

**JUDGE BERGER'S KANSAS CITY DOCKET, PRETRIAL & STATUS
CONFERENCE, AND EVIDENTIARY HEARING INSTRUCTIONS**
(Updated 10/08/2021)

Until further notice, Judge Berger's regularly scheduled **docket days** will be conducted by Zoom, and **pretrial/status conference days** will be conducted by telephone.

Matters scheduled for an **evidentiary hearing** or **oral argument** will be held **in person**, unless instructed otherwise by Clerk's Office staff. If the Court approves the evidentiary hearing or oral argument to be held by Zoom, those guidelines are included within this document.

If counsel or parties scheduled for an in-person hearing are uncomfortable so appearing or there are circumstances justifying phone or Zoom participation of an individual, in lieu of a written motion requesting a continuance or specific accommodation in the manner of conducting the hearing, counsel or a party may contact the Clerk's Office with any concern or request and it will be forwarded to the judge for consideration.

1. Zoom Dockets.

- a. Participants.** The Court will use Zoom for Government (for audio and video purposes). The information below can be used for regular dockets only. *The link will be different for evidentiary hearings and trials.*

<https://www.zoomgov.com/j/1614951840?pwd=eCtIS09CQlEzSGxDT0tOWXFBQ0dXZz09>

or

Dial: 551 285 1373 or 646 828 7666

Meeting ID: 161 495 1840

Passcode: 909296

Please connect or call the conference number at least ten minutes prior to the scheduled docket. Long distance charges may apply.

- b. Attendance at the Zoom dockets.** All participants shall identify themselves if requested by the Court and before each time they speak (for a clear electronic record) and shall abide by the requirements below.

i. **Zoom Docket Etiquette.**

1. Connect 5-10 minutes prior to the hearing time.
2. Place your audio on MUTE when not addressing the Court to prevent background noise, which is distracting to participants and interferes with the record.
3. Announce your name EACH time you begin speaking.
4. Speak slowly and clearly.
5. If connecting by telephone,
 - a. use a land line, when possible, so the Court can hear you more clearly and for the benefit of the record.
 - b. avoid speaker phone, Bluetooth, and other hands-free features when addressing the Court, as these features can cause interference.
 - c. do **not** place your phone on HOLD. This often causes music to be played, which will interfere with the record.

2. Telephone Pretrial/Status Dockets.

a. **Participants.** The instructions for appearing by telephone are:

Dial: 551 285 1373 or 646 828 7666

Meeting ID: 161 495 1840

Passcode: 909296

Please call the conference number at least five minutes prior to the scheduled proceeding. Long distance charges may apply.

b. **Attendance at the telephone proceedings.** All participants in the telephone proceeding shall identify themselves if requested by the Court and before each time they speak (for a clear electronic record) and shall abide by the requirements below.

i. **Conference Call Etiquette.**

1. Call in 5-10 minutes prior to your hearing time.
2. Place your phone on MUTE when not addressing the Court to prevent background noise, which is distracting to participants and interferes with the record. There may be another hearing already in progress.
3. Announce your name EACH time you begin speaking.
4. Speak slowly and clearly.
5. Use a land line, when possible, so the Court can hear you more clearly and for the benefit of the record.

6. Avoid speaker phone, Bluetooth, and other hands-free features when addressing the Court, as these features can cause interference.
7. Do **not** place your phone on HOLD. This often causes music to be played, which will interfere with the record.

3. Zoom Evidentiary Hearings/Trials.

For video proceedings, the Court shall use Zoom for Government (for audio and video purposes). The Zoom link shall be provided by the Court to the list of persons identified by the parties as Zoom participants in accordance with subparagraph (a) below, and to any other participants who provide notice to the Court in accordance with subparagraph (b) below. Parties do not have permission to forward the connection information without prior approval from the Court. All counsel who participate via Zoom shall also participate in appropriate testing of Zoom prior to the virtual hearing or trial as may be requested by court personnel.

- a. **Prior Notice of Intent to Participate Via Zoom.** By no later than ***three (3) business days prior to the scheduled hearing/trial date***, counsel for the parties and any unrepresented party shall provide the Court at KC_CRDs@ksb.uscourts.gov with a list of all (1) *attorneys* and *unrepresented parties*, including the person's first and last names, affiliation, party represented (in the case of attorneys), telephone number and email address, and (2) *witnesses* (including first and last names, title(s), affiliation, phone number and email address) who will be participating in the virtual evidentiary proceeding via Zoom. Anyone who is connecting to the virtual proceeding by telephone must provide the Court with the telephone number that will be used to connect to the hearing or trial along with the first and last names of the participant. Prior to the proceeding, the Court will circulate the Zoom link to such participants by email. When emailing the Court, please identify the specific case and Zoom meeting you are emailing about in the subject line.
- b. **Attendance at the Virtual Proceeding by Others.** All who wish to hear or observe the virtual proceeding shall send an email to KC_CRDs@ksb.uscourts.gov no later than ***three (3) business days prior to the scheduled hearing/trial date***. If you are connecting to the virtual proceeding by telephone, you must provide the Court with the telephone number that will be used to connect, the first and last names of each person who will connect, and such person's interest in the proceeding. Prior to the proceeding, the Court will circulate the Zoom link to those who wish to hear or observe the

proceeding. Persons who are only listening or observing the virtual proceeding must always keep their telephone or microphone muted unless they are addressed by the Court.

- c. Submission of Exhibits.** No later than three (3) full business days before trial, all parties shall submit to the clerk's office via e-mail at KSBKC_Exhibits@ksb.uscourts.gov or deliver a flash drive (subject to redaction of personal information) of all proposed exhibits in PDF format with each individual exhibit marked per LBR 9072.1, bookmarked if possible, and paginated to ensure easy navigation. *If exhibits are not properly marked, the Court, at its own discretion, may not admit the exhibits.* The first page of the PDF file shall be the Exhibit Sheet and is used to track offering, objections, and admission of exhibits. Three paper sets of exhibits shall also be delivered to the clerk's office, tabbed, paginated, and in notebooks for witness and chamber's use. A complete set of exhibits shall also be delivered by each party to opposing counsel, unrepresented parties, and if applicable, any witness scheduled to appear remotely. Exhibits provided to remotely appearing witnesses shall be in paper form, tabbed, paginated, and in notebooks. All exhibits must be clearly legible. Exhibits exchanged between parties can be in any format agreed between counsel and parties.
- d. Remote Witness Testimony.** Any witness called to testify at a virtual proceeding shall testify by contemporaneous transmission from a different location than the courtroom (the "Remote Witness"). All Remote Witnesses shall be sworn in over Zoom, and such testimony will have the same effect as if the Remote Witness were sworn in person in open court at the courthouse. In the event of an error or malfunction with Zoom, the Remote Witness may be sworn in and testify via the dial-in number included in the Zoom invitation. The party offering the Remote Witness shall be responsible for ensuring that the Zoom link, and all exhibits from all parties are supplied to the Remote Witness in hard copy prior to the virtual evidentiary proceeding. No person may be present in the room from which the Remote Witness will testify during the testimony of the Remote Witness. Counsel and Remote Witnesses, as well as other parties, are each required to have their own Zoom cameras and microphones.
- e. Checking in for Zoom Proceeding.** Based on the number of participants in the Zoom proceeding, and the Court's security requirements for participating in a Zoom for Government audio and video hearing or trial, all participants seeking to join the virtual evidentiary proceeding should connect to the hearing or trial 30 minutes before the scheduled start time. When participants sign in

to Zoom for Government and add their names, they must type in the first and last name that will be used to identify them at the proceeding. Participants who type in only their first name, a nickname, or initials will not be admitted into the virtual hearing or trial.

- f. Protocol.** Participants should mute their phones when not addressing the Court to prevent background noise, which is distracting to participants and interferes with the record. Participants should, where possible, avoid speaker phone, Bluetooth, and other hands-free features when addressing the Court, as these features can cause interference. Computers need to have wired connections whenever possible to avoid bandwidth issues.

4. Recordings.

The proceedings will be recorded by the Court's electronic recording system. Any unauthorized recording, including screenshots or other visual or audio copying, is absolutely prohibited. Violation of these prohibitions may result in sanctions, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the Court.

- 5. Questions.** For questions regarding hearings, or if you have not received the Zoom evidentiary hearing invitation, please email KC_CRDs@ksb.uscourts.gov or call (913) 735-2110.