

*Prepared and filed by this court
for the convenience of the parties*

Plaintiff

Plaintiff

-vs-

Defendant

Defendant

SUPERIOR COURT OF NEW JERSEY
Example County

DOCKET NO.:

Civil Action

Order for Virtual Civil Jury Trial

This matter is opened to this court on its own motion. A virtual civil jury trial has been scheduled in accordance with the Supreme Court’s January 7, 2021 Order in lieu of an in-person proceeding in light of the COVID-19 pandemic. This court has concluded that the best interests of justice will be served with the jury trial proceeding in this fashion.

Accordingly, with respect to the virtual aspects of the jury trial, IT IS on this ____ day of _____, 2021; ORDERED:

1. JURY SELECTION:

A. Jury selection will be conducted in a virtual format. Jurors have been summoned to report for virtual selection starting on _____, 2021 at _____.

B. During jury selection, the judge will be located in the courtroom.

The attorneys and parties also will be present in the courtroom; **or**

The attorneys and parties will participate virtually. Plaintiff and their counsel will join from one remote location. Defendant and their counsel will join from one remote location; **or**

Other: _____.

C. All jurors scheduled to report for selection have completed the standard qualification questionnaire and a supplemental questionnaire regarding their technological needs as related to participating in a virtual jury selection and trial. A copy of that supplemental questionnaire for virtual jury selections and trials has been made available to counsel.

D. The model *voir dire* questions will be distributed in writing to the jurors.

Suggested: Jury Management will email a copy of the model *voir dire* questions to each juror at their confirmed email address. Jurors will be instructed to print the questions for reference during virtual selection.

E. The judge will read aloud each of the model *voir dire* questions during the virtual selection process. Jurors who answer affirmatively to one or more of the questions will be relocated to a virtual breakout room for further questioning at sidebar.

F. The judge and attorneys have agreed on the following additional open-ended questions, which shall be asked of each juror during selection:

Example Question 1: While the jury is participating virtually, the judge, attorneys, parties and witnesses will appear in person in the courtroom. Consistent with public health recommendations and Supreme Court Orders, a witness or party may testify from behind a plexiglass barrier or with a face covering. Is there anything about a

witness's use of a barrier or face covering while testifying which would cause you to draw any conclusions either positively or negatively about that witness?

Example Question 2: While you as jurors are viewing the trial virtually, your duties and responsibilities remain the same as if you were participating in person. Is there anything about participating in this proceeding in a virtual format that would impair your ability to meet your responsibilities as a juror?

G. A total of _____ alternate jurors will be selected for this trial. The selection of additional alternates will not affect any substantive aspect of jury deliberations. The same process will be used to select deliberating jurors and alternates before starting deliberations. The same number of jurors will be required to return a verdict (a verdict must be reached in accordance with Rule 1:8-2).

2. TRIAL:

A. The trial in this matter will proceed virtually through the New Jersey Judiciary-authorized Zoom platform beginning on _____, 2021.

Example: Trial shall be conducted on (days) starting at (time) with 15-minute breaks during every three-hour session and a 45-minute break for lunch.

B. The parties and counsel shall not record nor permit any other person to record any part of the proceedings by any means whatsoever, including, but not limited to, audio, video, or screenshot. The parties shall communicate this portion of this order to all additional or interested persons or entities in this litigation.

C. The court will provide an enhanced jury oath as appended to this Pretrial Order, reminding jurors of their responsibility to pay full attention to the trial and to maintain the secrecy of jury proceedings.

D. The court will invite counsel and the parties by email to join the Zoom trial. Absent further order of the court, in order to ensure security, access to the actual meeting shall be limited to the parties, witnesses, and counsel only. All trial attendees shall not forward nor share the session password. The proceedings will/will not be livestreamed to the public.

1. To facilitate the email invitations, no later than _____, 2021 (a date certain and at least seven days before the hearing), counsel shall circulate to the judge, their secretary, and their law clerk, each attendee's name, email address, cell phone number, and office telephone number and shall designate the "best" contact phone number for use in contacting those attendees.
2. On _____, 2021 at _____, this court, as a participant, will test the Zoom system with the parties and counsel to ensure that all parties and counsel can connect and that each individual's video and audio systems work. This court suggests the following to ensure good audio and video quality:
 - Consider steps that may be taken to establish a high-speed internet connection;
 - Use the computer microphone, with or without a headset;
 - Eliminate any background noise;
 - Consider camera positioning and lighting (avoid sitting near a window, and place a light in front of the participant);
 - Access Zoom by desktop or laptop rather than by a smartphone or tablet;
 - Ensure computing devices are adequately charged and that power cables or back-up batteries are available as may be necessary; and

- Do not join the hearing from a public setting or using unsecured, public wi-fi to ensure the privacy, security, and decorum of the hearing.
3. Each party shall be responsible for testing the videoconferencing with each of their witnesses, including any third-party witnesses that the party has subpoenaed and who will be attending virtually (as opposed to in the courtroom or in counsel's office).
 4. Each party shall be responsible for ensuring that all logistical requirements of this order are satisfied.
 5. The video conference shall be of sufficient quality to allow for clear video and audio transmission of all participants.
 6. Each participant should test their equipment to determine their best audio connection through their computer speakers and with or without a headset.
 7. The proceedings will be recorded by this court on the Courtsmart audio system.
 8. Upon joining the Zoom platform, any participants will be admitted into the virtual waiting room. This court shall admit all participants to the hearing at the same time, and only when all participants have entered that room.
 9. During breaks, the parties shall not disconnect from the proceedings, although they are encouraged to turn off their video and microphone. This shall reduce delays caused by parties leaving and then reentering the meeting.
- E. During these proceedings, counsel shall endeavor to speak one at a time and to not interrupt any other speaker, other than as may be necessary or required to interpose an objection or to alert other participants of technical difficulties.

F. With the exception of the parties, all witnesses are to be sequestered until they testify. Witness who are noticed to testify shall not view any live stream recording of these proceedings.

G. The “chat” function in the Zoom platform will be disabled. This court shall use a virtual “break-out” room to confer privately. This court may also use virtual break out rooms to facilitate sidebar conferences.

3. WITNESSES

A. On _____, 2021, counsel shall serve a witness list upon the other attorneys and this court. The witness list must contain each witness’s email address and telephone number. The witness list must specify how each witness will participate in the trial: in person from the physical courtroom; live by video from a private location provided by the proffering attorney; or live by video from a private personal location (e.g., home).

B. Witnesses not testifying from the physical courtroom shall follow these practices:

1. A witness shall promise that the witness shall be alone in the room from which the witness will provide testimony, and shall power off or in silent or vibrate mode any other electronic devices other than the one with which the witness uses to testify.
2. A witness shall testify sitting at an empty table or desk and the witness’s head, face, and shoulders shall be clearly visible in the video.
3. To the extent possible, the web camera should be positioned at face level and reasonably close to the witness.

4. Witnesses may not use virtual backgrounds. Instead, the remote venue from which each witness is testifying must be visible. If a witness is testifying from a personal location, the court may permit blurring of the background if necessary to prevent disclosure of personally identifying information that cannot otherwise be obscured.
5. Witnesses should speak directly into the camera while testifying.
6. Each witness shall dress and act in a way that is appropriate for court proceedings. Witnesses shall not eat, smoke, chew gum, or drink anything other than water during testimony.
7. Each witness shall designate his or her name at the bottom of his or her virtual appearance.
8. All non-party or expert witnesses shall sign off from the Zoom session at the conclusion of their testimony.
9. This court shall instruct each witness about (1) what to do in the event of a disconnection or other technical failure; and (2) the impermissibility of any unauthorized observation or recording of the hearing.

C. The order of the proceedings shall be as follows:

4. EVIDENCE:

A. On _____, 2021 each party shall:

1. Prepare, file, and serve on the other party, an exhibit list that includes the description of each exhibit that is intended to be admitted at trial. (Any text messages or emails sought to be admitted shall be printed and shall be marked separately).

2. Identify the exhibits as follows: the plaintiff shall start their exhibits list with P1, and a single defendant shall start their exhibits list with D1. If there are multiple defendants, the exhibit designations shall be D1 [last name initial].
 3. Gather all exhibits and place them in the same order that they are identified in the exhibit list.
- B. On _____, 2021, counsel shall provide each witness with a clean, unannotated copy set of exhibits to be referred to during the witness's testimony, as well as a clean, unannotated copy of his or her witness statement (if any). [Add any details as to how the unannotated exhibits and statement will be provided, whether in hard copy or electronic.] At any time, this court may ask a witness to display the set of exhibits or witness statement and verify that they do not bear any annotations.
- C. On _____, 2021, counsel shall provide two complete sets of the exhibits to this court. The exhibits should be mailed or delivered to the judge's chambers.
- D. Witnesses shall not be aided by any notes, unless permitted by this court for good cause shown.
- E. The parties may agree to use a shared virtual document repository to be made available by computer at all witnesses' locations, provided that the parties use their best efforts to ensure the security of the documents. The party proffering the testifying witness may use a screen/window to show and display the relevant documents to the witness during the course of questioning.
- F. Evidence shall only be submitted electronically in the following formats:

Exhibit Types	Allowable file types
Documents	.pdf
Images/pictures	.jpg, .gif, .png, .mp4

Audio recordings	.avi, .mpg, .mp3, .mp4
Video recordings	.avi, .mpg, .mp3, .mp4

G. Evidence may be presented during the trial via any effective means, including but not limited to the use of screensharing to show documents, photographs, images, PowerPoint presentations, and video recordings, and the use of visual presentation (e.g., Elmo) devices to show physical evidence.

H. Evidence shall not be provided to the jury during the trial. At the conclusion of trial and before deliberations, evidence shall be provided to the jury:

In hard copy binders mailed or delivered by courier to each juror;
and/or

In an electronic file for which the foreperson shall have read-only access; **and/or**

In an electronic file to which all jurors shall have read-only access.

I. If applicable: proposed impeachment evidence shall be shared with and accessible to the court, counsel, witnesses, and jurors as follows:

_____.

5. TECHNICAL FAILURES:

A. If an attorney’s videoconferencing connection fails, the court will ask counsel remaining on the video conference to mute their audio to avoid concerns regarding potential ex parte communications. Once this court acknowledges that the dropped participant has rejoined the videoconference, remaining counsel should unmute their audio and turn on their video.

B. If, however, the participant is disconnected from the proceeding for some other technical failure and connection cannot be re-established within a

reasonable interval, this court shall pause the trial and move the remaining participants into a virtual waiting room or designated break out rooms, and the parties shall wait until all reconnections or other technical issues are resolved.

6. OTHER PROVISIONS:

The court may supplement this order if and as necessary to address unanticipated issues associated with the virtual format of the civil trial.

Hon. _____, J.S.C.

Virtual Jury Oath

Do you swear or affirm that you will try the matter in dispute and give a true verdict according to the evidence?

In addition:

Will you ensure that that no one can see or hear the proceeding? This means that you should be in a place that is as private as possible, where other people cannot see your monitor or hear the statements and testimony during the proceeding. Unless you are alone, you should wear earbuds or headphones.

Do you affirm that you will not send or receive communications during testimony or any other phase of the trial?

Do you agree to not record any aspect of the trial, including taking any photograph or digital image, making any audio or video recording, and/or broadcasting or otherwise sharing the proceeding in real-time or later?

If you have a technical problem, such as loss of audio or video, do you agree to advise the court as soon as possible by utilizing the hand raise feature in zoom?

Do you understand and agree to comply with these requirements?