

**POLICY FOR CONDUCTING VIDEO FINAL HEARINGS AND TRIALS
(Judge Jacobvitz's cases and adversary proceedings only)**

A. Final Hearings and Trials by Video. Counsel and parties may appear and participate, and witnesses may testify, by video at final hearings and trials in cases and adversary proceedings assigned to Judge Jacobvitz, after Court approval. The Court can accommodate both in-person live testimony and appearances by some participants and video testimony and appearances by others at the same final hearing or trial. In addition, the courtroom will be open to the public, regardless of whether there is video participation by some or all participants.

B. Requesting a Video Hearing or Trial. To request Court appearances and/or testimony by video, make the request at a status conference, preliminary hearing or pretrial conference, or file a motion pursuant to Fed.R.Civ.P 43 and the applicable Rule of Bankruptcy Procedure. If the Court permits appearances and/or testimony by video, the Court will enter an order that includes procedures and a protocol for conducting the final hearing or trial. If video is permitted, the Court nevertheless may require certain witnesses to appear live in the courtroom.

C. Video Hearing or Trial Procedures and Protocol.

1. Zoom Video Conferencing Platform. The Court uses the Zoom video conferencing platform for hearings and trials governed by this policy.

2. Requests to appear by Video. If any counsel or party wishes to participate in or have witnesses testify at the final hearing by video, no later than a date fixed by the Court, the party must file a request to appear by video (“Video Request”) and contact chambers (505-600-4650 or jacobvitzstaff@nmb.uscourts.gov) to alert the Court that a Video Request has been filed. The Video Request must identify who will appear by video, including any witnesses. Only those persons identified in the Video Request will be allowed to appear by video at the final hearing or trial.

3. Zoom link. The Court will email the Zoom information, including a Zoom link, to counsel and pro se parties who filed the Video Request. It is the responsibility of counsel to provide counsel’s client and/or witnesses the Zoom link before the final hearing or trial date. It is the responsibility of pro se parties to provide their witnesses the Zoom link before the final hearing or trial date.

(a) Counsel and pro se parties may only share the Zoom link with the persons identified in the Video Request. For security reasons, parties and witnesses may not share the Zoom link with others.

(b) It is the responsibility of counsel and pro se parties to ensure that all persons identified in the Video Request have the proper equipment to attend the hearing or trial by Zoom video. The Court is not responsible for providing tech-support to counsel, parties, or witnesses.

(c) Counsel, parties, and witnesses are strictly prohibited from recording any court proceeding held by Zoom video, including taking screen shots or other visual copies. Violation of this prohibition may result in sanctions.

4. Exhibits. If a witness will testify at the final hearing or trial by video, counsel and pro se parties who will call the witness to testify must, prior to the hearing or trial, provide the witness with a hard copy of a complete set of exhibits from all parties. The exhibits must be organized in such a way that they are readily accessible by the witness during the hearing.

5. Rebuttal Exhibits. The Court may take short recesses, if necessary, for counsel or pro se parties to email rebuttal exhibits to the Court and other witnesses. Counsel and pro se parties must ensure their witnesses will have access to a printer during the hearing to print any rebuttal exhibits or the ability to view rebuttal exhibits on the screen used to appear at the hearing while testifying by video.

6. Safeguards. Prior to the final hearing, counsel shall advise all witnesses counsel expects to call to testify at the final hearing by Zoom video of the following:

Testifying by Zoom video should be as close as possible to testifying in person in the courtroom. Other than exhibits for the hearing, witnesses should not have any notes or other materials with them for reference during their testimony (unless authorized by the Court during the hearing to refresh the witness' recollection consistent with Fed. R. Evid. 612), including cell phones, tablets or other electronic devices other than the device used to attend the hearing. Nor should witnesses have any person other than counsel present in the room when they testify. Coaching by persons off-camera is strictly prohibited. For security reasons, witnesses are not to share the Zoom link with others.

The Court will give a similar instruction to each witness testifying by video.