IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT

IN AND FOR MIAMI-DADE COUNTY, FLORIDA

[ ],

CASE NO.:

Plaintiffs,

v.

[ ],

Defendants.

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

**NOTICE OF TAKING REMOTE VIDEO CONFERENCE AND VIDEOTAPED DEPOSITION [*DUCES TECUM*]**

PLEASE TAKE NOTICE THAT THE UNDERSIGNED ATTORNEY WILL TAKE THE REMOTE VIDEOTAPED DEPOSITION OF:

|  |  |  |
| --- | --- | --- |
| **NAME:** | **DATE AND TIME:** | **LOCATION:** |
|  |  | Via VTC/ZOOM Cloud or similar platform, meetings US Legal (other court reporter)  US Legal (other court reporter) will provide ZOOM link one day prior to the deposition. |

At the above time and place, the Plaintiff will take the remote videotaped deposition by oral examination for purposes of discovery, for use at trial, and for the use as evidence is said cause or both.

Said remote videotaped deposition will be taken before a Notary Public or any officer authorized to administer oaths by the laws of the State of Florida and a person who is neither a relative nor employee nor attorney nor counsel of any of the parties nor of such attorney or counsel and who is not financially interested in the action.

Said videotaped deposition is to be taken pursuant to the Florida Rules of Civil Procedure in such cases as provided. The said oral examination will continue from hour to hour and from day to day until completed.

WHEREAS, Florida Rule of Civil Procedure 1.310(b) permits a deposition to be taken by videotape.

WHEREAS, The Supreme Court of Florida, in accordance with AOSC20-16 issued on March 18, 2020, allows a notary or other person qualified to administer an oath in the State of Florida to swear a witness remotely by audio-video communication technology from a location within the State of Florida, provided they can positively identify the witness, and if a witness is not located in the State of Florida, a witness may consent to being put on oath via audio-video communication technology by a person qualified to administer an oath in the State of Florida.

WHEREAS, AOSC20-16 is hereby incorporated by reference herein and/or is attached to this Notice.

WHEREAS, due to the present COVID-19 pandemic, as well as various state and federal emergency declarations and orders, and the need to adhere to social-distancing requirements and recommendations;

WHEREFORE, the undersigned Plaintiff’s counsel will follow the protocol described herein for the remote deposition of [**NAME**] in this case:

1. All Ethical Rules of Civil Procedure and Rules of Professional Conduct governing the practice of law remain in place and in full force and effect and shall be abided to 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, 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 court reporting service will arrange, coordinate, and host the deposition through a secure and password protected videoconference technology, such as ZOOM or a functional equivalent; in the case of non-party witnesses it is the responsibility of the lawyers setting the deposition to ensure that the witness has available a device compatible with ZOOM technology or a similar platform, including required audio, webcam, and a quality WiFi connection; plaintiff’s counsel shall ensure any non-party healthcare providers have available a device compatible with ZOOM technology or similar platform, including the required audio, webcam, and a quality WiFi connection. The parties may mutually agree to follow an alternative procedure.

4. The court reporting service will provide technical information, including the online link, to the deponent, counsel, and the parties to be able to participate in the remote deposition.

5. Upon request, the court reporting service will be available to test the videoconference technology the prior business day or another time before the deposition so that any technical issues can be identified and resolved in advance of the deposition.

6. The witness shall be instructed that no one shall be physically present in the same room as the witness during the taking of the deposition except for counsel of record, the parties, or both, as well as counsel retained by the witness, if acceptable to the witness and following all regulations to ensure the safety of the witness.

7. The court reporter’s transcript shall serve as the official record of the deponent’s testimony; provided that 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.

8. As the host of the videoconference, the court reporter shall video-record the deponent while on the record; the court reporter will announce each time he/she has activated the record function and each time he/she has deactivated the record function, however any party may at their discretion arrange for an independent videographer to record the deposition in addition to the recording function of the ZOOM or similar platform, The party hiring the videographer is responsible for the costs of doing so and must make copies of the video recording available to all counsel at their expense.

9. The video-recording of the deposition created by the court reporter using the videoconference technology 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.

10. As the host of the videoconference, and with agreement of counsel, the court reporter may disable the video technology’s “chat” function (or similar private communication function); however, the “chat” function may be used 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.

11. 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 deponent and all counsel or parties appearing on the record at the remote deposition 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. Counsel shall confer and agree in regard to the utilization of the camera and whether it shall be focused only on the witness or on some combination of the witness and the lawyer asking the questions or other lawyers participating through the use of a shared screen.

14. All documents or other exhibits, except those to be used for impeachment, shall be shared with all counsel no later than (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 5 days prior to the scheduled deposition. No later than one business day prior to the deposition all documents shall be provided to the court reporting agency. 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.

15. 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.

16. If there are any objections to this notice, they must be filed within 5 days of receipt of the notice and simultaneously set the objections for hearing on the next available date on the judge’s motion calendar or at the time so designated by the court.