IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT

IN AND FOR MIAMI-DADE COUNTY, FLORIDA

[ ],

CASE NO.:

Plaintiffs,

v.

[ ],

Defendants.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

**ORDER ON REMOTE VIDEO CONFERENCE DEPOSITIONS**

THIS CAUSE having come before the Court on the matter of taking remote video conference depositions, it is hereby, ORDERED AND ADJUDGED that the following rules shall apply to the taking such depositions:

1. All Florida Rules of Civil Procedure and Florida Rules of Professional Responsibility governing the practice of law remain in place and in full force and effect and shall be followed at all times. This includes, but is not limited to, the prohibition on speaking objections and prohibited contact with a witness during the course of a deposition.
2. The court reporter for a deposition conducted via video conference, in accordance with Supreme Court of Florida’s AOSC20-16 issued on March 18, 2020, may administer the oath or affirmation to the deponent remotely.
3. The witness may elect to physically exclude any person from any room where the witness is physically present during the taking of the deposition. Any counsel of record or party so excluded by the witness may participate in the deposition by means of video conference.
4. No other attendees other than the parties to the subject lawsuit, their representative counsel, and counsel for the witness, shall be allowed to participate in the video conference deposition without prior consent of all counsel. This includes appearing individually within the video conference platform and/or being present within the room where the attendee is viewing the video conference deposition.
5. The court reporter’s transcript shall serve as the official record of the witness’s testimony. Should circumstances arise which renders the court reporter’s transcript unavailable, then a new transcript can be created by use of the video recording of the deposition.
6. Any deposition taken by means of video conference shall be conducted using Zoom or a similar videoconferencing platform equipped with the ability to video record the deposition. The court reporter shall serve as the host of the video conference as provided by the videoconferencing platform.
7. As the host of the video conference, the court reporter shall video record the witness using the recording function of the videoconferencing platform. Alternatively, if a videographer is provided by the court reporting service, such videographer may control the recording function of the platform. The court reporter or videographer, as the case may be, shall also announce each time he/she has activated and deactivated the record function on the videoconferencing platform. In addition, any party may at its discretion arrange for an independent videographer to video record the deposition by means other than the video-recording function of the platform. The party hiring any such independent videographer is responsible for the costs of doing so and must make copies of the video recording available to all counsel at their expense.
8. The video recording of the deposition created by use of the recording function of the videoconferencing platform shall be deemed the equivalent of a video recording made by a videographer, and shall be available for use in trial as though prepared by a videographer.
9. No participant in the deposition may utilize the “chat” function (or similar private communication function) of the video-conference platform, except to facilitate the sharing of documents during the deposition. In no event shall the “chat” function be used for any counsel to communicate directly with the witness.
10. At no time during the deposition shall any counsel text, message, email, or transmit any messages to the witness(es) in order to help respond to any and all questions.
11. Before the witness is sworn, all cellphones shall be placed in the silent mode. All parties and counsel will disable notifications on their devices to avoid disruption of the audio and video stream during the deposition.
12. The witness and all counsel or parties appearing on the record shall state their appearances clearly for the record, and they shall not disable their cameras during the deposition unless there is a break or unless they are necessarily appearing by telephone.
13. All documents or other exhibits, except those to be used for impeachment, shall be shared with all counsel no later than three (3) days prior to the deposition and said documents shall be bate-stamped, marked as exhibits, or both. As to non-party witnesses served with a subpoena duces tecum, counsel or their designee for all parties are permitted to confer with the witness for the exclusive purpose of securing any and all documents or other relevant evidence responsive to the subpoena duces tecum. This shall take place no later than five (5) days prior to the scheduled deposition. No later than one (1) business day prior to the deposition all documents shall be provided to the court reporting service. Those documents or other exhibits used for impeachment must be shared with all participants when introduced on the record via the share screen, or similar feature on the Zoom or similar platform and attached as an exhibit to the deposition.
14. In the unlikely event that a witness cannot access the Zoom or similar platform or if the connection is lost, the deposition may proceed via Zoom and the witness participate telephonically.

DONE AND ORDERED in Chambers in Miami-Dade County this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2020.

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CIRCUIT JUDGE