

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Argument Protocols
(October 28, 2021)

Beginning with the January 2022, sittings, the United States Court of Appeals for the Ninth Circuit will resume in-person arguments. This document sets forth protocols that will govern appearances for these and future sittings pending further order of the Court. These protocols reflect the Court's concern for the health and safety of the Court, its staff, the bar, and the public. While the Court desires to return to in-person arguments, the Court understands that there will need to be a transition period. Because of the evolving public-health guidance concerning the COVID-19 pandemic, the Court may modify these protocols as needed. For purposes of these protocols, all references below to arguing counsel include any self-represented party appearing for oral argument in their own case.

A. In-Person Appearances:

- Pursuant to the Court's [Administrative Order Regarding Vaccines](#), only fully vaccinated arguing counsel and no more than two other fully vaccinated attendees whose presence is necessary to assist or supervise arguing counsel (e.g., a client, lawyer sitting second chair, or paralegal) are permitted to access the courtrooms.
- Arguing counsel planning to appear in person must certify in advance of argument that they and their attendees are fully vaccinated and will comply with these protocols and guidelines. See [COVID Vaccination Status Form](#).
- Counsel and attendees should be masked as they enter the building, proceed through screening, in all public areas, and on to their designated courtroom.
- N95, KN95, or surgical masks are strongly preferred; no bandanas or neck gaiters will be allowed. Masks must always cover the mouth and the nose.
- Counsel and attendees may access only the main lobbies, attorney lounges, public elevators, their designated courtroom, and restrooms immediately outside their designated courtroom.
- No one shall enter a Ninth Circuit Courthouse if they:
 - Have tested positive for COVID-19 within the previous 14 days,
 - Are currently awaiting the results of a COVID-19 test,
 - Have been directed to self-quarantine by any physician, hospital, or health agency,
 - Have had symptoms consistent with COVID-19 within the previous 14 days (e.g., temperature above 100.4, chills, shortness of breath,

- unusual fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion, nausea or vomiting, or diarrhea),
- Have traveled internationally within the previous 14 days, or
 - Within the previous 14 days, have had known close contact with a person who has been diagnosed with COVID-19.

B. Notice of Intent to Appear Remotely

- *All attorneys who are not yet fully vaccinated or who decline to share their vaccination status will be required to present their arguments remotely.*
- In addition, because the Court recognizes that there will be a period of transition back to in-person arguments and that an attorney's particular circumstances may make a remote appearance more practical, no motion to appear remotely will be required pending further order of the Court, regardless of vaccination status.
- Instead, counsel shall indicate in their *Acknowledgment of Hearing Notice* a preference for remote video argument. Until further notice, these requests will be honored.
- All counsel appearing remotely are encouraged to test their connections in advance of argument and will be contacted by court staff with further instructions.
- The Court widely disfavors telephonic appearances. They will not be allowed absent direct permission from the panel or as directed by court staff in the event of technological difficulties.

C. General Considerations

- The fact that one or more counsel may elect to appear remotely will not result in all counsel having to do the same; each counsel will be allowed to appear in-person or by video as they choose.
- Any counsel who initially indicated a preference for in-person argument but who becomes unable to do so for any reason shall notify the Court as soon as possible to arrange for remote participation.

D. Notification of Potential Exposure

- Counsel shall notify the Clerk's Office if counsel or any of counsel's attendees exhibit symptoms or test positive for COVID-19 within five days after an in-person argument.