

Recommendations from the Bench: Presenting Video Oral Arguments

During the COVID-19 pandemic, the California Supreme Court, Third District, and Fifth District have shifted to video oral arguments using the BlueJeans platform. The court will arrange for the video appearance and will send counsel instructions prior to the argument. An example of the Third District's instructions is included at the end of this article.

Many panel attorneys are likely new to video appearances for oral argument. Before participating in a video oral argument, you will want to give the technical aspects your presentation some thought and effort to make sure it is as effective and persuasive as possible. The following tips come from the Third District.¹

- In the Third District's Video Oral Argument Instructions for Participants (included at the end of this handout), there are links to two helpful videos on YouTube that address how to improve your video presentations:
 - How to Look Better on Video Calls:
<https://www.youtube.com/watch?v=6rUhmh0TThE&feature=youtu.be>
 - Look Better on Video Calls with These Easy Lighting Tips:
<https://youtu.be/rGcAM1CNEUO>
- If you or your office can invest in an Internet/camera/microphone upgrade, now would be a great time. Freezes, bad or inconsistent sound, and trouble with colors and angles are very distracting from the oral argument itself. The video oral argument should be about your presentation, not about distractions. If possible, use decent equipment, but if not, make the best of what you have.
- Only use headphones if you really need them. They are another possible distraction. However, bad or inconsistent sound is even more distracting—the court needs to hear you and you need to hear the court, so if you need headphones to enhance the communication, use them.
- Watch the lighting and angles and pay attention to your surroundings. Try it all out with another professional whose advice you respect.

¹ CCAP wishes to thank Justice Elena Duarte for sharing her insights and additional thoughts from her colleagues for this perspective from the bench.

- On angles, watch the cell phone “looking up from below” angle and avoid it if at all possible. A video oral argument should not look like a FaceTime or video phone call.
- Think of what the judges would be seeing in court from the bench and try to duplicate that view as best as you can. If it is possible for you to stand and still get a good upper body angle, consider whether this set up would work for you. You would be standing at a podium in court and this is the view the court is used to. Think of what would show above the podium during an in-person oral argument and focus on getting that view for the court on camera for a video oral argument.
 - **Note from CCAP:** If are interested in creating a standing set-up for oral argument but do not own a podium or a standing desk, consider a small investment in a table top lectern instead that gives the same upper-body profile, for example: Oklahoma Sound 22-My Table Top Lectern [https://www.amazon.com/dp/B008SQOY1Y/ref=twister_B007KX1QI0? encoding=UTF8&th=1](https://www.amazon.com/dp/B008SQOY1Y/ref=twister_B007KX1QI0?encoding=UTF8&th=1).
 - One caveat to the “in court” approach above: Be wary of a camera view that shows your full body profile at a podium. You end up tiny on a shared screen. The court wants to see your face, as they would in court, and that is tough to do when you are that far away.
- A favored camera view is straight on, upper chest and up, with the face as the main focus. However, the view should not be ALL face (this is too close). Move back if you tend to “crowd the camera.”
- Advice about virtual backgrounds: If you use one, make sure it is a minimal and professional one. Also, do not move around a lot, because you will fade in and out at the edges and that is distracting.
- If you are *not* using a virtual background, keep your background simple and professional; make sure you do not have anything distracting in the background. A wall behind you with neutral colors works best (a wall with a shelf of books or one to two simple photos or pictures would also work).
- Be aware of anything distracting in the background of the camera view. Rotating ceiling fans or anything moving around or above or behind you is very distracting to the court. It is recommended that you do not have anything moving in the background.
- Remember you are always on camera, even when it is not your turn to argue. Behave on camera as you would in court—listen and take notes. Do not groom

yourself, fidget, or look around and act bored. Focus on the argument taking place. You are “in court,” albeit virtually, the entire time you are on camera in oral argument. (Consider using a stress ball that is off camera if you tend to fidget, but only if it helps you stay focused.)

- Make sure you mute yourself when you are not “up.”

To sum up the advice: The court needs to see and hear you, and have you hear them, with minimal interruptions and distractions. Use wired connections if your WiFi is unstable, upgrade if you can, and test your equipment. Communication is key during oral argument, as always. Additionally, minimize distractions in your camera view (including your own movements). The court wants to see your face, head, shoulders, and hands if you need them to talk (most people use them a bit, even if they don’t realize it!). Make the best of what you have, give it some thought, and try it out first. And remember, you are always on camera during the video oral argument session. Just like in court—you are always there and the court can see you.



BlueJeans Events Instructions for Participants

Beginning with the July 2020 calendar, the Court of Appeal, Third Appellate District, will conduct its oral argument calendar session by video conference using the BlueJeans Events application (BlueJeans Events).

Initial Orientation

To facilitate video oral arguments, an orientation and test session will be held at 10:00 a.m. on the Friday before the entire oral argument calendar begins, to provide the self-represented individuals and attorneys who will be participating in the oral arguments an opportunity to test their ability to connect, to familiarize themselves with BlueJeans Events, and to review protocols for the oral argument session.

Minimum Connection Requirements

To connect to BlueJeans Events, participants must have a laptop or other computer with a webcam; a web browser such as Chrome, Firefox, Safari, or Microsoft Edge; a broadband Internet connection; and the ability to connect to the audio portion of the meeting through your computer audio or separate phone line. Additional requirements and information can be found on the BlueJeans Events web site.

Invitation:

You will receive emails from the calendar clerk providing links to participate in the orientation and the video oral argument. You will need to use the links to join the orientation and video oral argument.

Expectations

The video oral arguments will be public court proceedings. Participants in the oral arguments will be recorded and live streamed. Appropriate and professional courtroom attire and demeanor are expected.

Check-in On the Day of Argument

The court will open the BlueJeans video oral argument feed 30 minutes before the start of the first oral argument of the morning or afternoon session to permit you to check in with the court. After checking in with the bailiff, please “mute” your camera and microphone until your case is called. If you do not mute your camera and microphone, the bailiff will mute your camera and microphone until your case is called.

BEFORE Oral Argument Day

- Download and Install the **BlueJeans Events App (which is different from the regular BlueJeans App)**: <https://www.bluejeans.com/downloads>.
 - Do not use the web client
 - You do not need to sign up for your own BlueJeans account
- Select a quiet space (such as a personal office) where you will be presenting your arguments to the Court.
- BlueJeans Events recommends a wired ethernet connection; if that is not available to you, make sure you have access to stable Wi-Fi.
- Test your webcam and microphone to ensure that you can be seen and heard clearly and that your background and lighting are appropriate.
- The Court will hold a BlueJeans Events orientation and technical test for all self-represented individuals and attorneys who will participate in oral argument. During the orientation and test, please use the equipment that you intend to use for the oral argument from the same intended location.

Day of Oral Argument

- There will be separate BlueJeans Events sessions for the morning and afternoon calendars. You will only need to attend the BlueJeans Events session that corresponds to the time that your case is scheduled.
- All self-represented individuals and attorneys participating in oral argument are expected to join the BlueJeans Events feed and check in with the Court before the calendar is scheduled to begin, even if your case is not the first called.
- Join the BlueJeans Events feed by clicking the link in your emailed invitation.
- Click “Open with App,” which should launch the meeting in the BlueJeans Events app.
- Check-in with the bailiff, who (after confirming your attendance) will “mute” your camera and microphone (if you have not already done so) until your case is called.
- When it is time for the oral argument of your case, the bailiff will email the justices to inform them it is time for them to join the BlueJeans Events feed, and the bailiff will use the chat feature to direct message you to inform you it is time to unmute your camera and microphone. When it is your turn to speak, make sure your camera and microphone are not muted.
- By default, you should be able to view all three justices, opposing participants, and the timer in “Gallery View” of the BlueJeans screen.
- After your case has concluded, you may leave the BlueJeans Events feed. If you do not leave, the bailiff will move you from participant to attendee mode, which will permit you to listen to further arguments without being seen or heard.

Oral Argument Sequence of Events

When it is time for the oral argument of your case, the sequence of events will be as follows:

1. The bailiff will start the recording and the webcast.
2. The bailiff will email the justices to inform them it is time for them to join the BlueJeans Events feed, and the bailiff will use the chat feature to direct message you to inform you it is time to unmute your camera and microphone.
3. The bailiff will inform the Presiding Justice or the Acting Presiding Justice when all the justices and participants have joined and are unmuted.

4. The Presiding Justice or Acting Presiding Justice will call the case, welcome the participants, and ask for their appearances for the record.
5. The Presiding Justice or Acting Presiding Justice will inquire if appellant wishes to reserve rebuttal time, ask the participants to keep track of their oral argument time, and then invite the first participant to present their argument.
6. The participant presenting argument must confirm that their camera and microphone are not muted; all other participants must mute their camera and microphone. The timer and all participating justices should be visible on the screen. If that is not the case, confirm that you are in “Gallery View” and not “Speaker View.”
7. The bailiff will start the timer and the first participant will present their argument.
8. The justices may ask questions of the arguing participant. When the participant’s time is up, the participant must mute their camera and microphone. If the participant does not mute their camera and microphone, the bailiff will mute the participant’s camera and microphone.
9. Each subsequent participant will follow steps 6-8 until the last argument has been presented.
10. The Presiding Justice or Acting Presiding Justice submits the case.
11. The participants for the case may then leave the BlueJeans Events feed. If a participant does not leave the BlueJeans Events feed after oral argument for the case is over, the bailiff will move the participant into attendee mode, which will permit the individual to listen to further arguments without being seen or heard.
12. The bailiff will pause the recording.
13. The bailiff will display a screen that announces the next case if there is one.
14. Steps 1-12 will repeat until all cases have been heard.
15. The bailiff will close the court session, at which point the webcast will end.

Audio & Video Problems

- If you have bandwidth issues, consider joining BlueJeans Events with computer video and dial-in audio.
- If you experience technical problems during oral argument, the Court will try to assist you. The timer will be paused if any audio or video problems arise. If your bandwidth is insufficient, BlueJeans Events will limit your video. If you mute your own video, you may regain the video for the justices and other participants. **Audio is essential for oral argument, but video is not.**
- You may call into the oral argument using the directions provided in your invitation email. You may make your phone number anonymous by dialing *67 before you dial the 10-digit call in number provided in your invitation email.
- If you call in**, you must mute the audio on your computer to avoid audio interference and understand that your video and telephone audio may not be in sync.
- If you are using a computer headset, make sure it is plugged in before joining the BlueJeans Events feed.
- During oral argument, if you have a problem or concern, contact the bailiff using the “Moderator Chat” in BlueJeans Events or call the bailiff on the phone at: (916) 653-5808.

Additional Tips for Video Oral Argument Best Practices

- Keep an eye on the timer, just as you would in the courtroom.

- ❑ Mute yourself when you are not talking to prevent background noise.
- ❑ Silence any other phones, devices, radios, televisions, or distractions in the background that may be heard.
- ❑ Position yourself in front of a plain wall, free of any decor or other obstructions. If you are sitting, use a hard-back, non-swiveling chair. You may sit during your presentation; there is no need to stand unless you wish to do so. If you stand, remain in one place.
- ❑ The best placement for your webcam is at your eye level and about an arm's length away from yourself.
- ❑ Look directly into the camera when speaking, not at the screen.
- ❑ Avoid solid white, bright red, striped, checkered, and plaid outfits as these may cause problems with your webcam's color balance, auto-exposure, or auto-focus.
- ❑ Avoid backlighting; make sure windows, lamps, and other light sources are not directly behind you. Test your position to ensure that there are no undesirable shadows and that there is not too much light.
- ❑ Pause slightly before speaking, in case there is any lag in audio or video. Also, pause occasionally during your oral argument presentation in case the justices have questions.
- ❑ Turn off all non-essential software and applications on your computer before joining the meeting.
- ❑ If you are using a laptop, make sure it is plugged in so you do not disconnect due to a drained battery.
- ❑ Make sure that your computer has been updated before the test so that it will not restart or go into hibernation mode during the Court session.
- ❑ Avoid using your Internet connection for other purposes during the session. For example, downloading software updates or streaming video content from the Internet, even to a different device, can potentially impact the quality of your connection.
- ❑ There are numerous guides online that provide additional tips to help you, including:
 - BlueJeans Presenter Instructions:
<https://drive.bluejeans.com/file/bluejeans-events-presenter-instructions>
 - How to Look Better on Video Calls (video):
<https://www.youtube.com/watch?v=6rUhmh0TThE&feature=youtu.be>
 - Look Better on Video Calls with These Easy Lighting Tips (video):
<https://youtu.be/rGcAM1CNEU0>