

IN THE SUPERIOR COURT
IN THE COUNTY OF YUMA, IN AND FOR THE STATE OF ARIZONA

FILED

2022 DEC -1 PM 3: 11

LYNN FAZZ
CLERK OF SUPERIOR COURT
YUMA ARIZONA 85364

In the Matter of:

ADOPTION AND IMPLEMENTATION
OF PRESUMPTIVE STANDARDS FOR
REMOTE AND IN-PERSON HEARINGS
FOR THE JUSTICE OF THE PEACE
COURTS IN YUMA COUNTY

Administrative Order
No. 2022 - 20

In June 2021, the Arizona Supreme Court's COVID-19 Continuity of Court Operations During a Public Health Emergency Workgroup (Plan B Workgroup) recommended best practices that should be retained or adapted post-pandemic, which included a recommendation that courts continue to use and expand technology to conduct remote court proceedings. In January 2022 the workgroup reconvened and issued a report, *Recommended Remote and In-Person Hearings in Arizona State Courts in the Post-Pandemic World* ("Report") which includes as Appendix 1 recommendations regarding which hearing types should be held remotely and which should be held in person ("Presumptive Standards").

On August 3, 2022, the Supreme Court issued Administrative Order No. 2022-88 adopting the Presumptive Standards as set forth in Appendix 1 of the Report and requiring the presiding judge of the superior court in each county to issue an administrative order adopting standards for the justice of the peace court in their county regarding which hearing types will be held remotely and which hearing types will be held in person. Administrative Order No. 2022-88 allows the presiding judge of the superior court to adapt the Presumptive Standards as necessary due to limitations in local court resources, bandwidth, technology hardware, software, and staffing or, for good cause, to meet unique needs in their respective counties.

Therefore, having consulted with the presiding justice of the peace in Yuma County, pursuant to Supreme Court Administrative Order No. 2022-88, and having been notified that the Chief Justice approves issuance of this order,

IT IS ORDERED adopting the Chart attached hereto as the presumptive manner for holding hearings set on or after December 1, 2022 in the justice of the peace courts in Yuma County.

IT IS FURTHER ORDERED adapting the Presumptive Standards adopted by the Supreme Court as follows:

IT IS FURTHER ORDERED concerning Protective Orders:

- a. Orders of Protection Ex Parte Hearings are presumed to be conducted remotely. However, any plaintiff who appears at a courthouse should be seen in person.
- b. Any hearings or any request either to modify or to dismiss either an Order of Protection or an Injunction Against Harassment are presumed to be conducted in person.

IT IS FURTHER ORDERED that all residential eviction actions shall be conducted in accordance with Rules of Procedure for Eviction Actions 11(a). Initial Appearance, Bench Trial, Writ of Restitution and Post-Judgment are presumed to be done remotely. At the initial appearance, should the contested matter be continued for bench trial, and should the substance of the trial be evidentiary in nature the trial will presumptively be held in person

IT IS FURTHER ORDERED that all small claims hearings are presumed to be done in person. Due to the evidentiary nature of these proceeding and not having the technology in place to conduct such hearings.

IT IS FURTHER ORDERED concerning civil lawsuits:

- a. Pre-trial conferences, oral arguments on motions, and bench trials are presumed to be conducted remotely.
- b. Mediations and settlement conferences are presumed to be conducted remotely. Civil jury selection, and civil jury trials are presumed to be conducted in person.

IT IS FURTHER ORDERED concerning criminal cases:

- a. Initial appearances and arraignments are presumed to be conducted in person.
- b. Pretrial conferences, oral arguments on motions, settlement conferences, and evidentiary hearings with no witnesses are presumed to be conducted remotely. However, any defendant who appears at a courthouse should be seen in person when practical.
- c. Change of plea proceedings and sentencing are presumed to be conducted remotely; but may be required to be in person when the facts or circumstances of a case warrant the defendant's personal appearance. Evidentiary hearings with witnesses are presumed to be conducted in person.
- d. Bench trials, jury trials, Probation Violation Hearings and Dispositions, and other witness hearings are presumed to be conducted in person.
- e. Bond Forfeitures are presumed to be conducted remotely.

IT IS FURTHER ORDERED that a justice of the peace has the authority either to encourage or to require parties in any case to appear in person for any proceeding that will require the substantial presentation of documentary evidence, other types of physical evidence, or evidence that is impractical to present remotely.

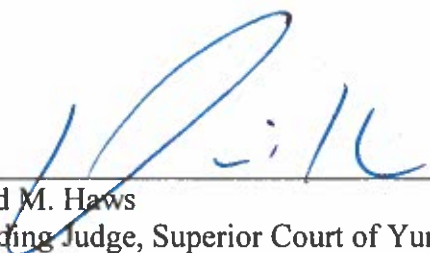
- When a Remote Hearing is the Presumptive Standard or otherwise authorized, a person may appear in-person in the courtroom or by remote means.
- Authorization for a Remote Hearing by video conference is subject to the following conditions and a party waives their appearance if the following conditions are not met:
 1. Parties must use the video conference system that is selected by the Court; and,
 2. Parties must test and confirm, before the court hearing, that they have the required equipment, in good working order, properly configured, and actually provide a clear audio and video feed, free from background noise during the hearing.
- The Court reserves discretion to handle cases where persons are appearing in-person before cases where persons are appearing by video conference.

IT IS FURTHER ORDERED that hearings in the justice of the peace courts in Yuma County must be offered in the presumptive manner, but a judge assigned to a case may make a hearing-specific deviation from the presumptive manner in which a hearing must be held if holding the hearing in the presumptive manner is not practical or otherwise not in the interest of justice. The court must provide notice to the parties when such an alternative is utilized.

IT IS FURTHER ORDERED that for any hearing scheduled to be conducted remotely, the individual charged with an offense may elect to attend the hearing in person.

IT IS FINALLY ORDERED that, notwithstanding the presumptive manner for holding hearings and the adaptations to the presumptive manner outlined in this Order, any hearing type, with the exception of criminal trials, may be conducted remotely upon the request of a party, good cause appearing, and consistent with the requirements of applicable rules.

Dated this 1st day of December, 2022.



David M. Haws
Presiding Judge, Superior Court of Yuma County

Original filed with:

Hon. Lynn Fazz, Clerk of the Superior Court

Copies to:

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Ian McGaughey, County Administrator
Hon. Jon R. Smith, Yuma County Attorney
Sheriff Leon N. Wilmot, Yuma County Sheriff's Office
Capt. Kelly Milner, Yuma County Sheriff's Office
Raymond Hanna, Yuma County Public Defender
William Fox, Yuma County Legal Defender
Yuma County Bar Association

Appendix 1-Justice Courts
Recommended Remote and In-Person Hearings in the Post-Pandemic World
by Case Type and Hearing Types

Case Type	Hearing Type	Remote	In-Person
<i>Proceedings Under Arizona Rules of Protective Order Procedure</i>			
	Ex Parte Hearing	X	
	Contested Protective Order [Evidentiary] Hearing		X
	Other	X	
<i>Proceedings Under the Arizona Rules of Procedure for Eviction Actions</i>			
	Initial Appearance	X ²	
	Jury Selection		X
	Jury Trial		X
	Bench Trial	X	
	Writ of Restitution	X	
	Post-Judgment	X	
<i>Proceedings Under the Arizona Rules of Small Claims Procedure</i>			
	Hearing		X
	Alternative Dispute Resolution		X
<i>Proceedings Under the Arizona Justice Court Rules of Civil Procedure</i>			
	Pre-trial/Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Mediation Conference	X	
	Settlement Conference	X	
	Jury Selection		X
	Jury Trial		X
	Bench Trial	X	
	Other	X	

² By statute:

Notwithstanding any other law, in a special detainer or forcible detainer proceeding before the court, any party, including an attorney or witness upon written notice to the court, shall be permitted to participate at the initial appearance remotely by using a telephone or video conference connection. If the court continues a contested matter to a later date, at the discretion of the court, the court may require all parties, attorneys and witnesses to participate in person.

Appendix 1-Justice Courts
Recommended Remote and In-Person Hearings in the Post-Pandemic World
by Case Type and Hearing Types

Case Type	Hearing Type	Remote	In-Person
Limited Jurisdiction Proceedings Involving Criminal Misdemeanor Charges; under the Rules of Court Procedure for Civil Traffic, Boating, Marijuana and Parking and Standing Violations (CTBMPSV) and Juvenile Hearing Officer Proceedings			
<i>Criminal Misdemeanor</i>			
	Appearance/Arrestment/Initial		X
	Pre-trial Motion – Non-witness	X	
	Pre-trial/Motion – Witness		X
	Change of Plea/Sentencing	X	
	Pre-trial Conference	X	
	Order to Show Cause		X
	Case Management Conference/Trial Preparedness Conference	X	
	Settlement Conference	X	
	Jury Trial		X
	Bench Trial		X
	Probation Violation Arrestment		X
	Probation Violation Hearing		X
	Probation Violation Disposition		X
	Other – Non-witness	X	
	Other – Witness		X
	Bond Forfeiture	X	
<i>CTBMPSV</i>			
	Arrestment		X
	Trial/Contested Hearing		X
	Photo Enforcement Hearing		X
	Other (including ID Hearings, Local Ordinance, Parking)	X	
<i>Juvenile Hearing Officer Proceedings</i>			