

HOW TO INCORPORATE VIDEO HEARINGS INTO YOUR ARBITRATION PRACTICE

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STEP 1. IDENTIFY A VIDEO INTERFACE TO USE

Listed, in no particular order, are videoconferencing services/applications that can provide a platform for conducting the video hearing. Some are free and others offer a variety of subscription plans.

- Zoom
- Go To Meeting
- WebEx
- FreeConferenceCall.com
- Skype/Skype For Business
- Government Facilities
- See this article for a general discussion on options and security concerns:

Black, Nicole (2019). It's now a Trekkie world: Top videoconferencing tools for lawyers. *ABA Journal Tech Monthly*. Retrieved August 12, 2019, from http://www.abajournal.com/web/article/top-video-conferencing-tools-for-lawyers?utm_source=salesforce_93557&utm_medium=email&utm_campaign=tech_monthly&utm_medium=email&utm_source=salesforce_93557&sc_sid=01132420&utm_campaign=&pr_omo=&utm_content=&additional4=&additional5=&sfmc_j=93557&sfmc_s=45223219&sfmc_l=1528&sfmc_jb=112&sfmc_mid=100027443&sfmc_u=3779893

STEP 2: IDENTIFY WHEN TO USE THIS TOOL

While this is not an all-encompassing list of scenarios, the following are a few circumstances to consider for determining if a video hearing will serve the process.

Consider video hearings for the following cases/circumstances:

- Parties looking to minimized expense of travel
- Need to schedule a date in the near future
- Run out of time at the hearing and additional hearing date(s) need to be scheduled sooner rather than later
- Remote hearing sites with travel accessibility
- Document only dispute
- To take the testimony of one or two witnesses
- Expand choice of arbitrators
- Arbitrator works frequently with the same parties

STEP 3: OBTAIN AGREEMENT FROM THE PARTIES

The parties might not think of video hearings as an option. The arbitrator can suggest it by including boiler plate language in his or her biography listed with

appointing agencies or in direct communication with the parties. Here is sample language inviting parties to consider video conferencing for a hearing:

Please be advised that my office also offers video conference hearings as an alternate to me traveling to the parties' location. The video conference is conducted via a web-based software that comes at no cost to the parties. The parties simply need to have a desktop or laptop computer with a webcam. All parties and witnesses can be in the same location, just as if the arbitrator were there in person OR each party can be in its own location. The arbitrator will be able to see all attendees at the hearing, and the parties will be able to see the arbitrator. This option is encouraged when earlier hearing dates are needed or there is an interest in minimizing travel expenditures. Advise if the parties mutually agree to use this option, and more details will be provided on how to access this conferencing tool.

STEP 4: SET HEARING DATE AND COMMUNICATE CONNECTION INSTRUCTIONS

- Schedule the hearing date as with any other hearing.
- Set up the video hearing in whichever conferencing tool being used
- Send notice to the parties with the instructions based on the video platform being used. Here is a sample notice using Zoom where all the parties and witnesses are in one location with the arbitrator appearing by video:

**Video Conference Hearing on December 13, 2019
10:00 a.m. Central Time, 11:00 a.m. Eastern Time
Union and Employer (Grievant Name and/or Case #)
Meeting ID: 311 778 252**

The video conference hearing is conducted via Zoom's web-based software that comes at no cost to the parties. The parties simply need to have a desktop or laptop computer with a webcam. All parties and witnesses should be in the same location, just as if the arbitrator were there in person. The arbitrator will be able to see all attendees at the hearing, and the parties will be able to see the arbitrator.

Join from PC, Mac, Linux, iOS or Android: <https://zoom.us/j/311778252>

Click the link or copy/paste to your browser. The download process should start automatically in a few seconds. Then click the download to join the hearing.

*It is recommended that you try to access the Zoom site 30-60 minutes before the hearing start time to ensure your organization does not have a firewall prohibiting access to the site. If it does, please contact your IT department and request the firewall be removed.

If you have any problems, do not hesitate to contact my office.

STEP 5: TIPS FOR CONDUCTING THE HEARING

Thought should be given to how the hearing will flow. Here are some items to consider:

- Will it be recorded using the video tool? If so, advise parties and obtain necessary permission.
- How will exhibits be handled? Should there be a due date for their submission?
- Will there be a need for screen sharing? This could be useful if a video needs to be played during the hearing.
- Will a court reporter be present? If so, he or she should be positioned near the speaker to minimize any sound issues.
- How will breaks or caucuses be handled?
- Instruct parties to speak toward the computer speaker to reduce the possibility of missed words.

As with anything else, the key to successfully running a video hearing is to prepare in advance; be proficient with the video conferencing tool used; and provide clear instructions to the parties well in advance of the hearing, so that it will proceed with ease and minimum technical snafus due to operator or other errors.