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THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH

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,  Plaintiff,  v.  ,  Defendant.	<b>SUPPLEMENTAL TRIAL ORDER FOR VIRTUAL JURY TRIAL</b>  Case No.  District Judge
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IT IS HEREBY ORDERED that the virtual jury trial scheduled to commence on \_\_\_\_\_, 20\_\_, at 9:00 a.m., will be conducted using the following procedures and protocols, in addition to those in the Trial Order filed \_\_\_\_\_, 20 \_\_, docket no. \_\_\_\_.

**A. Remote / Virtual Trial Format**

The entire trial, [ ] including jury deliberations, [ ] with the possible exception of jury deliberations, will take place using the ZoomGov.com platform. The parties, counsel, witnesses, jurors, and court staff will not be physically present in the courtroom. The public will have telephonic access via a number published on the court’s trial calendar.

**B. Resources for Virtual Trial**

The court has prepared and posted documents which counsel must review immediately upon receipt of this order.

[Virtual Trial Handbook for Attorneys – Utah](#)

[Virtual Trial Juror Reference Guide – Utah](#)

[How to Use Box.com](#)

Any questions about these documents should be sent to [chambers email address] with a

copy to all counsel. The documents are works in progress, so suggestions and comments (sent to [dj.nuffer@utd.uscourts.gov](mailto:dj.nuffer@utd.uscourts.gov)) are appreciated.

### **C. Final Pretrial Conference**

The Final Pretrial Conference will be conducted in the ZoomGov.com platform. The Final Pretrial Conference will include any necessary discussion of this order and the resources listed above. Counsel should consider:

- a. Testing audio and video performance from the location, on the network, and the exact equipment that will be used for trial.
- b. Any concerns about excluding panel members who have inadequate technological tools. (See the [Sample Juror Questionnaire for Virtual Jury Trial](#) and [Virtual Trial Juror Reference Guide – Utah](#))
- c. Testing the use of the Box.com folders for exhibits.
- d. Giving the court the names, email addresses, and mobile phone numbers of the specific persons who will be uploading exhibits into Box.com folders.
- e. Testing presentation of evidence in the ZoomGov.com platform, including annotation and saving annotated evidence.
- f. Practicing the method of taking peremptory challenges in a Box.com document.
- g. Testing use of the ZoomGov.com breakout feature for sidebars.
- h. Raising questions about the [Virtual Trial Handbook for Attorneys – Utah](#)
- i. Whether a mock trial session would be helpful.

### **D. Jury Pool and Voir Dire**

The court will call a jury pool of [ ] jurors. [The parties will have [ ] round of [ ] minutes to examine the jurors.] Any questions the parties would like the court to ask

should be submitted to the court by [ ]. The [Sample Juror Questionnaire for Virtual Jury Trial](#) the court will send to jurors in advance is posted on the court website. You will receive the completed questionnaire for each member of the jury pool by the morning of trial.

## **E. Preparation**

1. Counsel must familiarize themselves with the ZoomGov.com and Box.com platforms by reviewing:

[Virtual Trial Handbook for Attorneys – Utah](#)

[Virtual Trial Juror Reference Guide – Utah](#)

[How to Use Box.com](#)

2. Counsel must ensure that they and each of their witnesses have the hardware, software, data bandwidth, and Internet access required to participate remotely. Testing is essential. The minimum system requirements are in the [Virtual Trial Handbook for Attorneys – Utah](#).

3. Counsel must also ensure that they have one or more alternative means of communicating with their clients and witnesses, as well as with the court, outside the ZoomGov.com platform (*e.g.*, via cellular phone or email).

4. Counsel must consider establishing a high-speed Internet connection (a hard-wired connection is generally preferable to a wireless Internet connection). Counsel shall also consider the feasibility of participating from their office if the impact of others requiring Internet usage during the proceedings might impact a participant's connection speed.

5. Parties and counsel must participate on \_\_\_\_\_ <date> \_\_\_\_\_ at \_\_\_\_ <time> \_\_\_\_\_ with the court and court staff for a technology check.

**F. Recording**

The court will provide a court reporter for the trial. No part of the trial may be reproduced, distributed, or transmitted in any form or by any means, in whole or in part, by any participant (attorney, party, witness, or juror) or public observer. This prohibition includes any audio or video recording, photographs, and/or screenshots. The parties and counsel must ensure that each trial participant for which they are responsible acknowledges and agrees to this prohibition.

**G. Witnesses and Participants**

1. Counsel must provide, via email to the court’s Trial Coordinator [insert name, title and contact information], the following information for each party, attorney, paralegal, legal assistant, trial or technical consultant, and witness who will participate remotely:

- Name
- Email address
- Phone number
- Participant status (*e.g.*, party, attorney, witness, etc.)

2. Prior to trial, the court’s Trial Coordinator will supply to counsel the links for the ZoomGov.com sessions. Counsel shall forward the links to other participants, including witnesses, as appropriate.

3. After using the link to access the ZoomGov.com session, participants will enter a virtual Waiting Room. They will be admitted from the virtual Waiting Room into the

Virtual Courtroom when appropriate. Counsel are responsible for notifying witnesses when and how they are expected to report to the virtual Waiting Room.

4. Participants who will not be examining witnesses, testifying, or otherwise presenting matters during the proceedings (e.g., attorneys, paralegals, legal assistants, and trial or technical consultants) must use the ZoomGov.com platform controls to mute their microphones and deactivate their cameras.

5. During the virtual hearing, each party and all jurors will be visible on video with microphones muted.

6. Counsel and the witness must neither communicate through any other device nor be in the same room without disclosure to the court and other counsel.

7. Witnesses may not use notes or other documents to aid in their testimony unless those documents are known to the court and all parties so that the court can consider and resolve any objections to the use of the documents.

## **H. Exhibits**

1. Exhibits must be numbered in advance of trial in accordance with the protocol set forth in the [insert Order or Minute Order which sets the requirements for exhibits].

2. All exhibits must be uploaded by counsel to the “Box.com” platform via one or more links that the court’s Trial Coordinator will provide via email prior to the trial date.

3. All exhibits as must be uploaded to the respective Box.com folders labeled “Plaintiff’s Proposed Exhibits” and “Defendant’s Proposed Exhibits.” Counsel shall notify the court’s Trial Coordinator of the specific exhibits as to which admissibility has been stipulated so they may be moved to the Box.com folder labeled “Admitted Exhibits.” At the end of each trial day, the court’s Trial Coordinator and counsel will

confer, and the court's Trial Coordinator will transfer into the "Admitted Exhibits" folder any exhibits in the folders for "Plaintiff's Proposed Exhibits" and "Defendant's Proposed Exhibits" that have been offered and admitted into evidence.

4. After the close of evidence and before the jury begins deliberating, the court's Trial Coordinator and counsel will confer to confirm that the "Admitted Exhibits" folder accurately reflects the evidence admitted during the course of trial. During their deliberations, the jurors will be provided access to the Box.com folder for "Admitted Exhibits."

5. [Hard copies of all exhibits must be delivered to the court's courtroom deputy clerk, \_\_\_\_\_, at [ ] at least two (2) judicial days before the first day of trial. These exhibits must be bound in one or more three-ring notebooks and appropriately tabbed by exhibit number.] While testifying, each witness must have available a copy of any exhibit that he or she will be expected to use or examine during the trial. The party calling the witness must take the lead in arranging delivery of the exhibits to the witness. The witness must not access any copy of an exhibit unless and until instructed to do so by the examining counsel. Regarding exhibits as to which admissibility is disputed, the court will conduct proceedings outside the presence of the jury during which counsel may present arguments and, if necessary, voir dire witnesses, using the screen-sharing function in ZoomGov.com to display the exhibits at issue from the respective Box.com folders. To the extent possible, the court will rule on the admissibility of exhibits before a witness who is expected to use or examine such exhibits testifies.

6. If a witness is anticipated to bring documents pursuant to a subpoena duces tecum, the witness should be instructed to upload those documents to Box.com in a file-

sharable format as they may, in an unusual circumstance, be required to screen share the documents.

7. Video depositions that are used as substantive evidence shall be broadcast via ZoomGov.com using the screen-sharing function. Counsel may, but are not required to, upload video depositions to their respective Box.com folders, but the recordings will not be transferred to the “Admitted Exhibits” folder. Transcripts of depositions used during the trial for impeachment or as substantive evidence need not be sealed prior to their use. Counsel may either show the portion of the transcript at issue to the witness using the screen-sharing function in ZoomGov.com or transmit the entire transcript to the witness via mail, email, or otherwise in advance of his or her testimony.

8. If a program or platform other than Box.com (such as Trial Director) will be used by counsel to publish exhibits to the jury through the ZoomGov.com platform, then counsel must file, prior to the first day of trial, a [Certification of Exhibits Form](#) signed under penalty of perjury indicating that the exhibits to be displayed to the jury using the other program or platform are identical to the exhibits uploaded into the folders on Box.com. The parties may use trial presentation technology to present exhibits through the screen share function in ZoomGov.com.

9. Witnesses may not use notes or other documents to aid in their testimony unless those documents are known to the court and all parties, and the court considers and resolves any objections to the use of the documents.

## **I. Professionalism During the Trial**

### **1. Ambient Noise Protocols:**

All participants who are not actively being questioned as a witness, asking questions

of a witness, defending a witness, or providing or responding to opening statements, closing arguments, or other arguments, must use the ZoomGov.com platform controls to mute their microphone and deactivate their video camera. The court's Trial Coordinator, who will "host" the ZoomGov.com sessions, will mute any participant who fails to follow this protocol.

Participants using multiple devices in a single workspace to access the trial should avoid audio feedback issues by using the microphone and speakers on only one device at a time, or by using headphones.

## **2. Courtesy and Decorum:**

To the extent possible, remote trial participants should conduct themselves in the same way they would if they were physically present in a courtroom. They should not engage in activities such as eating or conversing with others while on camera. They should avoid interrupting someone who is speaking, except as necessary to raise an objection. Virtual trial participants should silence electronic devices other than the devices necessary to their remote participation, close unnecessary computer programs or applications (such as email or calendar notifications), and take steps to remove or minimize anything in their remote workspace that might distract from the integrity of the proceedings. The court understands that conducting trial virtually, from one's home, for example, presents many challenges. The court asks all remote participants to do their best to maintain professionalism to assure a fair and efficient trial.

## **3. Objections:**

Counsel should raise their hand to signal an objection (either physically or virtually through the "raise hand" feature on Zoomgov.com). When an objection is made, the



witness must stop talking until the court rules on the objection. If the objection requires a discussion outside the presence of the jury, the jurors will be placed in the Virtual Jury Room.

**4. Disconnection:**

If the court, a party, an attorney of record, a witness, a juror, or anyone else necessary to the proceedings becomes disconnected from the remote trial, any participant aware of this should call it to the court’s attention. The trial will stop until the connection is reestablished. If the participant has difficulty reconnecting, he or she should call or text [insert name and mobile phone contact information]. In advance of calling a witness to the virtual stand, counsel must establish with the witness a protocol for contacting the witness in the event of disconnection and ensure that the alternative means of communication (*e.g.*, a mobile phone) is operational.

**5. Appropriate Dress:**

Parties, witnesses, and counsel must dress in the same manner as they would if they physically appeared in a courtroom.

**6. Screen Names:**

Each time remote participants join a Zoom session, they should use a screen name in the ZoomGov.com platform that indicates their actual name and role. The number of characters you may use for a name is limited. The court recommends the following naming convention:

{First Initial} {Last Name} (Role) or  
{Last Name} (Role) or  
{Last Name} Role

Abbreviations for Roles:

Pla	:	Plaintiff
Def	:	Defendant
Pla Rep	:	Plaintiff's Representative
Def Rep	:	Defendant's Representative
Pla Atty	:	Plaintiff's Attorney
Def Atty	:	Defendant's Attorney
Witn	:	Witness

Examples:

J. Austen (Pla)  
Hemingway (Def Atty)  
Koothrappali (Pla Rep)  
M. Hansen (Witn)

As "Host," the court's Trial Coordinator will rename any participant whose screen name is incomplete, confusing, unprofessional, or otherwise improper.

Dated April 8, 2021.

BY THE COURT:

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United States District Judge