offering the exhibit to provide them to the clerk of the court no later than five (5) days prior to the hearing date. Either side may lodge exhibits with the court via the secure exhibit portal or in hard copy format. The court will retain discretion to admit late filed exhibits on good cause shown. If supplied electronically the exhibits shall follow the secure exhibit portal format and procedure as indicated above.

The Solano County Superior Court is mindful of the provisions of Penal Code section 1417, et seq., and the need to retain original exhibits as received from the litigants. Therefore, exhibits received in hard copy format will be retained pending final resolution of the case, and the return and/or

destruction will be pursuant to Penal Code section 1417, et seq. The exhibits transmitted electronically are copies provided to the court and therefore will not be retained following disposition of the case. All electronic exhibits are to be destroyed upon final conclusion of the case, including any and all appellate proceedings.

9. Physical Presence. Nothing in this rule is intended to limit the authority of the court to issue an order requiring the defendant or any witnesses to be physically present in the courtroom in any proceeding or portion of a proceeding if the court finds that circumstances require the physical presence of the defendant or witness in the courtroom.

10. Extending due date for remote video trial. If the clerk receives the defendant's timely request for a remote video arraignment and trial or remote video trial, and the request is granted, the clerk must, within 10 court days after receiving the defendant's request, extend the appearance date by no less than 25 calendar days and must provide notice to the defendant of the extended due date. Said notice to the defendant may be made by e-mail as provided for above.

11. Notice to Arresting Officer. If a court grants the defendant's request for a remote video proceeding after receipt of the defendant's Notice and Waiver of Rights and Request for Remote Video Arraignment and Trial form or Notice and Waiver of Rights and Request for Remote Video Proceeding form, the clerk must within ten (10) days of receipt deliver electronically a notice of the remote video proceedings to the arresting or citing law enforcement officer, specifying the date and time for the remote video proceedings. The clerk shall also provide an electronic link for access to the court's secure exhibit portal. The officer and/or law enforcement agency will be required to provide the necessary electronic audiovisual or other communication device for their use during the remote proceedings.

12. Defendant's Compliance. If the defendant fails to comply with this rule, signing and filing all required forms, and complying with all time limits and due dates, the court may deny a request for a remote video proceeding and may proceed as otherwise provided by statute. Defendants will be required to join the remote proceeding promptly and are expected to conduct themselves in the same manner as if the proceeding were conducted in a public courtroom. Participants shall make all reasonable efforts to reduce or eliminate background noises and distractions. The court retains its discretion to mute a participant and/or terminate a remote video proceeding should there be a violation of these rules or other lawful orders of the court.

13. Ineligible Defendant. If the defendant requests a remote video proceeding and the court determines that the defendant is ineligible, the clerk must extend the due date by no less than 25 calendar days and notify the defendant of the determination and the new due date.

14. Due dates and time limits. Due dates and time limits must be as stated in this rule, unless extended by the court. The court may extend any date, and the court need not state the reasons for granting or denying an extension on the record or in the minutes.

15. Public Proceeding. Unless otherwise ordered, remote video proceedings under this rule are public proceedings. Members of the public, press/media, professional journalists or other interested persons may request inclusion in a remote video proceeding. Request to participate should be made at least one (1) day in advance to permit sufficient time to administer the request. Requests to join a remote video proceeding should be submitted by following the directions on the court's website at

www.solano.courts.ca.gov. The public may access the traffic or infraction calendar on the court's website by utilizing the calendar link on the home screen.

16. **Recordings Prohibited.** Remote video proceedings will be recorded electronically by the court and thus shall be the official record of the proceedings. Consistent with Rule 1.150, California Rules of Court, no participant in a remote video proceeding may record, video, tape or photograph any portion of the proceeding absent prior order of the court on good cause shown. Failure to adhere to this rule may subject to the individual to sanctions for contempt of court or other penalties as authorized by law.

17. **Sunset of Rule.** This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Solano County Superior Court.