PROTOCOL FOR HYBRID HEARINGS
BEFORE THE HONORABLE MARIA ELLENA CHAVEZ-RUARK

I. CONDUCT OF HYBRID HEARINGS

A hybrid hearing is a hearing conducted in person and for which the Court grants prior permission for an attorney or a party to appear using ZoomGov.

The Court will conduct a hybrid hearing in very limited circumstances and only when the hearing notice on the case docket states that the hearing will be conducted as a hybrid hearing or if the Court advises the parties in writing prior to the hearing that the hearing will be conducted as a hybrid hearing.

A witness must testify in open court absent good cause in compelling circumstances and with appropriate safeguards as set forth in Federal Rule of Civil Procedure 43(a). Convenience and cost to attend do not constitute compelling circumstances.

Any request for permission for an attorney or a party to appear at a hybrid hearing using ZoomGov should be directed to Hearings_MCR@mdb.uscourts.gov as early as possible with a copy of the email being sent to all counsel and unrepresented parties with an interest in the dispute(s) being heard. The later an attorney or party requests to appear using ZoomGov for a hybrid hearing, the less likely the request will be granted. A person observing via ZoomGov may not offer evidence, question witnesses, or make substantive arguments to the Court.

II. HEARING ACCESS

Any attorney or party who is granted permission to participate in a hybrid hearing using ZoomGov must register for the hearing no later than 48 hours prior to the hearing at Meeting Registration - ZoomGov (zoomgov.com). Although there is only one option (10:00 a.m.) to select for each day, that option applies to all hearings on that day regardless of the scheduled start time. After registering, a party will receive the ZoomGov meeting ID and password from ZoomGov by email. Registering at the link provided allows access to videoconference and hybrid hearings set by the Court but does not constitute the self-scheduling of a hearing or otherwise impact the Court's official hearings schedule in any manner.

III. OBLIGATION TO MEET AND CONFER PRIOR TO HEARING

Parties to a dispute or contested matter are expected to meet and confer in person, telephonically, or by videoconference prior to the hearing in an attempt to resolve the dispute or contested matter and identify and narrow any factual or legal issues.

A hearing will remain on the Court's calendar unless the Court grants a motion to continue, issues a notice that the hearing has been rescheduled, makes a notation on the docket via CM/ECF that the hearing is cancelled, and/or confirms by email or in an order that the hearing is cancelled.

IV. PRE-HEARING PLANNING AND HEARING RECORD

Any attorney or party who is granted permission to participate in a hybrid hearing using ZoomGov is expected to test their capability to participate via ZoomGov videoconference software on their preferred device and verify that such device has clear audio and video connections and is fully charged prior to the hearing.

Such persons are expected to connect to the hybrid hearing using ZoomGov at least 15 minutes prior to the start time of the hearing and appear with video capabilities.

A hybrid hearing is still an official Court hearing. Accordingly, anyone participating in a hybrid hearing using ZoomGov is expected to wear appropriate attire, present themselves as they would if they were appearing in a physical courtroom, and participate from a quiet space with no interruptions or distractions for the duration of the hearing.

The Court will create an official recording of the hearing. No party (other than the Court) may record or otherwise capture the audio or video of the hearing in any manner.

V. PARTICIPATION IN HEARING

After the Courtroom Deputy has called the case, she will ask each individual to enter his or her appearance by stating his or her full name, affiliation, and the names of any other individuals watching or listening to the hearing through that participant's connection.

All participants appearing by ZoomGov should do the following during the hearing:

- Ensure that their first and last names appear for their device on ZoomGov;
- Announce themselves after joining or rejoining if the hearing is in progress and, if necessary, request permission to leave or disconnect prior to the end of the hearing (as they would in the courtroom);
- Place their lines on mute before and during the hearing unless they are speaking or about to speak; and
- Keep their video on for the entire duration of the hearing.

The Court will dismiss parties when their hearing is completed.

VI. PRE-FILING OF WITNESS LIST, EXHIBIT LIST, AND EXHIBITS

Prior to any hearing, parties are expected to discuss all witnesses and exhibits they propose to use at the hearing and, to the greatest extent possible, address any evidentiary objections, reach agreement on admissibility of exhibits, and compile a single electronic packet of agreed exhibits.

Unless otherwise set forth in a scheduling order, **at least three (3) business days prior to the scheduled hearing**, all parties shall:

1. File a witness list on the case docket;
2. File an exhibit list on the case docket, attach each exhibit to the list as a separate PDF, and label each exhibit with an exhibit number (include any affidavits and authenticated documentary evidence);
3. Serve the witness list, exhibit list, and exhibits by email on all counsel and unrepresented parties with an interest in the dispute(s) being heard; and
4. Ensure that any witness the party intends to call at the hearing has a copy of all exhibits filed by all parties in connection with the matter to be heard.

Any affidavits used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant is competent to testify on the matters stated.

If a party intends to introduce a certified copy of a document, the party must include a photocopy in the pre-filed exhibits and bring the original certified copy to the hearing.

A party need not include documents to be used solely for impeachment or rebuttal in its exhibit list and pre-filed exhibits. If an exhibit is not included in the pre-filed exhibits because it is being used solely for impeachment or rebuttal, prior to using the document at a hybrid hearing, the examining party must submit by email an electronic copy of the impeachment exhibit to all participating counsel, any unrepresented parties, and Judge Ruark's Courtroom Deputy (Hearings_MCR@mdb.uscourts.gov), identified with the party's next exhibit number. The Court will require verification that all participating counsel and unrepresented parties have obtained the document before the examination may proceed. Parties are encouraged to send an impeachment or rebuttal document several minutes before the planned use, where feasible, to allow the hearing to proceed in a timely manner. After the conclusion of the hearing, a party using impeachment or rebuttal documents must file on the case docket via CM/ECF a supplemental exhibit list and attach all impeachment and rebuttal documents identified and/or admitted.

All exhibits must be clearly marked, preferably with an electronic header/footer. Exhibits offered jointly by the parties shall be marked "Joint Exhibit. " Exhibits offered by only one party shall be marked "[Party]'s Exhibit X" (ex. "Debtor's Exhibit 1").

Any exhibit that is not pre-filed as set forth herein may be excluded from evidence.

VII. USE OF EXHIBITS DURING HYBRID HEARING

Parties are expected to display their exhibits electronically during the hearing using ZoomGov's screen sharing function. No paper exhibits will be used unless expressly authorized by the Court in writing prior to commencement of the hearing.

Any person offering evidence must appear in person. The person displaying an exhibit may do so either from the Court's laptop on the podium or through a colleague who is logged into Zoom in the courtroom or remotely.

VIII. COMPLIANCE

Appearances by ZoomGov are possible only when there is compliance with every procedural requirement. Sanctions may be imposed when there is any deviation from these required procedures or the Court determines that an individual's conduct makes appearance by ZoomGov inappropriate.

IX. TECHNICAL ISSUES AND QUESTIONS

Participants appearing in a hybrid hearing using ZoomGov should email the Courtroom Deputy at Hearings_MCR@mdb.uscourts.gov or call Chambers at (301) 344-3377 if they experience any technical issues during the hearing, including if they are disconnected or cannot enter the hearing, or if they have questions about this hearing protocol.

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