

Judge Baer's Zoom Trial Rules and Tips

General Matters

1. “Listening in” on the proceedings. The trial is a “public proceeding.” Thus, any party interested in the case may “listen in” to the Zoom trial. Parties to the case may share the Zoom ID and passcode with interested parties who wish to “listen in.” The information will also be posted on the Court Calendar which is located on Judge Baer’s website. Parties who “listen in” must have their cameras off and their microphones muted at all times.
2. Video/audio on. Only parties who are expected to call witnesses or pose objections at the trial and the witnesses who are testifying should have their cameras and microphones turned on during the trial. All others should turn their cameras off and mute their microphones. The video feed will show only the parties who will actually be participating—the Judge, the witness, the lawyer asking the questions, and any parties entitled to object. Other attorneys assisting in the case must have their cameras off and their microphones muted.
3. Slow down and do not interrupt. It is vital that everyone slow down when speaking and not interrupt each other. This is even more key now than when proceedings are held in the courtroom. Generally, when two people speak at the same time, nothing is heard from either. Thus, anything that is said will have to be repeated, making the trial even longer.
4. Regular breaks. If people want to take breaks during the trial, they should just ask for a break or raise their hand if someone else is speaking. If it is just a simple break, participants should turn off their video and audio during the break and then turn them back on when the trial commences again.
5. Breakout rooms. If any party wants to be placed in a breakout room so that he or she may speak separately to another participant, the party should ask the Court, and, if appropriate, the courtroom deputy will arrange for the breakout and place the parties in the correct breakout room. Breakout rooms will be set up in advance for the plaintiff and the defendant. Court personnel will also have a chambers breakout room.
6. Technical information. The Court must be provided with a list of cell phone numbers of all parties expected to participate in the trial and descriptions of the types of technology (e.g., Mac, PC, I-pad) that each party will be using at trial. Such a list will allow Court personnel to immediately contact and provide appropriate technical assistance to any party experiencing technical issues during the trial.
7. Courtroom behavior. Although this will be a virtual trial, parties are expected to conduct themselves in the same way that they would if we were in person in the courtroom. This includes appropriate formality and attire. While I love cats and babies, please try to avoid their participation in the trial if at all possible. In addition, if you are having trouble with the video or audio or other technical difficulties, please speak up immediately. Though glitches are expected,

they do not always occur on the Court's end, so we will not necessarily know if your Internet goes down until you tell us.

8. Photos/recordings. No photographs or recordings of the proceedings are permitted. You may have your cell phones or similar devices with you during the trial, but they must be muted, and you may not use them to take photographs or record any part of the proceedings. A court reporter will be present, and she will be preparing the only official record of the proceedings. While the Zoom bot will be engaged as a backup for the court reporter, you will not be provided access to that recording.

Witnesses

9. Witness protocol. When a party is called to testify, the witness must generally be in a room by himself or herself with no papers in front of the witness other than the filed exhibits. The witness will be sworn in by the courtroom deputy via Zoom video and audio. Then, while under oath, the witness will be asked to testify as to where the witness is located, who is in the room with the witness, and whether the witness has any papers in front of him or her. The witness will also be asked to tell the Court if, at any time, someone who was not initially there enters the room. If witnesses wish to have counsel with them in person, that fact must be disclosed to the Court, and the parties must maintain social distance in the room.

10. Violation of witness rules. If, during the course of a witness's testimony or otherwise, it is discovered that (a) the witness is being coached or otherwise communicated to, (b) there is an undisclosed person in the room with the witness, or (c) the witness has notes in front of him or her that have not been disclosed, the Court may disqualify the witness from testifying, enter sanctions, or take other appropriate action within the Court's discretion.

11. Excluding witnesses. At the start of the trial, the parties must inform the Court if they wish to have testifying witnesses excluded from the courtroom. If so, the Court will decide whether the request is appropriate pursuant to the applicable federal rules. Either excluded witnesses will be placed in a Zoom waiting room until it is time for them to testify, or they should be directed not to dial in to the Zoom trial until they are expected to testify.

12. Objections. If parties wish to object to questions during examination, they should simply state "objection" orally and physically raise their hand. When the word "objection" is stated and/or the hand is raised, all parties must stop talking. At that point, the Court will invite the objecting party to state the legal basis for his or her objection; may, at its discretion, solicit a response from the other party; and then rule.

13. Sidebar. If a lawyer needs a sidebar with the Court and opposing counsel during a witness's testimony, the lawyer should just ask. We can arrange for the witness to be placed in the waiting room while the sidebar takes place.

Exhibits

14. Filing and sharing exhibits. Exhibits must all be filed on the Court's docket. The courtroom deputy will serve as host for the trial and thus be the only person who has the right to

“screen share.” If a party wishes to have an exhibit shared on the screen, the deputy will be the one who will retrieve the document from the docket and share the document with the trial participants. Exhibits must be marked with page numbers that will allow the deputy to readily and quickly find the appropriate pages in each exhibit.

15. Hardcopy exhibits. In addition to filing exhibits electronically, the parties may provide hard copies of the exhibits to each other and the witnesses. One full hardcopy set of the exhibits must be delivered to the Judge via the Bankruptcy Court mailroom, 219 S. Dearborn Street, Room 717, on the date required in the Court’s pretrial order.

16. Confidential exhibits. If the parties designate as exhibits documents that are marked as confidential, a redacted set of the confidential documents should be filed on the public docket, and a separate, unredacted version of the documents should be filed under seal with the Court pursuant to Local Rule 5005-4. The courtroom deputy will be directed to “screen share” only the redacted version of confidential exhibits. The Court does not need hard copies of the redacted exhibits. In the hardcopy set of exhibits to be delivered to the Court, the confidential documents should be provided in separate sealed envelopes marked as confidential. Whenever witnesses are expected to testify on the record about confidential information, counsel must provide advanced notice so that the Court can determine whether arrangements need to be made to protect that information from anyone listening in during the trial.

17. Impeachment/rebuttal documents. If a lawyer wants to use a document that is not a marked exhibit for impeachment or rebuttal, he or she must send the relevant document via email to the courtroom deputy who will then share the document on the screen as directed by the lawyer.

18. Deposition transcripts. If a lawyer anticipates using a deposition transcript for impeachment, he or she may either designate the transcript as an exhibit and file it with the other exhibits ahead of the trial or have the transcript downloaded and readily available to provide to the courtroom deputy to be shared during the trial.