

Virtual Trials

(Bench & Jury)

A Handbook for Attorneys

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Introduction

This handbook was adapted by the District of Utah from a document prepared by the Western District of Washington. It is designed to guide attorneys through the process of conducting virtual bench and jury civil trials using the ZoomGov platform. Virtual bench and jury civil trials will take place entirely on the ZoomGov platform and use the court's Box.com account for the storage and dissemination of exhibits. The parties, counsel, witnesses, and jurors—if any—will not be physically present in the courtroom.

The ZoomGov platform is a secure system that is separate from the commercial or free versions of Zoom and is not prone to some of the security issues those platforms have experienced. ZoomGov uses the same application as commercial Zoom but runs through different servers. Box.com is a cloud-based file storage service that allows the court to determine how content will be secured and shared with designated users.

This handbook is a work in progress. As such, your feedback is greatly appreciated. If you have corrections or suggestions, please email them to dj.nuffer@utd.uscourts.gov.

The most recent version of this handbook and other materials related to virtual proceedings will be posted at <https://www.utd.uscourts.gov/virtual-proceedings>. <mailto:>

Professionalism and Conduct

All participants must treat video and telephonic hearings as though they were in a courtroom. Remember the basics—one speaker at a time, stopping for objections—the court reporter is creating the court record and needs to hear parties clearly. There is an inherent delay when communicating via video or telephone conference platforms, and to assist the court reporter in making an accurate record, counsel should exercise extra care to avoid talking over another participant. Consistent use of the mute/unmute function can assist in this regard.

All participants are expected to adhere to District of Utah DUCivR83-1.1(d)(1).

Counsel must inform all witnesses about testimony expectations. Witnesses, counsel, and parties should be in locations that are suitable for trial. **It is strongly recommended that you test the ZoomGov.com connection with your witness or witnesses. See *Technology Check section*.**

The area used for participating in a Zoom session should be:

- Quiet (limited background noise as much as possible)
- Isolated from others and with some level of privacy
- Free from distractions
- Sitting, rather than standing, is recommended
- The desk or table should be relatively empty
- The participant's face should be clearly visible in the video in the center of the frame so their face is not obscured. The participant should be positioned to look directly at the camera.

- Consider backgrounds carefully as they can be a major distraction
- Front lit - avoid backlighting

Participants should take the following steps:

- Mute their microphones when not actively speaking / unmute as necessary
- Use a PC or laptop (or if a computer is not available, a large tablet) for the video portion of the hearing
- Consider use of dual monitors
- Use a good quality web camera
- Consider audio quality (better results are generally achieved by using a headset equipped with a microphone rather than relying on built-in computer speakers and microphone)
- Close all other programs to avoid popups
- Use [Focus Assist](#) to prevent alerts
- Silence cell phones – use them only as backup to the Zoom computer connection

Further, witnesses must be instructed:

- Of the requirements on this page
- They may not use any other devices during their testimony
- With respect to any hardcopy set of exhibits provided to the witnesses, they are not to use the exhibits unless directed to do so. (*Counsel should provide hard copies of any exhibits and confirm they have been received by each witness at least two days before the witness is called to testify.*)
- They should be prepared to display the room they are in and no one else should be in that room during testimony
- They may not confer with any other person during their testimony, including at recesses

Counsel should confer regarding the following issues and advise the court of any agreements or issues to be resolved:

- The equities for witness and counsel participation in the Zoom trial, including whether:
 - A party or parties may be in the same physical space as counsel
 - Witnesses may be in the same physical space as counsel for one of the parties
 - Counsel and a witness may communicate outside the Zoom platform while the witness is testifying or during recesses
 - Witnesses' need to be accommodated by coming into the courthouse in order to testify
- Time zone considerations
- Interpretation/translation considerations

Technological Requirements



You will need a computer (highly recommended) or tablet (not recommended) with either speakers and a microphone or a headset with a microphone, and a camera. If using a computer, you might be prompted to download and run the [Zoom application](#) (highly recommended). If you are compelled to use a tablet (which will have diminished features) you must download the free [Zoom app](#) in advance of connecting to the Zoom meeting. If you already have the Zoom app, update it.

You will have the opportunity to check your audio upon joining a meeting. Using headphones with a microphone is preferred to reduce other noise and feedback. Use a web camera for better video quality.

You will receive notice for a video conference from court staff. The notification will include a link to “Join Zoom Meeting” as well as a Meeting ID and Passcode. You can join the Zoom session by clicking on the link or by inputting the Meeting ID and Passcode into your Zoom application.

Internet Connectivity Speeds: Minimum upload speed is 800kbps and minimum download speed is 1.0Mbps. For gallery view and/or 720p HD video you need 1.5Mbps upload and 1.5Mbps download.

www.speedtest.net is a free internet connectivity speed test. It is critical to test connectivity in real world conditions such as internet use by multiple users and higher traffic during business hours when other typical internet activity is ongoing.

You can find the system requirement details at: <https://support.ZoomGov.us/hc/en-us/articles/201362023-Systemrequirements-for-Windows-macOS-and-Linux>.

Technology Check

The court will ordinarily require the attorneys to participate in a technology check with court staff. During that session, you are strongly encouraged to practice the following skills:

- Renaming each time a Zoom session is joined, according to the conventions set forth in the Supplemental Virtual Trial Order
- Managing the peremptory challenge process
- Setting [display options in the Zoom app to display up to 49 participants at a time](#)
- Calling and examining a witness
- Examining a witness about an exhibit as to which admissibility is stipulated. The exhibit can be “published” by using the “Share Screen” in Zoom
- Laying a foundation for an exhibit as to which admissibility is disputed. The exhibit will be available to the witness, counsel, and presiding judge outside the Zoom platform (e.g., in hard copy form, on another electronic device, or in another screen on the same

computer being used to participate in the Zoom session); if admitted, the exhibit can be published to the jurors using the “Share Screen” function in Zoom

- Using the Zoom annotation tools, enlarging and highlighting an exhibit while examining a witness about it
- Using the Zoom whiteboard feature, asking a witness to draw a diagram and offering the drawing as a demonstrative exhibit
- Sharing a video recording ensuring that sound is heard by participants
- Impeaching a witness with prior deposition testimony or refreshing a witness’s recollection
- Posing objections

Training Videos

You may want to consider viewing several training videos that have been posted to the Western District of Washington’s YouTube channel. These videos cover skills and knowledge that all participating attorneys must have:

[Zoom Videos](#)

- Excerpt Conducting Remote Bench Trials In King County Superior Court CLE
- Joining & Configuring Audio & Video In Zoom
- How to use Zoom’s Virtual Backgrounds
- Zoom Meeting Controls Overview
- How To Share Your Screen in Zoom
- How to use Breakout Rooms in Zoom

[Box.com Videos](#)

- An Introduction to Box - The Cloud Content Management Platform
- Getting Started with Box
- Five skills to get started fast with Box
- Demo: Using Box Every Day

Troubleshooting Zoom Issues

What to do when things go wrong

- Resist the urge to panic. We all know things won’t be perfect. We are in this together.
- Preparation is key. Review [Zoom’s FAQ](#) and troubleshooting pages. Discuss in advance with counsel and witnesses how to address issues during the hearing.
- Audio issues? Be ready to pause until the source of the issue is identified.
- Video issues? Be prepared to shift to a telephonic (audio only) appearance (if appropriate) or to recess for in-person appearance (if permitted by and in accordance with court and/or public health requirements (e.g. masks)).
- Be patient with yourself, the participants, and the court.

The Zoom platform has several pages available with troubleshooting tips:

General FAQ for using ZoomGov can be found at:

<https://support.zoom.us/hc/en-us/sections/200277708-Frequently-Asked-Questions>

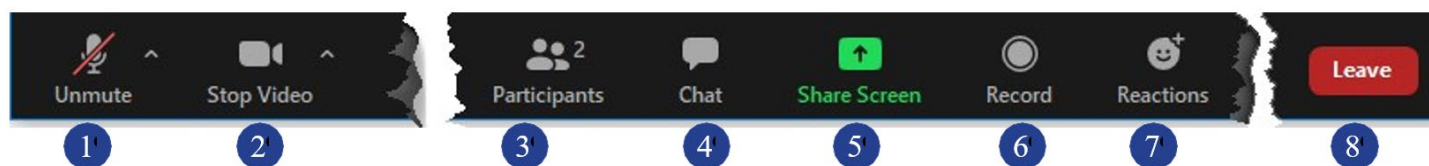
<https://support.ZoomGov.us/hc/en-us/articles/206175806-Top-Questions>

Video/Camera issues: Varies depending on OS and device: <https://support.zoom.us/hc/en-us/articles/202952568-My-video-camera-isn-t-working>

Audio issues: Only use one audio source per location. Echoes can be caused by a participant connecting to audio on multiple devices or multiple participants in one room or area using multiple audio devices: <https://support.ZoomGov.us/hc/en-us/articles/202050538-Audio-Echo-In-AMeeting>

Basic Zoom Controls

On a computer, a menu bar containing participant tools may appear and disappear as you mouse over the Zoom meeting, typically at the bottom of the screen. Mobile app interfaces will appear differently but contain most of the same functionality.



1. Mute/Unmute your microphone – Click the up arrow next to the microphone icon to open audio settings. Here you change your speaker and microphone settings.
2. Start/Stop your video feed (Turn on/off camera) – Click the up arrow next to the camera icon to open video settings. Here you can change your camera settings.
3. Participants – Click to open a pop-out screen that shows a list of participants in the meeting. From this panel, the host can mute/unmute all participants and more. Includes a “Raise Hand” button that you may use to raise a virtual hand.
4. Chat – Click to open the Chat panel where you can start or respond to a chat.
5. Share your screen – Click to start sharing your desktop display or any window/application on your computer with others in the meeting. Click the up arrow to reveal sharing options. This option may be used ONLY as authorized by the Court.
6. Record – not available.
7. Reactions. This feature is disabled.
8. Leave Meeting – Leaving the meeting will disconnect you.

Additionally, if interpretation services have been enabled by the court, the interpretation button will appear on its own or in a button marked More...

Somewhere on your Zoom screen, you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” shows the active speaker. “Gallery view” tiles all the meeting participants.

Zoom App Settings

There are some basic Zoom settings that you may want to adjust prior to your trial.

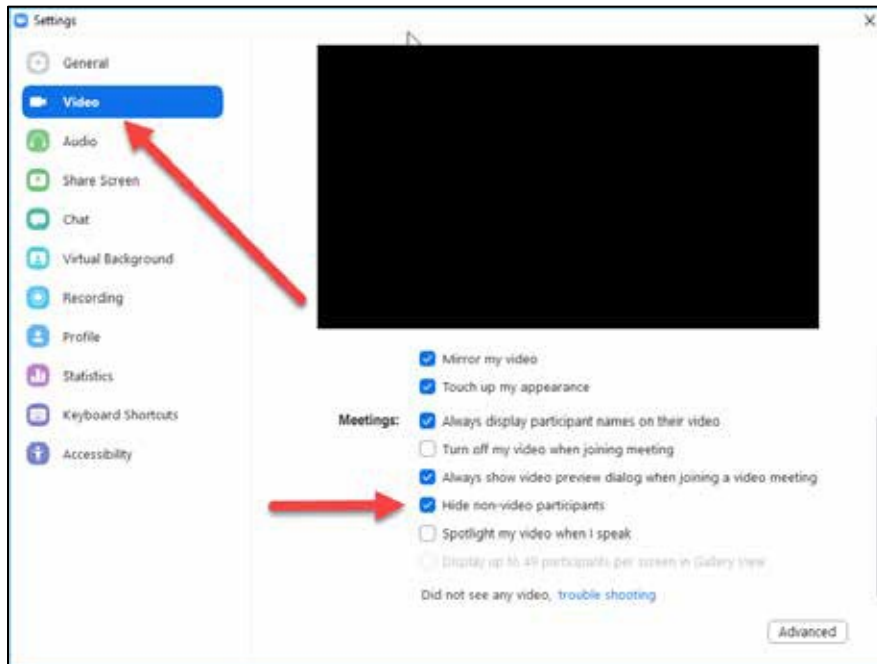
Turn off non-video participants

Zoom can display only a certain number of video participants at a time. For an iPad user, this number is smaller than what is available on a computer. It is important for you to be able to see and observe all the key participants during the trial. Participants who have video turned off consume space on your Zoom screen even though you cannot see them. For non-video participants, Zoom will show you black boxes with the participants’ names. To maximize the number of video participants you can view, you can have Zoom display only participants who are using video. You can do this for ALL Zoom meetings or for just a specific Zoom trial.

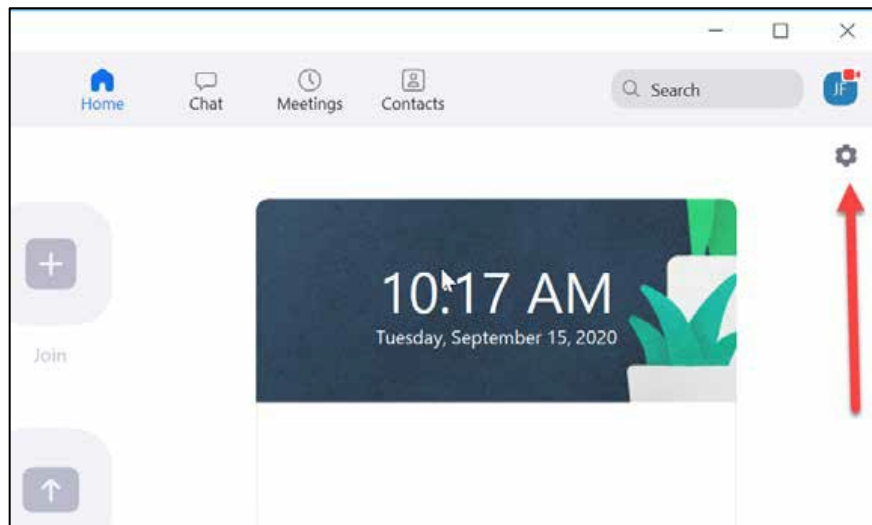
****WARNING*** Despite the advantage to be gained by saving space on your screen, using this function prohibits users from benefiting from the “Follow Host’s Order” feature described below. Zoom recently added the following features. Participants may, in gallery view, rearrange the sequence of the various video windows by left-clicking on each window and dragging it to the desired location on the screen. The meeting Host (typically the courtroom deputy) may enable all participants to see the videos in the same sequence that he or she has set on the screen. The “Follow Host’s Order” feature is helpful for keeping the jurors in numerical sequence for all participants, particularly during voir dire, and for keeping the judge, counsel and witnesses at the top of the screen and others further down. The feature works, however, for only those participants with a recent version of the Zoom application (as of February 2021, Zoom is on Version 5.5.2). **In addition, you cannot benefit from the “Follow Host’s Order” feature if you have non-video participants turned off.** You will have to decide which feature takes priority and change your settings accordingly.*

Turn off non-video participants for all Zoom meetings:


Launch the Zoom app on your computer and click on the sprocket to access Zoom settings.



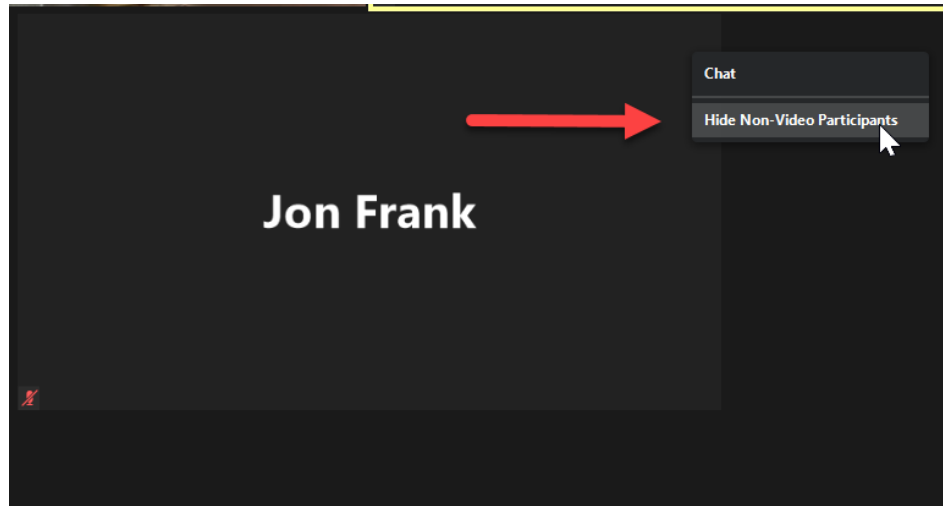
In the Zoom settings, click on Video and you'll see a checkbox for Hide non-video participants.



Turn off non-video participants for a specific Zoom trial:

Once you have joined your trial you will see all the participants who have also joined. If there are participants who have joined with their video off, you will see a box with just their name. Hover your mouse over this box and you will see an ellipses button 

Click this button and you can select Hide Non-Video Participants.



*This option is not available on an iPad.

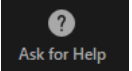
Waiting Room & Breakout Rooms

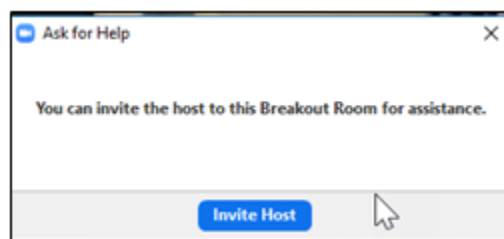
The court has enabled a virtual Waiting Room in the Zoom platform. This means that when you join the Zoom meeting you are automatically placed in a virtual Waiting Room until court staff admit you into the Virtual Courtroom. This approach ensures the security of the trial and allows for witnesses, for example, to log into the Zoom session for the trial but not join the Virtual Courtroom until it is time for them to testify.

The Zoom platform also allows for virtual (breakout) rooms. The court uses this function to maintain a Virtual Jury Room and to provide for sidebars.

Breakout rooms can also be used if counsel wish to confer with their client privately. If you need to confer with your client and have so indicated to court staff, court staff will change your designation in Zoom to Co-Host. This will allow you to leave the breakout room at any time and return to the Virtual Courtroom. After you return, your Co-Host designation will be revoked.

A breakout room can be set up and assigned only by court staff who are designated as Host.

When you are in a breakout room, the Chat feature will allow you to chat only with other people in the breakout room. If you need help from court staff, are done or have a question, use the  button. This feature will invite the Host for the trial to the breakout room.

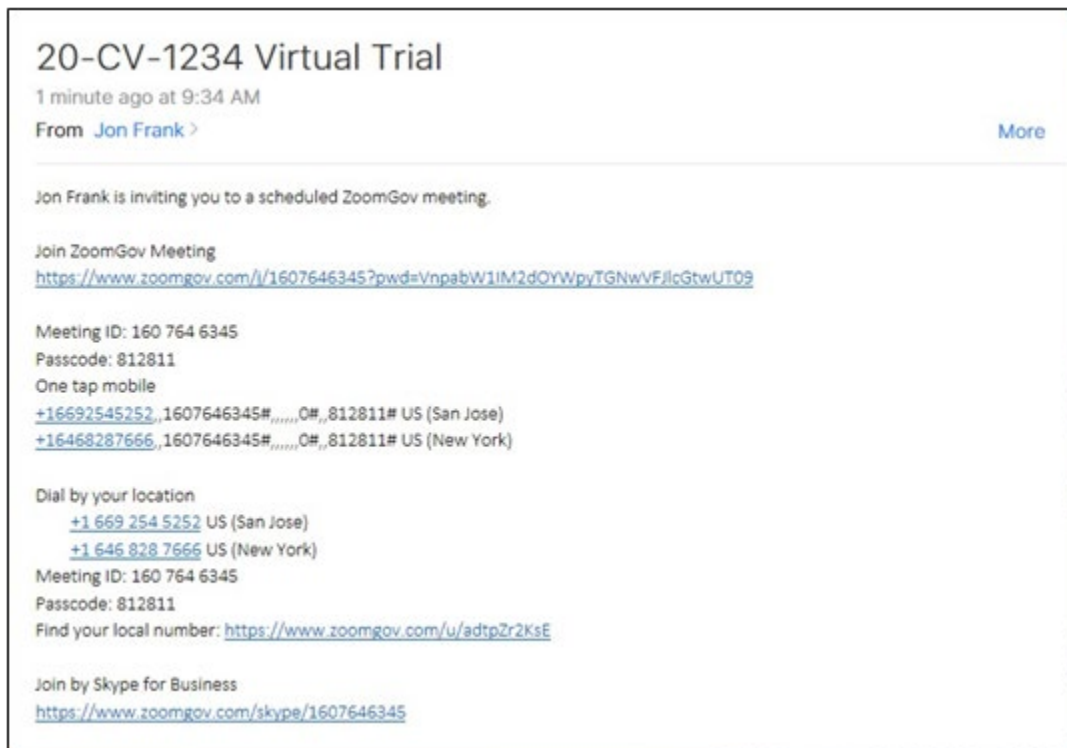


Court staff will then join your breakout room, where you can get help or indicate that you have finished and can now rejoin the trial.

Trial Invitation

The courtroom deputy or trial coordinator for your trial judge will send a Zoom meeting invitation for your trial date. This invitation will include instructions and a link to join the Zoom meeting at the appropriate time. Once you've clicked the link to join you will then have the opportunity to test your audio by clicking on "test Computer Audio." Once you are satisfied that your audio is working correctly, click on "Join audio by computer."

Below is an example of how a trial invitation email might appear:



Trial Exhibits

The court uses a secure file-sharing service, Box.com, for electronic exhibits. The court will prepare the folder on Box for this case, and share with each party a folder on Box for their exhibits. The presiding judge for your trial may, however, provide alternate instructions on exhibits.

Currently the United States Attorney does not accept invitations for using the court's Box.com account. If you are an AUSA, alternative options will need to be arranged.

Counsel should confer regarding:

- Process of providing exhibits to witnesses for their testimony, including whether by hard copy or electronically
- Use of demonstrative exhibits

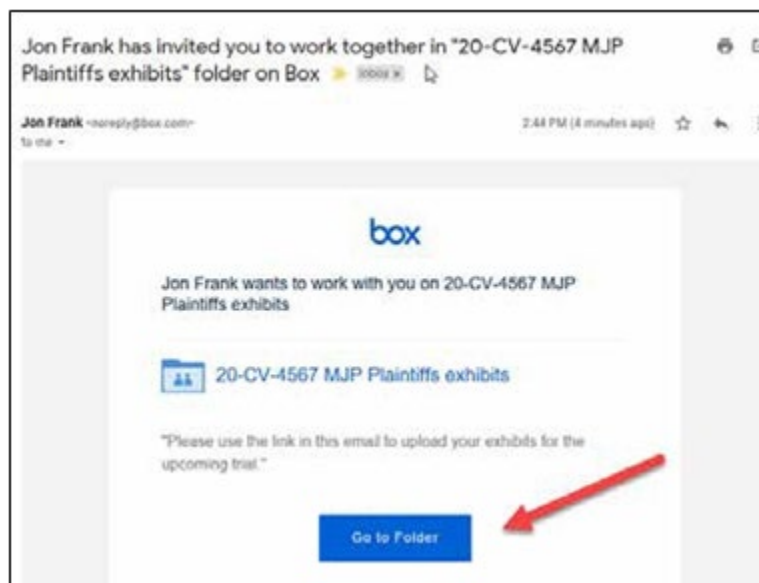
- Use of physical exhibits
- Process for witness annotation of exhibits during testimony and preserving any such annotations

The court does not set a limit on the number of individuals who can have access to Box.com folders for a particular case, but each invitation to share Box.com folders must be manually addressed.

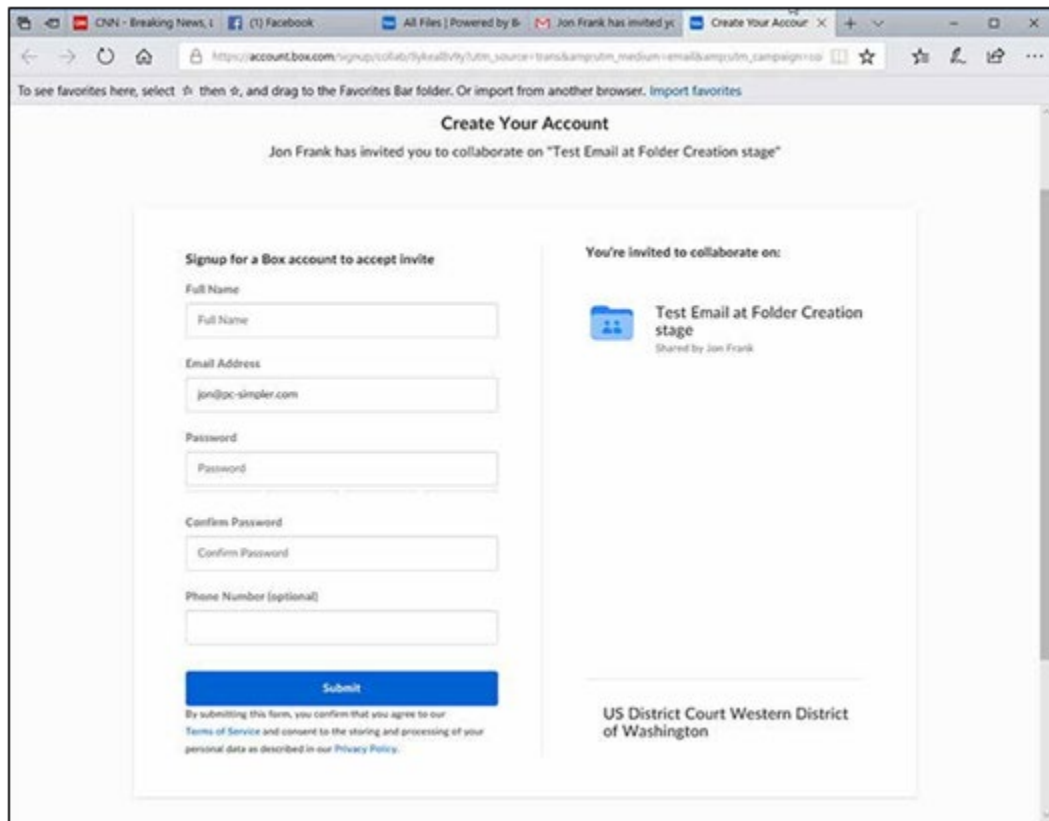
Upload Access: Counsel must send the courtroom deputy a list of only those team members who will actually upload documents. Each of those individuals will need to create a Box.com account.

View Access: If others on the team wish to simply view what is in the various folders, links can be made available via email. The persons who receive these sharing links will not be required to have a Box.com account, but they may not upload documents or modify the contents of the folders. This manner of access (via an emailed link for the folder containing admitted exhibits) is what the jurors will be provided when they begin deliberations.

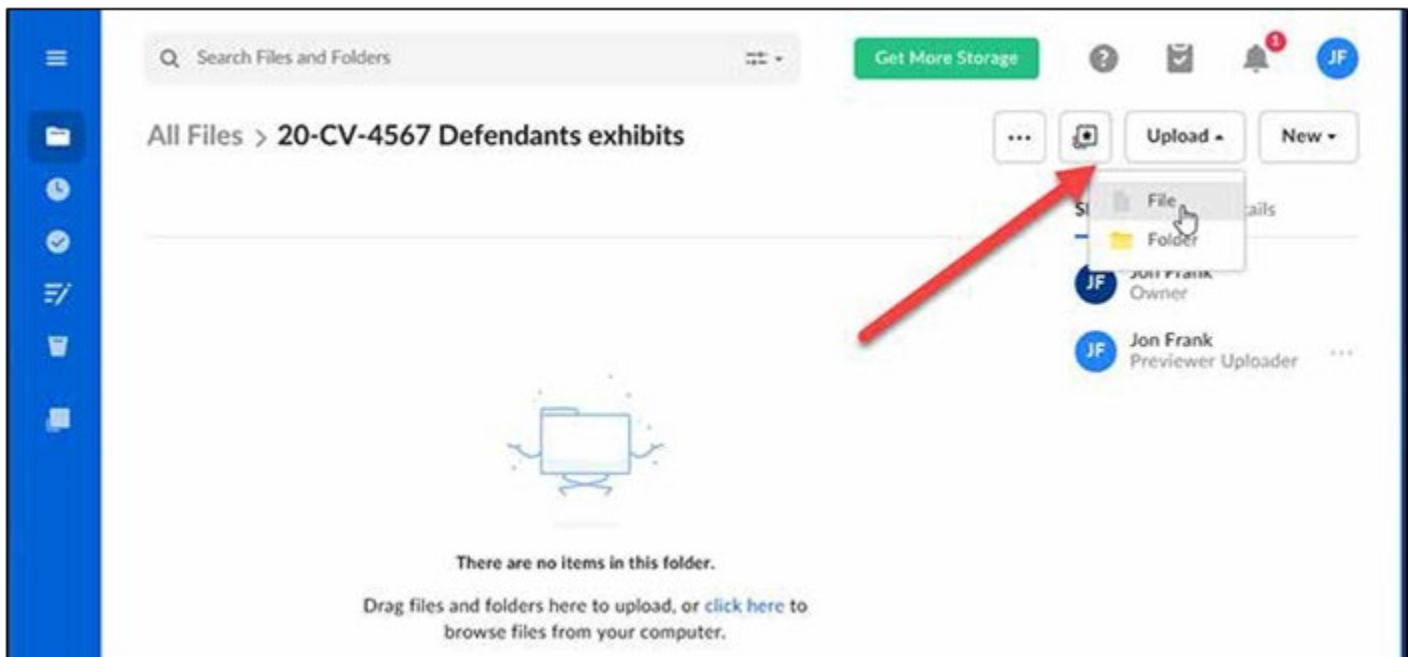
Below is an example email inviting the recipient to share a Box.com folder:



Clicking on the Go to Folder button will take you to Box.com. If you do not already have a Box.com account, you will then be prompted to create one.



After you create an account, or if you already have an account, you will be prompted to log in. Once you are logged in, you will have the option to upload PDF documents to your trial folder.



Navigate to where the files are stored on your computer or network and upload them.

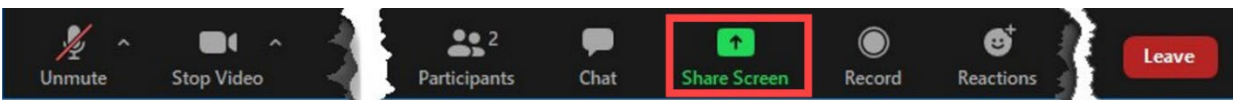
Displaying Exhibits During Trial

Exhibits can be “published” to the jury through either the Box.com system (not recommended) or another program on your computer (recommended). If exhibits are “published” via your computer, the court expects that those exhibits will be identical to what was submitted to the court via Box.com. The judge may require you to certify this fact prior to the trial.

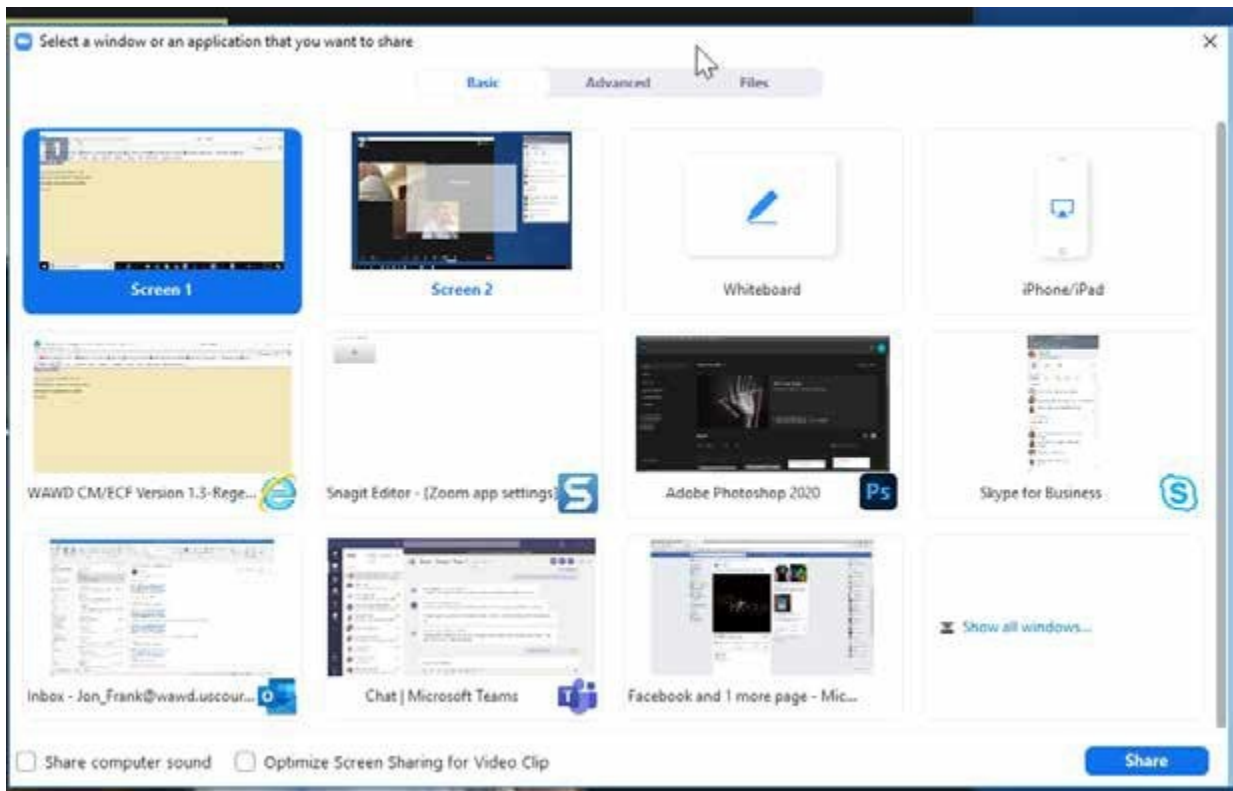
If you use a display system that allows annotation, and you want the annotated version to be an official exhibit, that system must allow you to save the annotation in a format that can then be loaded into the Box.com platform. If the annotation is for demonstrative purposes, then whether the system can save the annotation does not matter.

To “publish” exhibits during trial you will open the exhibit, through either Box.com or on your computer, and then use the “Screen Share” function in Zoom to share your “desktop” or an open window. If you are choosing the latter option, you will need to make sure you have your system set to display the exhibits in one window to prevent needless delays.

Click “Share Screen” on Zoom controls:



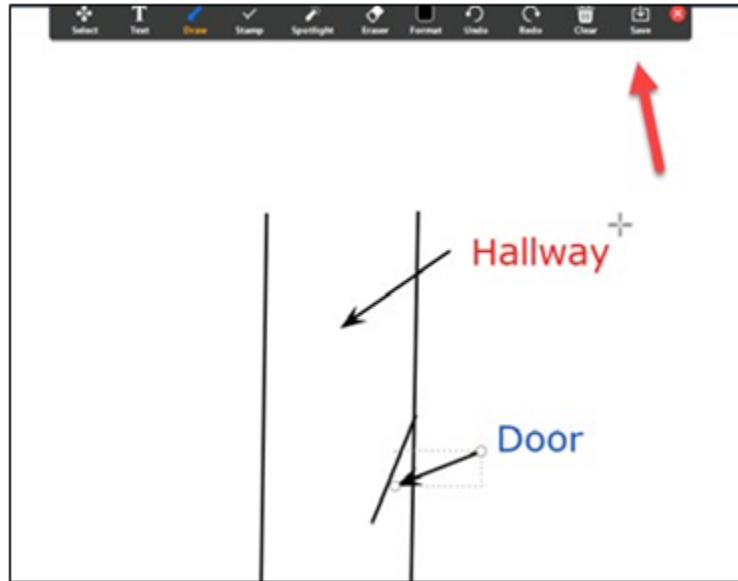
Then select the proper screen or window to share.



Zoom will give you the option of screen(s), application, or whiteboard to share. Be cautious about sharing a screen rather than an application to avoid inadvertent disclosure of other

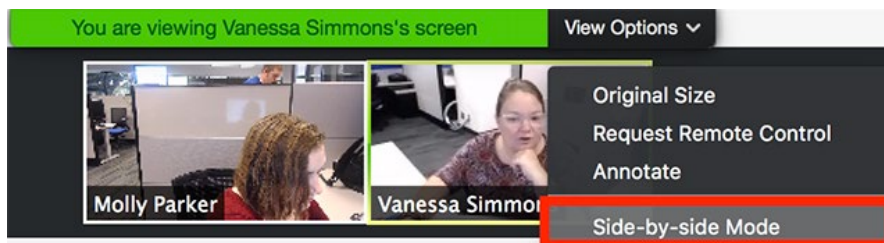
documents. If you are displaying video, you will want to check the boxes for “Share computer sound” and “Optimize Screen Sharing for Video Clip.”

If you use the Whiteboard option and want the final drawing to be admitted as an exhibit, you will need to save it when you have finished. Clicking the Save button in the annotation control bar will save the file to your computer. This file will be in your Documents folder > Zoom > date/time/Zoom meeting name.



If the other party is displaying a screen, you will want to make sure your view settings are set so that you can still see the participants.

At the top of your Zoom window, you will see a menu bar indicating screen sharing. Click on the dropdown for View Options and make sure it is set to Side-by-side Mode. Doing so will maximize your view of participants by displaying them to the side of the shared screen.



Other Zoom-Specific Trial Housekeeping Matters

1. At the end of each day of trial, before leaving the Zoom session, the courtroom deputy will email the current Witness and Exhibit list to counsel. Counsel must review the list and confirm on the record that the list of admitted exhibits is correct to date.
2. After the jury has been excused to deliberate, before leaving the Zoom session, the courtroom deputy will email the final Witness and Exhibit list to counsel. Counsel must review the list and confirm on the record that the list of admitted exhibits is correct.

3. The Trial Coordinator will upload admitted exhibits to the Admitted Exhibit Box.com folder. Counsel must verify that the exhibits uploaded to this folder are identical to those admitted at trial and email the Certification of Exhibits form to the courtroom deputy.

Jury Challenges

For a virtual trial or virtual voir dire, counsel must be familiar with the use of Box.com for jury challenges. Please review the Jury Challenges section of [How to Use Box.com](#).