

PROTOCOL FOR CONDUCT OF HEARING BY VIDEOCONFERENCE

Judge David E. Rice, Effective August 10, 2020

In response to the state of emergency declared by the Governor of Maryland, and the well-publicized restrictions against public gatherings resulting from the COVID-19 pandemic, this Court, along with the United States District Court for the District of Maryland, has issued numerous administrative and standing orders limiting access to the courthouse and governing the limited availability of in-court proceedings.¹ Accordingly, the Court may authorize a hearing to proceed telephonically or by videoconference. If the Court sets a telephonic or videoconference hearing, the following procedures apply, as well as any additional procedures announced prior to or during a hearing in any given case.

I. Connecting to Hearing

Parties should contact the Court's Courtroom Deputy at **Hearings_DER@mdb.uscourts.gov** at least two (2) business days prior to the hearing date (unless the emergency nature of any given hearing makes such timing impractical) for connection information for the videoconference hearing. All parties are strongly encouraged to test their capability to participate via zoom videoconference software on their preferred device and verify that such device has clear audio and video connections prior to the hearing.

Each party must connect to the videoconference at least 10 minutes prior to the start time of the scheduled hearing. Witnesses should have a separate video and audio feed and should not attempt to "share" a connection with counsel. Parties should wear appropriate attire and present themselves as they would if they were appearing in a physical courtroom. To the extent possible, all parties and witnesses should be alone in a room where there will be no interruptions or distractions for the duration of the hearing.

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

II. Announcement of Participation

After the Courtroom Deputy has called the case, she will individually confirm each party's attendance and ask each individual to enter their appearance and confirm that they are able to hear the Judge. Each party who has connected to the hearing must announce their full name, affiliation, and the names of any other individuals watching or listening to the hearing through the participant's connection.

¹ See Standing Order 2020-07, *In re: Covid-19 Pandemic Procedures*, Misc. No. 00-308 (D. Md. 2020); Administrative Order 2020-02, *In re: Covid-19 Pandemic Procedures*, Misc. No. 20-90006 (Bankr. D. Md. 2020).

To ensure full transparency, the Courtroom Deputy will also identify all members of the Court participating in the hearing. Participants should email the Court at **Hearings_DER@mdb.uscourts.gov** or call the Court at 410.962.4211 if they experience any technical issues during the hearing, including if they are disconnected or cannot enter the hearing.

During the hearing, parties must identify themselves before speaking. Parties also should announce their 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).

All participants are asked to place their lines on mute before and during the hearing, unless they are speaking or about to speak. All parties will begin the videoconference on mute and will need to unmute their device in order to announce their appearance.

III. Witnesses and Evidence

The Court generally anticipates that most videoconference hearings will consist primarily of status reports or oral argument by counsel. The parties are **strongly** encouraged to discuss all exhibits which they propose to use at the hearing, and to the greatest extent possible, reach agreement on their admissibility and circulate a single electronic packet of agreed exhibits to all counsel and Chambers.

To the extent parties need to submit separate evidence to support their respective positions, they should file on the docket (1) affidavits of all direct testimony and (2) authenticated documentary evidence (and serve the same via electronic mail on opposing counsel) *at least 48 hours prior to the hearing*. Counsel shall ensure that all witnesses have a copy of any exhibits which have been submitted to the Court for the purposes of the hearing. Any affidavits should meet the standards of Civil Rule 56(c)(4), made applicable to bankruptcy matters by Bankruptcy Rule 7056, even if the matter does not involve a motion for summary judgment.

Parties should consult with opposing counsel prior to the hearing regarding any evidentiary objections and file a stipulation as to the admissibility of exhibits, if any, by 4:00 p.m. on the day prior to the hearing.

All exhibits should be submitted as one single pdf on the docket and must be clearly marked, preferably with an electronic header/footer as follows:

1. Exhibits offered jointly by the parties shall be marked “Joint Exhibit ___”
2. Exhibits offered solely by the separate parties shall be marked “[Party Role, Example: Debtor, Creditor, Trustee]’s Exhibit ___”

End of Protocol