**UNITED STATES BANKRUPTCY COURT**

**FOR THE NORTHERN DISTRICT OF ALABAMA**

**NORTHERN DIVISION**

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| In the Matter of:Click here to enter text.SSN: XXX-XX-Click here to enter text.Click here to enter text.SSN: XXX-XX-Click here to enter text.Debtor(s)Click here to enter text.Plaintiff(s)vs.Click here to enter text.Defendant(s) | }}}}}}}}}}}}}}}} | Case No. Click here to enter text.Chapter Choose an item.AP No. Click here to enter text. |

**AGREED ORDER ESTABLISHING REMOTE TRIAL PROCEDURES**

The above-styled Adversary Proceeding is scheduled for trial beginning on Click or tap to enter a date. (the "Trial"). In light of the current COVID-19 pandemic and in the interest of public health and for the safety and welfare of court employees, the Bankruptcy Court for the Northern District of Alabama entered an Administrative Order ceasing all in-person hearings throughout the District effective March 23, 2020 pending further Order.[[1]](#footnote-1)

The Court hereby finds and each party by and through counsel has agreed pursuant to Rule 43(a) of the Federal Rules of Civil Procedure ("Federal Rules"), as made applicable by Rule 9017 of the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), that the COVID-19 pandemic and the cessation of all in-person hearings before the Court provides "good cause in compelling circumstances" to allow this Trial to be conducted remotely, through the use of telephonic and videoconferencing technologies.

The Court further finds that the procedures adopted herein will provide "appropriate safeguards" for purposes of Federal Rule 43(a) and ensure due process of law by: (i) enabling  the Court to identify, communicate with, and judge the demeanor of all witnesses, (ii) enabling counsel for the parties to see and hear the witness testimony, interpose objections, and communicate with the Court in real-time, (iii) enabling the parties, the witnesses and the Court to have simultaneous access to an identical set of pre-marked exhibits, (iv) avoiding any undue influence or interference with the witnesses in connection with their testimony, and (v) preserving the ability of any witness to be represented by counsel during the proceeding, and to communicate with such counsel as the Court deems appropriate.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** as follows:

1. **Audio and Video Conference Solutions:** The Trial scheduled on Click or tap to enter a date. shall take place using the telephonic and videoconferencing solutions described herein. Participants in the Trial will be connected with the courtroom using these technologies but will not be physically present in the courtroom. The Court will utilize an AT&T call-in number for audio and Skype for Business for video.
	1. **Audio.** The AT&T dial-in number is **1-877-336-1280**.  When prompted, enter the access code **#2749965**.  There is no security code, and please do not select any other feature. Parties should call in **five (5) minutes** prior to the start of the Trial. To avoid disruption, participants are expected to call from a quiet location and are not permitted to use a "speaker" function or to place the call on hold (as this may cause music or other noises to play during the hearings of other participants). Participants are encouraged to call from a landline if possible.
	2. **Video**. The Court will provide the Skype link that enables participation in the video portion of the proceedings, to the list of persons identified as Trial Participants by the parties in accordance with Paragraph 2 below. To optimize the quality of the video portion of the proceedings, the number of video conference participants is hereby limited to ten (10) individuals. Witnesses shall utilize the Skype link only during the matters on which they are called to testify. Upon completion of their testimony and all cross-examination, witnesses shall disconnect from the Skype link and may continue participation in the proceeding through the AT&T dial-in number.
	3. **Required Equipment.** For purposes of participation in the Trial, each participating attorney and each witness must have simultaneous access to: (i) a telephone for audio, (ii) a computer equipped with a camera that is capable of receiving and transmitting video using the Court's videoconference solution, (iii) Internet browsing software that is adequate to facilitate the Court's videoconference solution, (iv) an Internet connection with bandwidth adequate to support the individual's use of that videoconference solution, and (v) Adobe Acrobat Reader for purposes of reviewing exhibits, as directed by counsel.
2. **Prior Notice of Trial Participants:** No later than **five (5) business days** prior to the Trial, the parties shall each file a Notice of Trial Participants, listing all attorneys and witnesses who will participate in the Trial for each party, together with an email address and telephone number for each participant. The telephone number provided should be a number at which the attorney or witness can be reached during the Trial in the event of an interruption in the audio or video feed. This requirement is in addition to any requirements previously established by the Court for the parties to disclose to each other, by a date certain, the identity of the witnesses they intend to present at Trial.
3. **Electronic Submission of Trial Exhibits:** No later than **five (5)** **business days** prior to the scheduled Trial, the parties shall transmit via electronic mail all exhibits to: (i) Chambers at ordersCRJ@alnb.uscourts.gov, (ii) each other; and (iii) each witness. The parties may also distribute the electronic documents by way of a secure link to an FTP or other file sharing service, if necessary. The exhibits must be submitted in a .pdf format. The exhibits shall be submitted to the Court separately from, and in addition to, the Exhibit Lists required by the Court’s Trial Scheduling Order.
	1. Each party shall combine all of its exhibits into one .pdf document and each individual exhibit shall be pre-marked and bookmarked for easy review by the Court. Upon receipt of the electronic documents (or a download link), each attorney and witness shall take the steps necessary to ensure that all electronic documents can be successfully opened and are readily available during the Trial.
	2. Exhibits intended to be used only for impeachment purposes, shall be submitted to the Court and the other parties via email separately from all other exhibits in a .pdf folder conspicuously labeled “For Impeachment Purposes Only.” Witness shall not review the impeachment exhibits until the start of his or her testimony.
	3. Subject to any Order of the Court requiring that any exhibit be redacted or sealed, all exhibits will be filed on the docket by the Courtroom Deputy, and shall become part of the trial record, following the Trial.
4. **Remote Witness Testimony:** In accordance with Rule 43(a) of the Federal Rule of Civil Procedure, for good cause in compelling circumstances any witness called to testify at the Trial shall testify by contemporaneous transmission from a different location into the courtroom (hereinafter referred to as "Remote Witness"). The party offering the Remote Witness shall be responsible for ensuring that the Court’s AT&T dial-in number, Skype link, and all exhibits in .pdf format are supplied to the Remote Witness prior to the Trial and that the Remote Witness has been registered with Skype.
	1. All Remote Witnesses shall be placed under oath remotely and their testimony shall have the same effect and be binding upon the Remote Witness in the same manner as if such Remote Witness was sworn and testified in open court.
	2. Each Remote Witness shall provide their testimony from a quiet room and must situate themselves in such a manner as to be able to view the video feed and be seen by the Court.
	3. While the Remote Witness is sworn and testifying: (i) no person may be present in the room from which the Remote Witness is testifying, (ii) the Remote Witness may not have in the room any documents except the exhibits submitted by the parties pursuant to Paragraph 3 above [and any declaration submitted in lieu of direct testimony], and (iii) may not communicate with any other person regarding the subject of their testimony, by electronic means or otherwise. If the Remote Witness or their counsel seek to communicate with one another, either shall openly request a recess for such purpose. If such request is approved by the Court, the Remote Witness and their counsel may privately confer "offline," i.e., by telephonic means that are not transmitted to the other parties.
5. **Courtroom Formalities:** Although conducted using telephonic and videoconferencing technologies, the Trial constitutes a court proceeding. No person shall record— from any location or by any means—the audio or video of the Trial. The audio recording created and maintained by the Court shall constitute the official record of the Trial. Further, the formalities of a courtroom shall be observed. Counsel and witnesses shall dress appropriately, exercise civility, and otherwise conduct themselves in a manner consistent with the dignity of the Court and its proceedings.
6. **Technical Pre-Trial Conference:** On Click or tap to enter a date., the Court will hold a Technical Pre-Trial Conference for the purpose of testing both the telephonic and video conference technologies. All parties and witnesses must participate in the Technical Pre-Trial conference. All participants are admonished not to discuss the substance of the Trial during the Technical Pre-Trial Conference, but instead limit their comments to the functionality of the technology and any procedural adjustments that may be necessary and appropriate to address any issues with the technology.
7. Retention of Jurisdiction. The Court retains jurisdiction with respect to all matters arising from or related to this Order.

Dated:

**THE TRIAL WILL TAKE PLACE BY TELEPHONE ONLY. DO NOT COME TO THE COURTHOUSE. PLEASE SEE THE COURT'S WEBSITE FOR ADDITIONAL INFORMATION (**[**www.alnb.uscourts.gov**](http://www.alnb.uscourts.gov)**).**

1. *See* Administrative Order 20-004, Court Operations During COVID-19 Outbreak. [↑](#footnote-ref-1)