

# UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

## REVISED PROTOCOLS FOR IN-PERSON ARGUMENTS

(September 9, 2022)

Starting with the October 2022 court sitting, the United States Court of Appeals for the Federal Circuit will reopen to the public. In-person argument, which resumed last year, will continue in accordance with the terms of these Protocols until further notice. See [Administrative Order 2022-05 \(Sept 9, 2022\)](#). These Protocols reflect the court's strong preference for in-person argument, based on the court's experience of its distinctive value, and the court's concern for the health and safety of the court and its staff, the bar, and the public. Because of the evolving public-health guidance concerning the COVID-19 pandemic, the court may modify these Protocols as needed. The current version and any updates will be posted online at <https://cafc.uscourts.gov/home/the-court/notices-announcements/covid-19-information-page/>.

### In General

- All persons must wear an N-95, KN-95, or KF-94 mask while on the premises of the National Courts Building.
- No person may enter the National Courts Building if they:
  - Tested positive for COVID-19 within the previous 14 days,
  - Are currently awaiting the results of a COVID-19 test,
  - Have been directed to either isolate or self-quarantine by any physician, hospital, or health agency,
  - Have had symptoms consistent with COVID-19 within the previous 14 days, such as a temperature in excess of 100.4 degrees Fahrenheit, chills, cough, shortness of breath or difficulty breathing, unusual fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion, nausea or vomiting, or diarrhea, or
  - Have traveled internationally within the previous 7 days.

### **Motions for Leave to Appear Remotely**

- All oral arguments will be scheduled by the court to be in person. However, the court recognizes that some remote appearances may be warranted because of COVID-19-related medical risk to certain arguing counsel or members of arguing counsel's household.
- Within 14 days of the notice of calendaring, arguing counsel may file a motion for leave to present oral argument remotely. Arguing counsel must show good cause related to a COVID-19 associated medical risk to arguing counsel or a member of arguing counsel's household to appear remotely. The motion shall include a declaration under penalty of perjury addressing the two issues central to a good cause showing. Specifically, the declaration must (1) identify with specificity the medical risks underlying the request and (2) state the precautionary steps that arguing counsel has been taking to avoid potential exposure to COVID-19 because of the identified medical risk, such as generally avoiding personal and business travel.
- If counsel's motion requires the disclosure of personal medical information, counsel is authorized, without the need for additional leave of court, to file under seal a separate confidential and nonconfidential version of the motion and accompanying declaration pursuant to Federal Circuit Rule 25.1.
- The permitting of one arguing counsel in a case to appear remotely because of COVID-19-related medical reasons does not excuse other arguing counsel in the case from having to appear in person.

### **Intervening Events that Prevent In-Person Appearance**

- The court understands that certain intervening events may prevent arguing counsel from being able to comply with these Protocols on the day of argument for COVID-19-related reasons.
- Counsel experiencing any COVID-19-related symptoms or who are required to quarantine should advise the Clerk's Office as soon as possible by calling 202-275-8035 (or 202-275-8049 for notification outside of normal operating hours). Counsel must also promptly file a motion seeking leave to appear remotely at argument. If counsel's motion requires the disclosure of personal medical information, counsel is authorized, without the need for additional leave of court, to file a separate confidential and nonconfidential version of the motion pursuant to Federal Circuit Rule 25.1.

- Out of respect for the time and resources expended by the court and the parties in preparation for oral argument, every attempt will be made to go forward with the argument as scheduled.
- The court will not adjust argument solely because a counsel attendee is unable to enter the National Courts Building.

**Notification of Potential Exposure**

- A person who entered the National Courts Building must notify the Clerk's Office by calling 202-275-8035 (or 202-275-8049 for notification outside of normal operating hours) if they have exhibited symptoms or tested positive for COVID-19 within five days after being in the building.