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SUPERIOR COURT OF WASHINGTON  
FOR THE COUNTY OF KING

,  
*Plaintiff,*  
v.  
,  
*Defendant.*

Case No.  
**ORDER FROM PRETRIAL  
CONFERENCE:**  
**CIVIL JURY TRIAL**

The Court hereby confirms a \_\_\_\_\_ -day jury trial to commence on \_\_\_\_\_ at \_\_\_\_\_.

The Court orders the following procedures for trial.

**A. Trial Format**

This will be an in-person civil jury trial, except that:

- The following counsel will appear remotely via Zoom:
  
- The following witnesses will testify remotely via Zoom:
  
- One or more exhibits will be presented electronically using ShareFile:

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Other:

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).

**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 exhibits that each party expects to offer at trial, except for exhibits to be used only for impeachment.
- b. 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.

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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, and indicating whether the witness will testify in-person or remotely via Zoom.

**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.

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.

No document shall be listed more than once as an exhibit. An exhibit on the Joint Statement may be offered by any party. The Joint Statement of Evidence shall conform to

1 the requirement of LCR 4(k). Counsel are encouraged to stipulate to foundation when  
2 possible and may include any additional stipulations regarding exhibits.

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

6 The Joint Statement of Evidence shall also identify witnesses and whether the  
7 witness will appear in person or via remote means.

8 2. Exhibits and Other Evidence:

9 a.  All  Some exhibits will be transmitted in hardcopy.

10 i. Hardcopy transmission to the Court:

11 1. For any exhibits ordered to be provided in hardcopy, no later than  
12 five court days before trial, the parties must transmit to the Court  
13 one notebook containing original exhibits for the clerk and one  
14 notebook containing copies of exhibits for the judicial officer. Each  
15 exhibit shall be placed behind a numbered tab corresponding with  
16 the number designated in the Joint Statement of Evidence.

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

18 ii. Transmission to witnesses:

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

23 iii. Physical evidence:

24 1. No later than five court days before trial, the parties shall notify the  
25 Court of any physical evidence to be introduced at trial, so that the

1 Court can arrange for any public health precautions necessary to  
2 handle the proposed evidence.

3 b.  All  Some exhibits will be transmitted electronically.

4 i. Contacting the Clerk's Office:

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

9 ii. Response from the Clerk's Office:

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

13 iii. Uploading Exhibits:

14 1. For any exhibits ordered to be provided electronically, parties must  
15 upload the exhibits to the ShareFile folder designated for this case  
16 no later than five court days before trial.

17 2. Exhibits must be labeled according to the naming conventions  
18 described in the attached instructions, and must be numbered as  
19 listed in the Joint Statement of Evidence.

20 iv. Hardcopies of electronic exhibits are still required for jurors on the first  
21 day of trial.

22 v. Exhibits will not be pre-marked by the Clerk's Office. The clerk will  
23 rely on the exhibit numbering providing by the parties in the joint  
24 statement of evidence.

25 iv. Compliance:

1                   1. Failure to comply with exhibit uploading deadlines and procedures  
2                   may result in exhibits being rejected by the Clerk’s Office and such  
3                   other actions as to the Court deems necessary to ensure that all  
4                   parties have timely access to the exhibits. If the Clerk’s Office  
5                   rejects an exhibit, the Clerk’s Office will explain to the party why  
6                   the exhibit was rejected and how to remedy the issue. Rejection of  
7                   an exhibit by the Clerk’s Office does not mean that the exhibit will  
8                   necessarily be excluded by the Court.

9                   c. Exhibit certification:

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

15                  d. Use of Discovery and Depositions at Trial:

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

20                   Discovery excerpts, counter-designations, and objections shall be  
21                  electronically transmitted to any opposing party and to the Court’s bailiff by email no later  
22                  than five court days before trial.

23                   Hardcopies of discovery excerpts, counter-designations, and objections shall  
24                  be delivered to any opposing party and to the Court’s bailiff no later than five court days  
25                  before trial.

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Other:

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.

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. Jury instructions:

The parties shall confer and agree on jury instructions and a verdict form to the extent reasonably possible. Only one set of agreed instructions need be submitted to the Court.

The parties must exchange jury instructions and verdict forms with one another and transmit jury instructions and verdict forms to the Court, no later than five court days before trial, as follows:

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- Electronic  Hardcopy
- Cited  Uncited
- Other:

6. Jury selection:

A jury of \_\_\_\_\_, plus \_\_\_\_\_ alternates will be empaneled from a group of approximately \_\_\_\_\_.

Jury selection will take place over Zoom. Prospective jurors unable to appear by Zoom will have the opportunity to appear in person. The Court will issue a separate order concerning procedures to be used for jury selection.

Parties shall electronically submit separate or agreed short neutral statements of the case to the Court no later than five court days before trial.

The Court will provide a general jury questionnaire to the parties. Parties shall electronically submit separate or agreed proposed additional questions to the Court no later than ten court days before trial.

**E. Other Requirements**

- The following additional equipment is required:
- The following ADA accommodations are required:
- Interpreters are required as follows:

**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:



1 Counsel or witnesses have scheduling conflicts on the following dates:

2 **H. Identifying Individuals Appearing Remotely**

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

5 Name

6 Email address

7 Phone number

8 **I. Remote Trial Access and Appearance**

9 The Court will provide a remote access link, including any passwords,  
10 identification numbers, and other information necessary to access any remote portion of  
11 the proceedings over the internet.<sup>1</sup>

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

14 Counsel are required to ensure in advance of any remote witness testimony that  
15 parties, counsel, and witnesses have sufficient hardware and internet access to testify  
16 remotely. Counsel must ensure that parties, counsel, and witnesses have sufficient

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

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

1 bandwidth to fully participate in the trial, including testifying and viewing exhibits.<sup>2</sup>  
2 Counsel must test the ability to access and use the Zoom platform in advance of trial for  
3 each party, attorney, and witness, including internet speed.<sup>3</sup>

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

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

#### 10 **J. Technology Check**

11  The Court has scheduled a practice technology check on \_\_\_\_\_ at \_\_\_\_\_. The  
12 Court will provide a Zoom link for the practice session.

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15 \_\_\_\_\_  
16 <sup>2</sup> 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 <sup>3</sup> Counsel, parties, and witnesses may wish to test their internet speeds at sites such  
as <https://www.speedtest.net/>.

1           **K. Trial Attendance**

2           1. In-person Attendance:

3           Except for voir dire, all parties, counsel, and witnesses may appear in person, subject  
4 to public health requirements relating to masks, spacing, and any other requirements the  
5 Court may impose.

6           2. Remote Attendance:

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

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

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

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

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

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

23          3. Witnesses Excluded:

24          Pursuant to ER 615, witnesses are excluded from the trial until they are called. Until  
25 a witness is excused and not subject to recall, a witness may not observe, listen to, or

1 otherwise access, through any means, the testimony of other witnesses or other proceedings  
2 for this case.

3 4. No Recording:

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

6 **L. The Court Record**

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

11 **M. Calling Remote Witnesses During Trial**

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

16 From the time the witness is placed under oath until the witness is released, the  
17 witness shall not communicate with anyone other than the Court and examining counsel  
18 without permission of the Court. Witnesses may not refer to any documents or other  
19 information sources during their testimony unless and until the witness is directed to do  
20 so.

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

22 1. Substantive Exhibits:

23 During the trial, witnesses testifying remotely should be examined using copies  
24 (electronic or hard-copy) of exhibits provided to the witness in advance or shared with the  
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1 witness using Zoom’s screen-sharing function during examination, with the Court’s  
2 permission.

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

9           2. Illustrative Exhibits:

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

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

17           3. Playing Video Depositions During Trial:

18           Any party intending to offer video deposition testimony remotely during the trial  
19 must notify the Court in advance. The offering party should be prepared to play the  
20 deposition on the offering party’s computer and to utilize Zoom’s screen-sharing function  
21 or another authorized means to broadcast the deposition to the Court and other remote  
22 participants.

1           **O. Professionalism During Remote Portions of the Trial**

2           1. Cross-Talk and Microphones:

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

5           During remote portions of the trial, generally, all participants other than the Court,  
6 the witness, and the examining and defending attorneys should mute their microphones.

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

10          2. Objections:

11          When an objection is made during remote testimony, please stop talking and let the  
12 Court rule on the objection.

13          3. Disconnection:

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

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

19          4. Limiting Distractions:

20          To the extent possible, remote trial participants should conduct themselves in the  
21 same way they would if they were physically present in a courtroom. Remote participants  
22 should silence electronic devices other than devices necessary for remote participation, and  
23 generally take steps to minimize anything in their remote workspaces that would distract  
24 from the integrity of the proceedings. The Court understands that conducting trial from  
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1 remote locations may present challenges. The Court asks all remote participants to do their  
2 best to maintain professionalism in order to conduct a fair and efficient trial.

3 5. Screen Names:

4 When remotely accessing the trial, remote participants shall ensure that their Zoom  
5 screen name and the legal name they are using in these proceedings are the same. If a  
6 remote participant attempts to access the trial via Zoom with a name the Court does not  
7 recognize, the Court may decline to admit that person from the virtual waiting room.

8 6. Decorum:

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

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

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

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

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

19 **Q. Technology Support**

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

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**R. 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 **Uploading Electronic Exhibits via ShareFile**

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

3 **To submit electronic exhibits for trial, please email the Clerk’s Office at the following email addresses:**

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- For Seattle cases: [DJAEExhibitsSeattle@kingcounty.gov](mailto:DJAEExhibitsSeattle@kingcounty.gov)
  - For Kent cases: [DJAEExhibitsKent@kingcounty.gov](mailto:DJAEExhibitsKent@kingcounty.gov)

5 Emails need to include:

- 6
- Case number and caption
  - Participant role in the case – plaintiff, petitioner, respondent, etc.

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

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


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- Electronic exhibits shall be uploaded to the folder individually – one file per exhibit
  - Exhibits shall be uploaded with individual numbers and named in accordance with the Joint Statement  
12 of Evidence.

12 • **File naming example: Exhibit # - Participant Role – Exhibit Title**

13 **Exhibit 5 – Plaintiff Anderson - Email dated 4-11-18**

14 **Exhibit 199 – Respondent Seattle Hospital - Patient Memorandum dated 6-9-10**

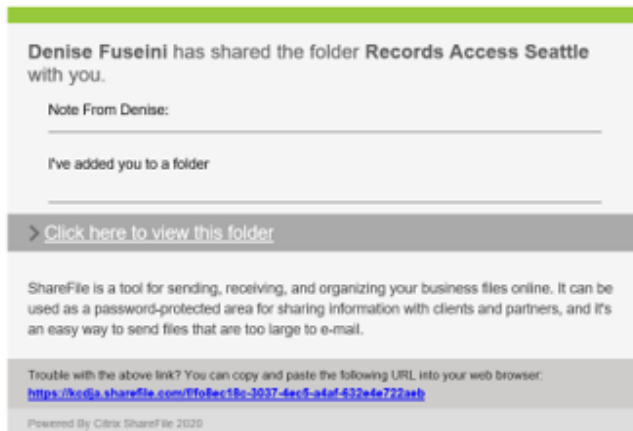
- 15
- File names must also be neutral. For example:

16  Exhibit 1 – Plaintiff Anderson - Accident Scene Photo

17  Exhibit 1 – Plaintiff Anderson - Photo Showing Negligence

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- Document and image files are supported by ShareFile.

19 Example of the ShareFile email.



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Once uploaded and received by the Court, all exhibits will be ‘shared’ and made available to all parties via ShareFile.

For detailed instructions, visit <https://www.kingcounty.gov/courts/clerk.aspx> or email the addresses above.