**UNITED STATES BANKRUPTCY COURT**

**FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

**Zoom Appearance Procedures for Zoom Eligible Hearings**

**for Bankruptcy Judge Benjamin A. Kahn**

On and after July 1, 2021, all hearings before the Bankruptcy Court for the Middle District of North Carolina will be scheduled as in-person hearings. Subject to public health emergencies or other exigent circumstances that may limit in-person attendance, alerts for which would be posted to the Court’s website, the Court expects that parties and attorneys will appear in person at hearings. However, in certain, very limited circumstances described herein, the Court may provide for virtual appearance by way of Zoom for Government.

These procedures may be updated from time-to-time and can always be found on the “Chambers Contact and Procedural Info” page on the Court’s website, available at <http://www.ncmb.uscourts.gov/content/benjamin-a-kahn>.

**A. Zoom Eligible Hearings:**

Upon the request of a party in interest, in very limited circumstances and subject to the discretion of the Court, and any applicable regulations or directives by the Administrative Office of the United States Courts or the Judicial Conference of the United States, certain hearings may be designated as open to video appearances via Zoom for Government (“Zoom Eligible Hearings”).

Making a Request: requests to designate a hearing as a Zoom Eligible Hearing should be sent to the Courtroom Deputy for Judge Kahn, Karen Champagne, at (336) 358-4018 or at karen\_champagne@ncmb.uscourts.gov. **Requests must be made at least 7 days prior to the scheduled hearing date**. Requests should include whether all parties consent to the request and should CC or BCC all attorneys and participants on any email. Those making requests should attempt, in advance of submitting the request to the Court, to determine whether all parties consent to deeming a hearing a Zoom Eligible Hearing or whether an objection is anticipated. Requests to designate a hearing as a Zoom Eligible Hearing will be considered on a case-by-case basis and are subject to the Court’s discretion. Parties must provide a compelling reason why the hearing should be conducted by Zoom for Government rather than in person (i.e., out-of-state attorneys or witnesses, health concerns of an attorney or witness, emergency timing of a hearing on short notice).

**Hearings designated as Zoom Eligible Hearings will be denoted as such in the following ways:**

* In a docket entry on the case docket;
* Through ecf (and BNC notice if time permits); and
* On the “Chambers Contact and Procedural Info” page on the Court’s website, available at <http://www.ncmb.uscourts.gov/content/benjamin-a-kahn>.

**B. Requests to Virtually Attend Zoom Eligible Hearings:**

After a hearing is designated as a Zoom Eligible Hearing, parties may request to appear virtually through Zoom for Government. Parties must request virtual appearances in accordance with the Zoom Appearance Procedures (Part C). All parties still have the option to attend Zoom Eligible Hearings in person unless otherwise stated by the Court and would not need to send any request if appearing in person.

***All parties*** must comply with the Zoom Appearance Procedures for any Zoom Eligible Hearing, regardless of whether they will attend the hearing in person or via Zoom for Government. All attorneys and parties planning to submit testimony or other evidence must comply with the Zoom Appearance Procedures in doing so. Parties who wish to attend Zoom Eligible Hearings in person should report to **Courtroom #3**, Second Floor, Second Floor, 101 S. Edgeworth Street, Greensboro, NC at the date and time as stated in the hearing notice.

**C. Zoom Appearance Procedures for Zoom Eligible Hearings:**

1. Applicable Audio and Video Technologies for Hearing. For hearings allowing for Zoom virtual appearances, video participation shall take place using both the telephonic and videoconferencing means described below. The Court will utilize (a) the AT&T Teleconferencing Service (AT&T) for courtroom audio and (b) Zoom for Government for video.
	1. **Audio.** AT&T can be accessed by calling (877) 848-7030 and entering access code 8852513#. It is strongly encouraged that all counsel and Remote Witnesses accessing the hearing through AT&T utilize either a headset or handset. Participants should call through a landline and should refrain from using cellphones. The Court may mute or disconnect any virtual participant whose faulty connection and/or audio quality disrupts the hearing or renders the communication incomprehensible.
	2. **Video.** The Zoom for Government link shall be provided to those parties who have submitted a notice of intent to participate in accordance with Paragraph 2 below. All counsel and Remote Witnesses shall conduct a pre-hearing test of Zoom for Government and, if possible, AT&T, using the same equipment that they will be using during the hearing.
2. Accessing the Hearing*.* Any individual intending to **virtually** attend a Zoom Eligible Hearing via Zoom for Government must provide notice, either directly or through counsel, to Video\_Court@ncmb.uscourts.gov **at least two business days prior** to the scheduled hearing.[[1]](#footnote-1) In that notice, individuals should also specify whether they will appear as counsel, in a pro se capacity, or as a potential witness. Instructions for accessing the hearing will then be provided, including separate links for each individual who will be attending. **Individuals who are participating virtually, and have complied with any applicable Standing Orders and/or Local Rules regarding pro hac vice admission, and wish to (1) make opening or closing statements or (2) question or cross-examine witnesses shall enable the video function on Zoom for Government** **only when speaking. At all other times, virtual participants shall disable the video function on Zoom for Government**. Any individual who anticipates technological limitations (e.g., slow internet connection, inability to access internet) that will prevent them from appearing by Zoom for Government must email the Court at Video\_Court@ncmb.uscourts.gov, or call (336) 358-4000 for immediate assistance, no later than noon on the day preceding the hearing
3. Submission of Exhibits to Court. All participating parties must adhere to the procedures for submitting exhibits described in this Order, regardless of whether those parties attend the Zoom Eligible Hearing in person or virtually. Parties represented by counsel shall file all exhibits on the docket in .pdf format no later than 12:00 pm on the day preceding the hearing.[[2]](#footnote-2) Individuals representing themselves pro se (without an attorney’s assistance) shall submit their exhibits to (i) Video\_Court@ncmb.usourts.gov and (ii) the United States Bankruptcy Administrator, William P. Miller, at bill\_miller@ncmba.uscourts.gov. The filing of any exhibit shall not require the exhibit to be offered into evidence at the hearing, nor shall any proposed exhibit be considered as evidence unless offered and admitted at the hearing. All objections to any exhibits are preserved for the hearing. Only those exhibits timely submitted may be offered at the hearing absent good cause, unless offered solely for rebuttal.
4. Form of Exhibits. Each party shall combine all its potential exhibits into one .pdf document beginning with a table of contents, and each individual exhibit shall be bookmarked for easy review by the Court. **A party calling a witness should arrange for that witness to have an individual binder of all exhibits filed by all parties or access to tabbed, indexed exhibits through electronic means other than those through which the witness is connected to the hearing, with all numbering corresponding to that used in the .pdf documents filed pursuant to these procedures.**
5. Rebuttal Exhibits. Any document that may be used solely for impeachment or rebuttal at the hearing should not be included in the PDF file(s) described in Paragraph 4. If counsel uses a document solely for impeachment or rebuttal at the hearing, counsel must be prepared to simultaneously email a PDF copy of the document to the Court, the witness, and opposing counsel during the hearing. **The party introducing the rebuttal exhibit should also prepare, in advance, a printed copy of the rebuttal exhibit for the witness that is to be examined.**
6. Requirements for Allowance of Remote Testimony; Additional Information. If a proposed witness (through the sponsoring attorney or pro se party) has obtained permission from the Court to testify by Zoom for Government (the “Remote Witness”), the party sponsoring the Remote Witness shall file with the Court, no later than 12:00 pm on the day preceding the hearing, a document containing the following information:
7. The name and title of the Remote Witness.
8. The matter on which the Remote Witness will provide testimony.
9. The location of the Remote Witness (city, state, country).
10. The place from which the Remote Witness will testify (e.g. home, office – no addresses are required).
11. Whether anyone will be in the room with the Remote Witness during the testimony, and if so, who (name, title, relationship to the Remote Witness), and for what purpose. \*A party sponsoring the Remote Witness should not be in the same room as that Remote Witness he intends to question.
12. Whether the Remote Witness will have access to any documents other than exhibits that have been filed on the docket, and if so, an explanation of those documents.

Individuals representing themselves pro se shall submit this document to (i) Video\_Court@ncmb.usourts.gov and (ii) the United States Bankruptcy Administrator, William P. Miller, at bill\_miller@ncmba.uscourts.gov.

Note: Providing the identity of a witness shall not require that the witness be called, but only those witnesses timely identified will be permitted to testify absent good cause, unless called solely for rebuttal. If counsel intends to call a rebuttal witness at the hearing (who was not timely disclosed prior to the hearing), counsel must be prepared to simultaneously docket a PDF copy of the document required under this paragraph or email the same to the Court, the witness and opposing counsel during the hearing.

1. Affirming Remote Witnesses. All Remote Witnesses shall be affirmed during the video conference and such testimony will have the same effect and be binding upon the Remote Witness in the same manner as if such Remote Witness was affirmed by the court deputy in person in open court.
2. Responsibility for Remote Witnesses. The party sponsoring the Remote Witness shall be responsible for ensuring that all virtual hearing information and all exhibits are supplied to the Remote Witness prior to the hearings, and that the Remote Witness has access to the Zoom for Government conference link, as applicable, including access to internet and audiovisual technologies.
3. Courtroom Formalities. Although conducted using telephonic and videoconferencing technology, this hearing constitutes a court proceeding. No person shall record the audio or video of the hearing from any location or by any means. The audio recording created and maintained by the Court shall constitute the official record of the hearing. Further, the formalities of a courtroom shall be observed by all virtual attendees. Counsel and Remote Witnesses shall dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court and its proceedings.
1. Individuals appearing in person for a Zoom Eligible Hearing do not need to provide any notice to the Court. [↑](#footnote-ref-1)
2. If the hearing is scheduled for a Monday, the “preceding day” for purposes of this Order shall be the preceding Friday. [↑](#footnote-ref-2)