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SUPERIOR COURT OF WASHINGTON
FOR THE COUNTY OF KING

,
Plaintiff,
v.
,
Defendant.

Case No.

**ORDER FROM PRETRIAL
CONFERENCE:
REMOTE CIVIL BENCH TRIAL**

The Court hereby confirms a _____-day non-jury trial to commence on _____ at _____.

. The Court orders the following procedures for trial.

A. Trial Format

Remote:

The entire trial will take place remotely via the Zoom platform. The parties, counsel, and witnesses will not be physically present in the courtroom. The judicial officer will be physically present in an unlocked courtroom open to the public.

The Court finds that the current public health crisis relating to COVID-19 presents a compelling circumstance supporting good cause to permit testimony in open court by contemporaneous transmission from a different location. CR 43(a)(1); Emergency Order #18 RE: CIVIL, FAMILY LAW, AND DEPENDENCY MATTERS, *In the Matter of the Response by King Cty. Super. Ct. to the Pub. Health Emergency in Wash. State*, No. 20-2-12050-5 SEA, at 2-3 (King Cty. Super. Ct. May 27, 2020).

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Other:

[Describe the trial format here. For example, “Plaintiff will appear remotely via the Zoom platform, and the Defendant will appear in-person.”]

In addition, the Court may order other accommodations required for public health.

B. ADR Requirement Pursuant to Order Setting Civil Case Schedule

- Has been accomplished.
- Must be accomplished not later than:
- Is waived.

C. Pretrial Disclosures Between the Parties

1. Exhibits:

Pursuant to LCR 4(j), no later than 21 days before trial, the parties shall electronically exchange the following:

- a. Lists of the witnesses whom each party expects to call at trial,
- b. Lists of the exhibits that each party expects to offer at trial, except for exhibits to be used only for impeachment.
- c. Copies of all documentary exhibits, except for those to be used only for impeachment or illustrative purposes.

In addition, non-documentary exhibits, except for those to be used only for impeachment or illustrative purposes, shall be made available for remote inspection by all other parties no later than 14 days before trial. Any witness or exhibit not listed may not be used at trial, unless the Court orders otherwise for good cause and subject to such conditions as justice requires.

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2. Witnesses:

Pursuant to LCR 4(j), no later than 21 calendar days before trial, the parties shall disclose witnesses who have been disclosed pursuant to LCR 26, whom the parties intend to call at trial.

D. Documents to be Filed With the Court

1. Joint Statement of Evidence is Due Five Court Days Before Trial:

Pursuant to LCR 4(k), the Joint Statement of Evidence shall be filed with the Clerk’s Office, with courtesy copies delivered to the Court, no later than 5 court days before trial. The parties shall confer at least 10 calendar days before trial to prepare the Joint Statement of Evidence.

The Joint Statement of Evidence shall include a list of all proposed exhibits, numbered sequentially beginning with 1.

Plaintiff’s exhibits should be numbered beginning with e.g., 1.

Defendant’s exhibits should be numbered beginning with e.g., 101.

Once an exhibit is numbered, it may be introduced by either party, but will continue to be designated by the number listed in the Joint Statement of Evidence.

Adjacent to the list of exhibits shall be a table with four columns headed as follows:

- “Party(ies) Offering Exhibit”;
- “No Objection”;
- “Authenticity Admitted but Objectionable”; and
- “Otherwise Objectionable.”

The legal basis of the objection shall be identified. The appropriate column shall be completed for each exhibit.

1 No document shall be listed more than once as an exhibit. An exhibit on the Joint
2 Statement may be offered by any party. The Joint Statement of Evidence shall conform to
3 the requirement of LCR 4(k). Counsel are encouraged to stipulate to foundation when
4 possible and may include any additional stipulations regarding exhibits.

5 To the extent possible, parties shall include any illustrative exhibits to be used at
6 trial in the Joint Statement of Evidence and in the set of exhibits transmitted to the Court
7 and witnesses.

8 2. Exhibits and Other Evidence:

9 a. Exhibits will be transmitted to the court electronically.

10 i. Contacting the Clerk's Office:

11 1. No later than fourteen calendar days before trial, each party or that
12 party's attorney must send an email to the appropriate Clerk's
13 Office email address, as discussed in the attached sheet titled
14 "Uploading Electronic Exhibits via ShareFile."

15 ii. Response from the Clerk's Office:

16 1. During court business hours, the Clerk's Office will generally
17 respond within two hours to a party by sending a link to a ShareFile
18 folder for this case.

19 iii. Uploading Exhibits:

20 1. Parties must upload all of their exhibits to the ShareFile folder
21 designated for this case no later than five court days before trial.
22 2. Exhibits must be labeled according to the naming conventions
23 described in the attached instructions, and must be numbered as
24 listed in the Joint Statement of Evidence.
25

1 3. Original electronic versions of documents allowed to be sealed by
2 the Clerk's Office without court order pursuant to LFLR 11(b)
3 should be redacted.

4 iv. Exhibits will not be pre-marked by the Clerk's Office. The clerk will
5 rely on the exhibit numbering providing by the parties in the joint
6 statement of evidence.

7 iv. Compliance:

8 1. Failure to comply with exhibit uploading deadlines and procedures
9 may result in exhibits being rejected by the Clerk's Office and such
10 other actions as to the Court deems necessary to ensure that all
11 parties have timely access to the exhibits. If the Clerk's Office
12 rejects an exhibit, the Clerk's Office will explain to the party why
13 the exhibit was rejected and how to remedy the issue. Rejection of
14 an exhibit by the Clerk's Office does not mean that the exhibit will
15 necessarily be excluded by the Court.

16 b. Exhibits will be transmitted in hardcopy.

17 i. Hardcopy transmission to the Court:

18 1. No later than five court days before trial, the parties must transmit
19 to the Court one notebook containing all original exhibits for the
20 clerk and one notebook containing copies of all exhibits for the
21 judicial officer. Each exhibit shall be placed behind a numbered tab
22 corresponding with the number designated in the Joint Statement of
23 Evidence.

24 2. Exhibits will not be pre-marked by the Clerk's Office.

25 ii. Transmission to witnesses:

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1. Each party must ensure that the party's witnesses appearing remotely have access to copies (electronic or hardcopy) of any exhibits to be used during the examination of that witness before the witness is called.

c. Exhibit certification:

Whether exhibits were transmitted electronically or as hard copies, the parties must certify in the Joint Statement of Evidence that the exhibits exchanged between the parties and provided to witnesses are identical to the original set of exhibits provided to the Court and do not contain notes, highlighting, or any material not contained in the original exhibits provided to the Court.

d. Use of Discovery and Depositions at Trial:

If depositions (including video depositions), deposition designations, interrogatories, requests for admission, or other discovery responses are to be used at trial as substantive evidence in lieu of live testimony, the offering party shall provide a list of the excerpts to be offered to the opposing party.

If the Court has ordered electronic exhibit transmission, discovery excerpts, counter-designations, and objections shall be electronically transmitted to any opposing party and to the Court's bailiff by email no later than five court days before trial.

If the Court has ordered hard-copy exhibit transmission, hard copies of discovery excerpts, counter-designations, and objections shall be delivered to any opposing party and to the Court's bailiff no later than five court days before trial.

Any party anticipating possibly publishing a deposition during trial must provide a physical copy of the deposition transcript to the Court in a sealed envelope in advance.

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3. Trial briefs:

Trial briefs shall be filed with the Clerk’s Office, and copies provided to the assigned judge and opposing parties no later than five court days before trial.

4. Motions in limine:

All motions in limine shall be filed with the Clerk’s Office, with copies delivered to the assigned judge and served on opposing counsel, pursuant to LCR 4(1) and LCR 7(b)(4).

Motions in limine shall be noted for the Court’s consideration no later than the Friday before the trial date.

The Court sets the following briefing schedule for motions in limine:

Motions are due:

Responses are due:

Replies are due:

5. Proposed findings of fact and conclusions of law:

5 court days before trial, each party shall provide proposed findings of fact and conclusions of law to the assigned judge in:

Microsoft Word.

Hardcopy.

Proposed findings of fact and conclusions of law need not be submitted in advance of trial.

E. Other Requirements

The following additional equipment is required:

The following ADA accommodations are required:

Interpreters are required as follows:

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F. Argument

Opening statements are limited to _____ minutes per party.

Closing arguments are limited to _____ minutes per party, including rebuttal for the party bearing the burden of proof.

G. Trial Schedule

Counsel are available the following dates:

Counsel or witnesses have scheduling conflicts on the following dates:

H. Identifying Individuals Appearing Remotely

No later than two court days before trial, counsel shall email the Court the following information for each party, attorney, or witness who will appear remotely:

Name

Email address

Phone number

I. Remote Trial Access and Appearance

The Court will provide a remote access link, including any passwords, identification numbers, and other information necessary to access the trial over the internet.¹

Counsel are required to share the link and access information with the parties and witnesses.

¹ The Court has been made aware that Comcast is providing free hotspot services for anyone who needs internet access. This service is available to Comcast and non-Comcast customers at <https://wifi.xfinity.com/#find-a-hotspot>.

Other service providers may be providing free internet access as well; parties and counsel with a cellular or internet plan may wish to check with their service providers.

1 Counsel are required to ensure in advance of witness testimony that parties,
2 counsel, and witnesses have sufficient hardware and internet access to testify remotely.
3 Counsel must ensure that parties, counsel, and witnesses have sufficient bandwidth to
4 fully participate in the trial, including testifying and viewing exhibits.² Counsel must test
5 the ability to access and use the Zoom platform in advance of trial for each party, attorney,
6 and witness, including internet speed.³

7 Counsel must ensure that, at the time of a witness's testimony, the witness is able
8 to testify in a distraction-free setting.

9 It is presumed that parties, counsel, and witnesses appearing remotely will appear
10 with video and audio enabled. No party, attorney, or witness may appear solely by audio
11 (whether by Zoom without video enabled or by phone) without prior permission from the
12 Court.

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16 ² Counsel, parties, and witnesses can find system requirement information for
17 Zoom at: [https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-](https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux)
18 [Windows-macOS-and-Linux](https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux).

19 General information for Zoom at: [https://support.zoom.us/hc/en-](https://support.zoom.us/hc/en-us/articles/206175806-Top-Questions)
20 [us/articles/206175806-Top-Questions](https://support.zoom.us/hc/en-us/articles/206175806-Top-Questions).

21 Information about common troubleshooting problems for video issues at:
22 <https://support.zoom.us/hc/en-us/articles/202952568-My-Video-Camera-Isn-t-Working>.

23 Information about common troubleshooting problems with audio at:
24 <https://support.zoom.us/hc/en-us/articles/202050538-Audio-Echo-In-A-Meeting>.

25 ³ Counsel, parties, and witnesses may wish to test their internet speeds at sites such
as <https://www.speedtest.net/>.

1 **J. Technology Check**

2 On the first day of trial, the parties and counsel shall appear remotely prior to
3 the start of trial to ensure that they are able to fully participate in the proceedings via video
4 and audio.

5 The Court has scheduled a practice technology check on _____ at _____. The
6 Court will provide a Zoom link for the practice session.

7 **K. Trial Attendance**

8 1. Remote Attendance:

9 Only parties and counsel may be present via the Zoom platform for the entire trial.

10 Witnesses will be allowed to remotely participate in the trial via Zoom only at the
11 time they are called to testify.

12 No other individual will be allowed to participate in the trial remotely via the Zoom
13 platform without prior permission of the Court. Parties, counsel, and witnesses should not
14 share the remote access information for the trial with anyone not authorized in this order to
15 participate in the trial via Zoom without prior permission from the Court.

16 This order governs how the Court, parties, counsel, and witnesses will conduct the
17 trial via the Zoom platform. Nothing in this order is intended to limit any public right to
18 observe the trial.

19 2. Witnesses Excluded:

20 Pursuant to ER 615, witnesses are excluded from the trial until they are called. Until
21 a witness is excused and not subject to recall, a witness may not observe, listen to, or
22 otherwise access, through any means, the testimony of other witnesses or other proceedings
23 for this case.

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3. No Recording:

No one is authorized to record the proceedings by any means without prior permission from the Court.

4. Virtual Waiting Room:

When a participant remotely accesses the trial via the link provided by the Court, the participant will first enter a virtual waiting room. The Court will admit individuals into the trial from the virtual waiting room.

5. Security:

The Court will only allow parties, counsel, witnesses, and those with prior permission to access the remote trial. The Court has the ability to mute, remove, and block individuals not authorized to access the remote trial.

L. The Court Record

The official record will be captured and maintained only through a means authorized and conducted by the Clerk of the Court. A clerk may or may not be physically present in the courtroom, but will keep the official record and custody of the original exhibits, regardless of physical location.

M. Calling Remote Witnesses During Trial

The party calling the witness is responsible for notifying the witness when the witness is to be called so that the witness can access the trial remotely. Any witness appearing remotely must appear with video and audio enabled, absent prior permission from the Court.

From the time the witness is placed under oath until the witness is released, the witness shall not communicate with anyone other than the Court and examining counsel without permission of the Court. Witnesses may not refer to any documents or other

1 information sources during their testimony unless and until the witness is directed to do
2 so.

3 **N. Handling Exhibits Remotely During Trial**

4 1. Substantive Exhibits:

5 During the trial, witnesses should be examined using copies (electronic or hard-
6 copy) of exhibits provided to the witness in advance or shared with the witness using
7 Zoom's screen-sharing function during examination, with the Court's permission.

8 Authenticating, establishing the admissibility of, and offering exhibits remotely
9 should be done according to the Rules of Evidence just as they would during an in-person
10 trial. The witness appearing remotely should be directed to access the witness's copy of
11 the exhibit or counsel may screen-share the exhibit. If the exhibit is admitted, the Clerk
12 will admit the original previously provided to the Court. Witnesses should destroy or
13 return hard copies of exhibits following the trial.

14 2. Illustrative Exhibits:

15 Illustrative exhibits must be marked and transmitted to the Court in advance.

16 If it is not possible to mark an illustrative in advance (e.g., because the exhibit was
17 created during trial while examining a witness), the Court may allow alternate means of
18 marking and admitting the exhibit for illustrative purposes, including, e.g., allowing the
19 examining attorney to show the exhibit via Zoom's screen-sharing feature or allowing a
20 witness to electronically annotate an illustrative exhibit and later providing a copy of the
21 exhibit to the Clerk.

22 3. Playing Video Depositions During Trial:

23 Any party intending to offer video deposition testimony during the remote trial
24 must notify the Court in advance. The offering party should be prepared to play the
25 deposition on the offering party's computer and to utilize Zoom's screen-sharing function

1 or another authorized means to broadcast the deposition to the Court and other remote
2 participants.

3 **O. Professionalism During the Remote Trial**

4 1. Cross-Talk and Microphones:

5 When the Court, a party, counsel, or a witness is speaking, please avoid interrupting
6 the speaker.

7 During the trial, generally, all participants other than the Court, the witness, and the
8 examining and defending attorneys should mute their microphones.

9 Remote participants using multiple devices in a single workspace to access the trial
10 should avoid audio feedback issues by, e.g., only using the microphone and speakers on one
11 device at a time, or utilizing headphones.

12 2. Objections:

13 When an objection is made, please stop talking and let the Court rule on the
14 objection.

15 3. Disconnection:

16 In the event that the Court, a party, counsel, a witness, or anyone else necessary to
17 the proceedings becomes disconnected from the remote trial, the trial will stop while the
18 Court works to reconnect the individual.

19 Counsel must ensure that a witness has an alternative means of communicating with
20 counsel in the event of disconnection.

21 4. Limiting Distractions:

22 To the extent possible, remote trial participants should conduct themselves in the
23 same way they would if they were physically present in a courtroom. Remote participants
24 should silence electronic devices other than devices necessary for remote participation, and
25 generally take steps to minimize anything in their remote workspaces that would distract

1 from the integrity of the proceedings. The Court understands that conducting trial from
2 remote locations may present challenges. The Court asks all remote participants to do their
3 best to maintain professionalism in order to conduct a fair and efficient trial.

4 5. Screen Names:

5 When remotely accessing the trial, remote participants should ensure that their
6 screen name indicates their actual name.

7 6. Decorum:

8 Parties, counsel, and witnesses should dress in professional attire just as they would
9 when appearing in-person.

10 **P. Post-Trial Evidence Handling**

11 Electronic exhibits which were not offered during the remote bench trial will not be
12 retained by the Clerk's Office.

13 Hard-copy exhibits not offered during the remote bench trial and deposition
14 transcripts not published must be retrieved by 4:00 p.m. no later than three court days after
15 the trial has concluded, and will otherwise be discarded by the Clerk's Office.

16 Parties may be asked to provide their electronic authorization for the destruction of
17 exhibits admitted during trial.

18 **Q. Technology Support**

19 Parties, counsel, and witnesses should familiarize themselves with the Zoom
20 platform prior to trial. The Court is unable to provide Zoom technical assistance or advice
21 beyond what is contained in this order

22 **R. Notice**

23 Noncompliance with the terms of this order may result in sanctions, including the
24 exclusion of evidence, dismissal, entry of default, fee and term awards, or such other
25 sanctions as the Court deems appropriate.

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S. Trial Dates and Standby Status

Trial is scheduled to begin during the week indicated above, but may be put on standby status. Consequently, parties and witnesses must be available to begin trial Monday through Thursday the week of trial.

If the trial is placed on standby, trial participants can check trial status at the following website:

<https://www.kingcounty.gov/~media/courts/superior-court/docs/daily/civil-trial-assignments.ashx?la=en>

The parties are responsible for keeping the Court updated with current contact information.

IT IS SO ORDERED.

DATED this ____ day of _____, 2020.

Judge

1 **Attachment**
2 **Uploading Electronic Exhibits via ShareFile**

3 ShareFile is a program that allows exhibits to be electronically transferred and viewed via
4 a cloud.

5 **To submit electronic exhibits for trial, please email the Clerk's Office at the
6 following email addresses:**

- 7 • For Seattle cases: DJAEExhibitsSeattle@kingcounty.gov
- 8 • For Kent cases: DJAEExhibitsKent@kingcounty.gov

9 Emails need to include:

- 10 1. Case number and caption
- 11 2. Participant role in the case - plaintiff, petitioner, respondent, etc.

12 **Upon receipt of the email, the Clerk's Office will email a link to the ShareFile
13 application.** This link will allow you to access the ShareFile folder created specifically
14 for your case. At this point, files can be easily added to your folder.

15 The following instructions shall be followed when uploading exhibits. This is imperative
16 to ensure proper exhibit identification and tracking throughout trial.

- 17 • Electronic exhibits shall be uploaded to the folder individually - one file per
18 exhibit.
- 19 • Exhibits shall be uploaded with individual numbers and named in accordance with
20 the Joint Statement of Evidence.

21 **File naming examples:**

22 **Exhibit # - Participant Role - Exhibit Title**

23 Exhibit 5 - Plaintiff Anderson - Email dated 4-11-18

24 Exhibit 199 - Respondent Seattle Hospital - Patient Memorandum dated 6-9-10

- 25 • Document and image files are supported by ShareFile.

For more information, including a ShareFile instructional video, please visit:

<https://www.kingcounty.gov/courts/clerk.aspx>.