



Horse Racing Appeal Panel
90 Sheppard Avenue East, Suite 200
Toronto ON M2N 0A4
Tel: 416 326-8700 or 1 800 522-2876 toll free in Ontario
Fax: 647 423-2198

Practice Direction

Electronic Hearings

This document provides general information about electronic hearings before the Horse Racing Appeal Panel (HRAP or Panel). The procedure outlined in this document is for information only. It is not a rule within the meaning of the HRAP's Rules of Procedure. The HRAP may vary its approach to electronic hearings, as and where appropriate.

Introduction

As part of its ongoing efforts to provide open and accessible services to the public while at the same time keeping Ontarians safe, in particular during the coronavirus outbreak, the HRAP will be enhancing its use of videoconferencing technology in order to allow hearings to be conducted remotely.

The purpose of this Practice Direction is to provide clarity with respect to electronic hearings - specifically those conducted through videoconferencing - and the manner in which they will be conducted, so as to allow parties to plan and prepare accordingly.

Scheduling of an Electronic Hearing

Under the Panel's Rules of Procedure, hearings before the HRAP may be conducted in person, in writing, or electronically at the discretion of the Chair of the HRAP. In determining the appropriate format for a hearing, the Chair will consider the unique circumstances of each case, however, as a general rule, electronic hearings shall be given preference, especially during the coronavirus outbreak, unless it would cause prejudice to either of the parties or there are other justifiable reasons for not so doing.

Parties may object to the format of a hearing, and in particular to the scheduling of an electronic hearing, by serving on all parties and filing with the HRAP an objection within 5 days after receiving the Notice of Hearing. In support of an objection against a hearing that is scheduled to be held electronically, the applicant must submit a written argument addressing the impact of the electronic hearing on:

- i. fair trial rights;
- ii. witnesses in the proceeding;
- iii. the Panel and the administration of justice; and
- iv. any other factors which the applicant considers relevant to the objection.

Where a party is not able to participate by video, and if the Panel is satisfied that no unfairness will result, the hearing may proceed utilizing any format or combination of formats that the Panel may direct.

Disclosure and Filing of Documents

The rules and requirements around disclosure of documents or things between parties apply the same to electronic hearings as they would to in-person hearings. Note that under Rule 5.2 of the Panel's Rules of



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Procedure, parties are allowed to serve documents to each other by electronic delivery, whether on consent of the receiving party or with a proper read receipt.

Note that if you are submitting a document as evidence in a hearing, you must file at least 5 days before the hearing with the HRAP Secretariat:

- an electronic version with the HRAP and the other parties, if not already provided, [Note that no evidence will be provided to the Panel members before the appeal hearing.] and
- an electronic version for each witness of any document that will be put to the witness.

Representatives are responsible for supplying sufficient documents to their witnesses.

Race Videos

When there is a need for the Panel to view a race film during a hearing, each party should be provided a copy of the race film prior to the hearing, in accordance with disclosure timelines provided by the Rules of Procedure.

Technical Guidelines for Electronic Materials

- (i) Break up large attachments or files over multiple emails to allow for file size restrictions of parties' or participants' email systems.
- (ii) All submissions are to be clearly identified so that it can be easily located during the hearing (for example, "Affidavit of Jane Doe"), preferably with each page of the record numbered sequentially.
- (iii) Submissions must have page numbers.
- (iv) If possible, citations to cases in hearing briefs are to provide hyperlinks to the CanLII version of cases. The only exceptions to this principle are references not available on CanLII, such as excerpts from textbooks, foreign law, or Canadian decisions not reported on CanLII.

Conduct of Electronic Hearings

Principles

The following overarching principles shall apply to the conduct of electronic hearings by the HRAP:

- Electronic hearings require civility, professionalism, cooperation, communication and collaboration between parties, both before and during the hearing.
- Parties should be willing to adapt and cooperate in good faith in the preparation and conduct of electronic hearings to achieve the just, most expeditious (fastest) and least costly resolution of proceedings.
- Parties must be flexible regarding technical difficulties or other challenges that other participants may experience. This is particularly important during the coronavirus outbreak as participants will generally be working from home, which may result in challenges, including technology issues and child and elder care in close quarters.
- Parties should not take unfair advantage of the fact that the hearing is held remotely. In particular,



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they should not take advantage of, or act upon, slips, irregularities, technical issues or mistakes, or inadvertence.

Courtesy and Protocols

The Panel asks that parties respect the fact that they are in a virtual hearing room and that they conduct themselves with the behaviour expected in a physical hearing room. The following protocols have been established in order to ensure a courteous and respectful environment, both for the Panel members as well as the parties:

- Find a quiet, private place to set up and attend the hearing. People who are not directly involved with the hearing should not be in the room with you. If they have an interest (perhaps a spouse), the Panel needs to know who they are. They may be allowed to observe but under no circumstances would they be allowed to speak unless they are listed as a witness.
- Dress as you would if attending in person. Casual dress is acceptable.
- During testimony:
 - You may not refer to any material that you are not advising the Panel of
 - You may be asked to move the camera around to let the court see your environment
 - You cannot have anyone in the room coaching you with answers
- Avoid speaking over other parties during the hearing. If a party wishes to interject or address the Panel, they will simply raise their hand so the Panel can see them.
- Avoid using a keyboard to take notes unless you are muted. The sound of typing can be distracting because your laptop's internal microphone is near your keyboard.
- The usual restrictions on eating in a courtroom apply. Parties may have water available to drink, but the Panel requests that parties and counsel refrain from eating during an electronic hearing.

Public Access

Hearings are public, unless otherwise directed by the Chair of the HRAP. A request for attendance of a electronic hearing can be made through the HRAP website or by email via info@Hrappealpanel.ca. The request must include an individual's name, phone number and email address.

Video Recordings

As with in-person hearings, a court reporter will attend electronic hearings and be responsible for creating the official transcript of the Panel hearing. Except as authorized, the video recording or broadcasting of the Panel proceedings or portions thereof or of people or events during the appeal process is prohibited. If an authorization to video record or broadcast the Panel proceeding or portion thereof has been granted, parties or counsel must inform witnesses of the authorization and of the rights of the witness under this practice direction and the Panel's Rules of Procedure.



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More Information

For more information about the hearing process, please consult our Guide to the Appeals Process which can be found on the HRAP's website at www.hrappanel.ca.