

## PROCEDURES FOR REMOTE HEARING ON ZOOM

1. For the Zoom hearing, the parties must comply with the procedures listed below:

### I. MAINTAINING THE DECORUM OF THE COURT.

Participants are required to observe the typical rules and procedures related to court appearances, including, without limitation, rules related to attire and the consumption of food and drink (other than water or coffee) during the proceedings. Participants shall use best efforts to eliminate all visual and auditory distractions.

### II. PREHEARING ARRANGEMENTS.

**A. Remote Platform.** The Court's designated remote platform is Zoom.

**B. Court Management of Platform.** The Court will manage and control the proceedings, including being designated the "Host" of the video hearing, and will exercise control over the various technological settings.

**C. Technological Requirements.** Participants shall use best efforts to ensure that there will be clear video and audio transmission during the hearing, including adequate familiarity with the Zoom platform and related software and hardware, *e.g.*, microphones, webcams, headphones, *etc.* Counsel are responsible for ensuring that each witness is familiar with Zoom and has suitable equipment to participate in the proceeding without undue delays. For example, counsel may wish to ensure that each witness is able to participate in the videoconference hearing with one device (or screen) and review exhibits on another; this may necessitate that counsel lend sufficient equipment to the witness, *e.g.*, two laptops or screens, for use in the proceeding. At least one test session must be conducted by counsel with the witness in advance of the proceeding in which the witness practices using the Zoom platform, becomes familiar with the process for viewing electronic exhibits, and tests all audio and video equipment (including settings) that will be used at trial.

**D. Court Reporter.** The court reporter will be unmuted for the duration of the proceeding to allow for timely and effective requests for clarification.

**E. Camera/Remote Venue Set Up.** The faces of each participant in the trial must be clearly visible while speaking – excluding the courtroom clerk and the court reporter. No masks shall be worn by any participant in the trial appearing remotely, except the Court staff. To the extent possible, each participant's webcam should be positioned at face level relatively close to the participant. Participants may *not* use virtual backgrounds.

**F. Multiple Participants in the Same Room.** If some participants expect to be in the same physical room, this should be raised at the prehearing conference so that any related concerns may be discussed and addressed and appropriate directions may be given regarding the positioning of cameras on each participant and avoiding audio feedback from the use of multiple devices.

**G. Party Identification.** All participants shall use their full first and last name when signing on to Zoom.

**H. Scheduling.** If participants are located in materially different time zones, this logistical issue should be raised at the prehearing conference, so that the daily proceeding can be scheduled to be reasonably convenient for all, if possible.

**I. Confidentiality.** The Parties must meet and confer regarding a protocol for the use of confidential information, including sealed exhibits, at the hearing. The Parties shall provide a joint recommendation to the Court with their prehearing conference statement.

### **III. PROHIBITION ON RECORDING.**

Any recording of a court proceeding held by video or teleconference, including “screen-shots” or other visual or audio copying of a hearing or trial, **is prohibited**. Violation of these prohibitions may result in sanctions, including restricted entry to future hearings, denial of entry to future hearings, removal of Court-issued media credentials, or any other sanctions deemed appropriate by the Court.

### **IV. USE OF SCREEN-SHARING FOR EXHIBITS AND DEMONSTRATIVES**

The Court will permit counsel to use the “share screen” function in Zoom to display demonstratives during openings and closings; and to display trial exhibits and demonstratives during the trial. Counsel must cooperate and meet and confer to exchange any visuals or exhibits to be used in the opening statements or closing argument.

## WITNESSES AND PRESENTATION OF TESTIMONY.

**A. Witnesses Joining the Trial.** Witnesses must access the Zoom hearing using the credentials provided by the Court at least 10 minutes prior to the scheduled start time for their examination. The witness will be directed to the virtual waiting room where he or she will remain until the Court is ready to admit the witness to the virtual courtroom. Witnesses are only permitted in the virtual courtroom while they are testifying; no witness is permitted to view or listen to the testimony of other witnesses.

The attorney calling the witness is responsible for ensuring the witness has a separate video and audio feed. Attorneys should not attempt to “share” a connection with a witness.

**B. Witness Oath/Affirmation.** In addition to the standard admonitions, before each witness testifies, the Court will ask the witness to affirm: (i) no one else is present in the remote room where the witness is testifying other than those, if any, authorized by the Court; (ii) that all communications with the witness during his or her examination will be on the record, other than communications between the witness and his or her attorney of record during breaks, and (iii) that the witness will not engage in any direct or indirect communications with anyone during his or her examination other than those communications made on the record.

The Court reserves the right to ask any witness to back up from their webcam so the Court and counsel can see their hands for the duration or portions of their testimony.

**C. Exhibits.** The Parties shall meet and confer to discuss a protocol for use of exhibits at trial and present a joint recommendation to the Court. The joint recommendation must address the form of exhibits (e.g., electronic and/or paper), acceptable file formats (e.g., .pdf; .doc; .jpeg; .mpeg; *etc.*), how exhibits will be exchanged (e.g., via email, electronic joint repository, or in-meeting file transfer, *etc.*), and any procedures that may be required for “oversized” exhibits, deposition transcripts, or “non-standard” exhibits of any kind. Counsel must also present a proposed protocol for the presentation of hearing exhibits to witnesses during their hearing testimony, and for use of any impeachment documents with a witness.

**D. Objections.** The witness must stop speaking when either counsel objects. After the objection is made, the Court will be the first to speak and make a ruling.

## V. TECHNOLOGICAL CONSIDERATIONS.

**A. How to Join.** If you will be an attorney, witness, or party at the hearing, you will receive Zoom login credentials from the Court. Participant login information is not public and must not be shared with anyone other than counsel of record and other direct participants in the trial. Separate information for any member of the public to listen to the proceedings is posted on the Court’s website.

**B. Chat Features.** The chat function allows participants to type text (comments) during the proceeding; and should be used only to communicate any transmission problems. The following rules apply: (i) counsel may not initiate *ex parte* “chats” with the Court; (ii) counsel may not “chat” with a witness at any time while the witness is “on the stand” for any

purpose unless authorized by the Court. Messages relayed through the “chat” feature will not become a part of the Court record.

**C. Addressing Technological Difficulties.** In the event that a participant is disconnected from the videoconference hearing or experiences some other technical failure, the participant shall use best efforts to promptly re-establish the connection and shall take no action which threatens the integrity of the proceeding (*e.g.*, inappropriate communications with a third-party related to anything other than resolving the technical issue). If the connection cannot be re-established within approximately five-minutes, the Court may take steps to “pause” the hearing, which may include moving participants into the virtual waiting room or one or more separate break-out rooms, at which time counsel shall meet and confer in good faith to develop a joint proposal regarding how to proceed. If the Court deems it unfair to any Party to continue the Zoom hearing because of a technical failure, the Court may terminate the videoconference hearing at any time and take such other steps as may be necessary to ensure the fairness and integrity of the proceedings.

**D. Best Practices.** The following are “best practices” of “dos” and “don’ts” during a remote Zoom court trial or hearing:

## The “Dos”

### Technology

- Use hardwired, rather than wireless, internet.
- Know the device password in case of lock-out.
- Keep the device plugged in and/or have extra batteries on hand.
- Use multiple monitors if you anticipate having to present or view exhibits.
- Ensure that all required programs (*e.g.*, Flashplayer) are enabled.
- Disable notifications (*e.g.*, Skype, email, *etc.*).
- Disconnect from VPN.

### Presentation

- Dress like you are in Court because you are. Solid clothing works best on Zoom.
- Position the webcam at your eye level and look directly into it when speaking.
- If counsel uses notes, place them in a way that minimizes loss of eye contact.
- Keep yourself muted unless you are speaking.
- Use a headset to maximize audio quality.
- Adopt good posture (*i.e.*, don’t slouch, put your feet on the desk, sit in a bed, *etc.*).
- Choose a room that will minimize distractions (*i.e.*, no beds, only neutral artwork, do not sit in front of a window, close all open doors that are visible, *etc.*).

- Avoid making quick movements that could cause the video to lag.
- Raise your hand when objecting in case there is lag time in audio.

### **The “Don’ts”**

- *Don’t* log in to Zoom with a cell phone if you are a case participant.
- *Don’t* identify yourself on Zoom using a phone number if you are a case participant.
- *Don’t* access the hearing/trial from an unsecured or public WiFi.
- *Don’t* work on other tasks during the hearing/trial.
- *Don’t* talk over each other.