

MOAHR MTT Guide for Participating in the Conducting of Entire Tribunal Video Conference Hearings

This Guide is designed to provide direction to parties for their participation in the conducting of video conference hearings in contested cases pending before the Entire Tribunal of the Michigan Tax Tribunal (MTT).

A video conference hearing is a proper and permitted MTT proceeding conducted through electronic means rather than in a courtroom.¹ The usual rules, procedures, courtesies, and formalities applicable to an MTT courtroom hearing are applicable to an MTT video conference hearing and are expected to be complied with. The decision as to how a hearing will be conducted (i.e., courtroom or video conferencing) will be decided by the MTT or assigned MTT judge. In making such decisions, the MTT or judge may consider issues such as the parties' willingness to participate in a video conference hearing; the nature of the case; the technological facilities available to the parties; the attorneys, agents, and number of witnesses to be called; the parties' ability to effectively participate in a video conference hearing (i.e., separate computers in separate rooms, etc.); and how best to uphold the interests of justice.

In all video conference hearings, it is essential that a reliable and continuous video connection with the judge, attorneys, agents, witnesses, and court reporter be maintained to ensure the integrity of the record. All video conference hearings conducted in the Entire Tribunal shall be transcribed by the court reporter engaged by the parties, as provided in the order scheduling the hearing (i.e., the prehearing conference or status conference summary). Participants and observers will also be directed not to utilize the Teams "chat function" for any purpose other than the authorized submission of documents and cautioned as follows:

Comments made by attendees utilizing the "chat function" will **not** be considered or included as part of the transcribed record of the hearing **and could result** in the removal of that attendee from the hearing for cause, which will be indicated in the record.

I. Video Conference Options

The MTT will be conducting video conference hearings through the *Microsoft Teams* platform, which allows invited participants (i.e., attorneys, agents, witnesses, court reporter, etc.) and non-participants (i.e., the viewing public) to join a video conference proceeding using video and audio from a desktop, laptop, tablet, or smartphone.

Although video conference proceedings via *Microsoft Teams* are generally set up using email addresses, the MTT will be posting a link in the order scheduling the hearing (i.e., prehearing conference or status conference summary) and the parties or their attorneys

¹ See R 792.10121 and R 792.10201.

or agents are required to provide the “Teams Hearing Link” to their participants so that they can “join the hearing.”

Open Meetings Act Compliance

To ensure compliance with the Open Meeting Act, the Scheduling Order (i.e., prehearing conference or status conference summary) for each hearing will include a “Teams Hearing Link” that can be utilized by observers (i.e., the viewing public) wishing to attend a hearing.² The scheduling orders can be accessed through our website’s docket lookup.

Note: Observers will be directed to turn off or mute their microphones and camera or video so as to avoid interrupting the hearing. Observers will also be cautioned as follows:

If an observer does **not** turn off or mute their microphone **and repeatedly or intentionally interrupts** the hearing they will be removed from the hearing **for cause and denied** the ability to re-join the hearing. Said removal and the reason for that removal will be **noted on the record**.

II. How to Access *Microsoft Teams*

Although it is **not** required, it is **recommended** that participants and observers **download** the free *Microsoft Teams* app for improved quality of participation or observation. If the free *Microsoft Teams* app is **not** downloaded, it is **assumed** that all participants will be able to connect to the hearing with both functional video and audio to fully participate in or observe a hearing that will be conducted using *Microsoft Teams* program software.

The following is being provided to facilitate both the downloading of the Teams app and the use of the Teams app whether downloaded or not downloaded:

Windows based device. The program can be downloaded from the *Microsoft* website for free. Alternatively, the program can be accessed by clicking the link provided by the MTT if the user is operating on *Microsoft Edge* or *Google Chrome* web browsers. However, it is recommended that the program be downloaded, which will auto-launch the hearing when the link is clicked.

Mac/Apple Based Products. The program can be downloaded from the *Microsoft* website for free. Alternatively, the program can be accessed by clicking the link provided by the MTT if the user is operating on *Microsoft Edge* or *Google Chrome* web browsers. The program will **not** work with *Safari* web browser. However, it is recommended that the program be downloaded, which will auto-launch the hearing when the link is clicked.

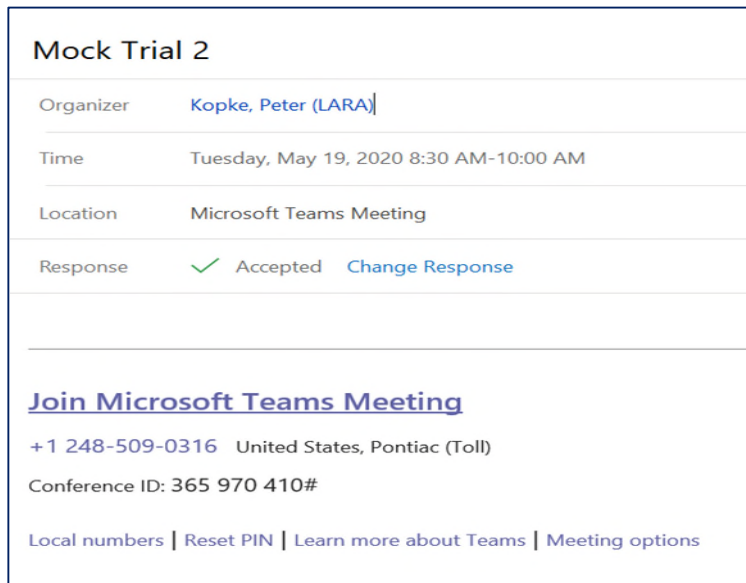
² See MCL 15.264.

Android based mobile devices and tablets. It is **strongly** recommended that the *Teams* application be downloaded for free from the *Google* Play Store and installed on your device. Once the link is emailed to you by the MTT, clicking the link will automatically launch the *Teams* program. Alternatively, the program can be used in your mobile web browser.

Apple/iOS based mobile devices and tablets. It is **strongly** recommended that the *Teams* application be downloaded for free from the App Store and installed on your device. Once the link is emailed to you by the MTT, clicking the link will automatically launch the *Teams* program. Alternatively, the program can be used in your mobile web browser if you are using *Google* Chrome. This will reportedly **not** work with *Safari*.

Joining a Video Conference Proceeding

To join a scheduled video conference proceeding, you click the “Join Microsoft Teams Meeting” link on the email “inviting” you to the Teams meeting or hearing. Note: If the link opens in Internet Explorer or Microsoft Edge, it may **not** work. Rather, it is **recommended** that you open the link in Google Chrome.



The screenshot shows a meeting invitation card for 'Mock Trial 2'. The card includes the following information:

- Organizer:** Kopke, Peter (LARA)
- Time:** Tuesday, May 19, 2020 8:30 AM-10:00 AM
- Location:** Microsoft Teams Meeting
- Response:** Accepted (indicated by a green checkmark) with a 'Change Response' link.

Below the meeting details, there is a prominent blue link: [Join Microsoft Teams Meeting](#). Underneath this link, the following information is provided:

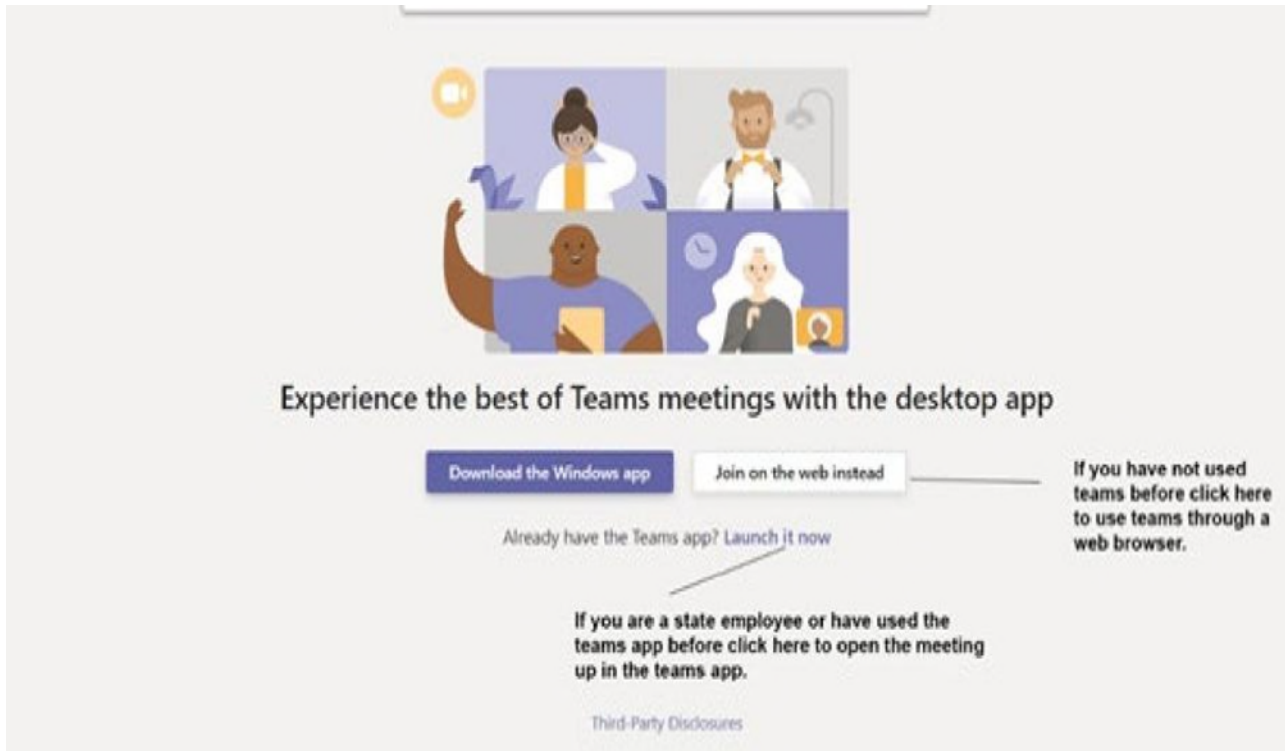
- Phone number: +1 248-509-0316 United States, Pontiac (Toll)
- Conference ID: 365 970 410#

At the bottom of the card, there are several links: [Local numbers](#) | [Reset PIN](#) | [Learn more about Teams](#) | [Meeting options](#).

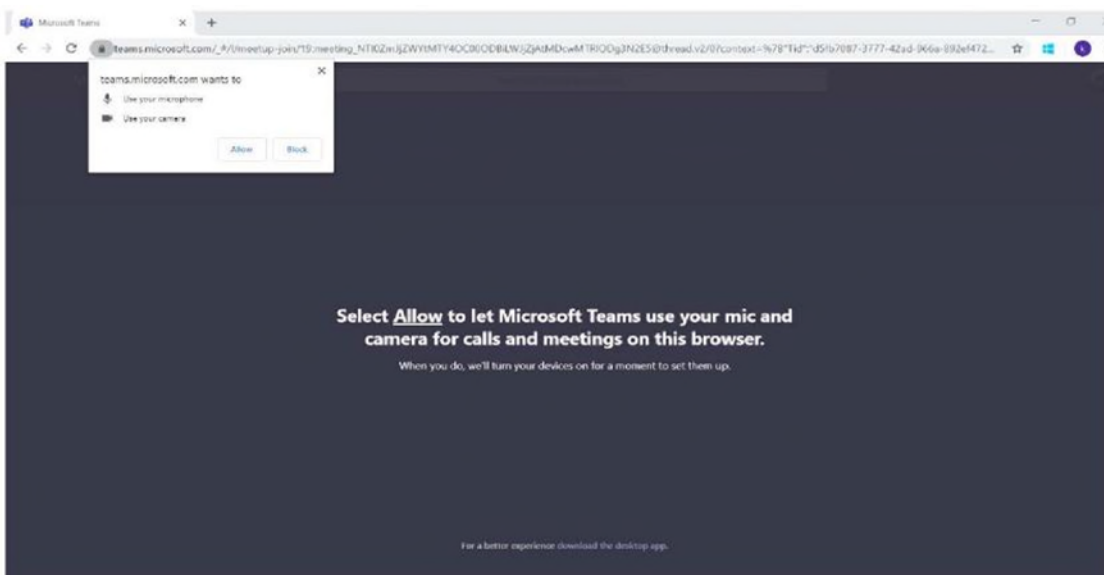
Although observers can call into a hearing to listen to the hearing by utilizing the provided telephone number and Conference ID, participants **must** “join” the hearing for both video and audio.³

³ Microphone quality differs from computer to computer and can also be impacted by connection issues (i.e., feedback, etc.). Two possible solutions to improve poor audio are the use of headsets with microphones or the use of telephones. The use of telephones would be in conjunction with video streaming on the computer. A participant would utilize the provided telephone number and Conference ID to connect for audio purposes. Finally, the *Teams* app allows you to test your microphone prior to joining a *Teams* meeting or, for our purposes, the hearing.

After clicking the “Join Microsoft Teams Meeting” link you will be directed to the following page:



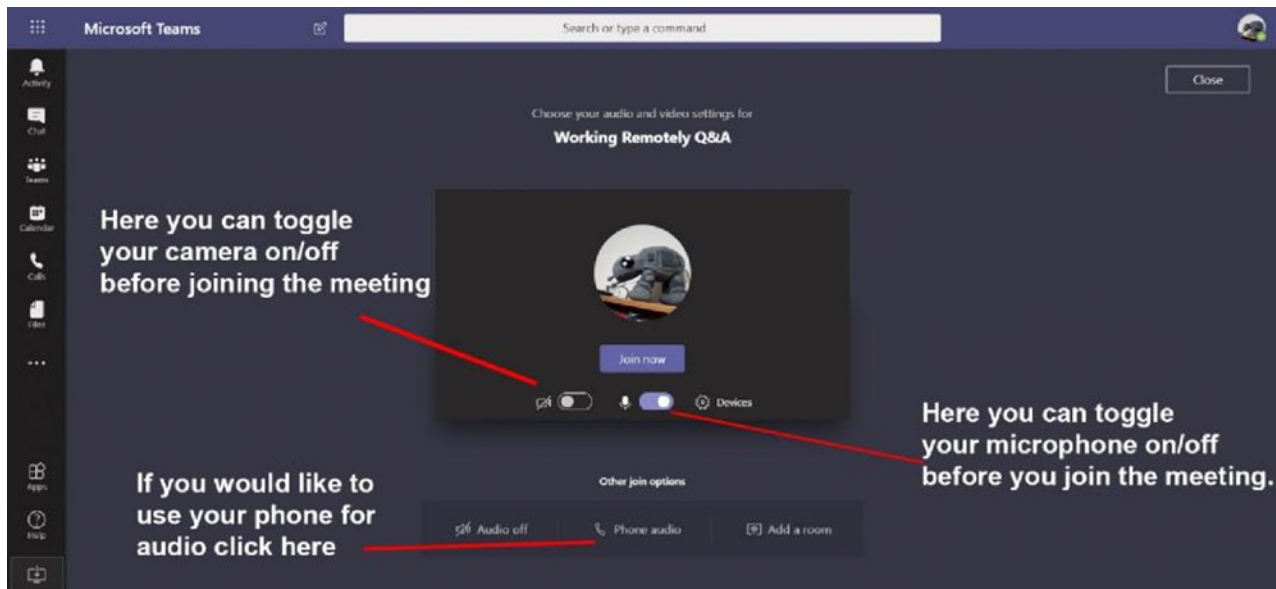
The **first time** you join a *Teams* meeting it will ask for permission to use your microphone and camera. Clicking “Allow” in the top left of the screen will allow *Teams* to let you talk to people in the hearing and let people see you through your camera if they are both turned on. (Note: Participants **must** turn their camera on.)



Pre-Join Window

After clicking “Allow” you will be taken to a pre-join window (i.e., “virtual lobby”). In this window, you will be required to provide or, more specifically, type your name. You can also change settings (mute, camera, call in option) before you join the hearing. In the middle of the screen below is the “Join now” button. There are two other buttons below “Join now.” The toggle on the right controls your microphone, and the one on the left your camera or “video.” If you see blue, the toggle is on. (In this picture, the microphone is on, but the camera is not.)

Although you need to click on the “Join now” button to join the hearing, you will **not** leave the virtual lobby **until** the MTT allows you into the hearing. The judge will join the hearing at least 20 minutes in advance of the scheduled start time to admit participants and observers. **Note:** State employees will bypass the virtual lobby and immediately join the hearing when they click on the “Join now” button.

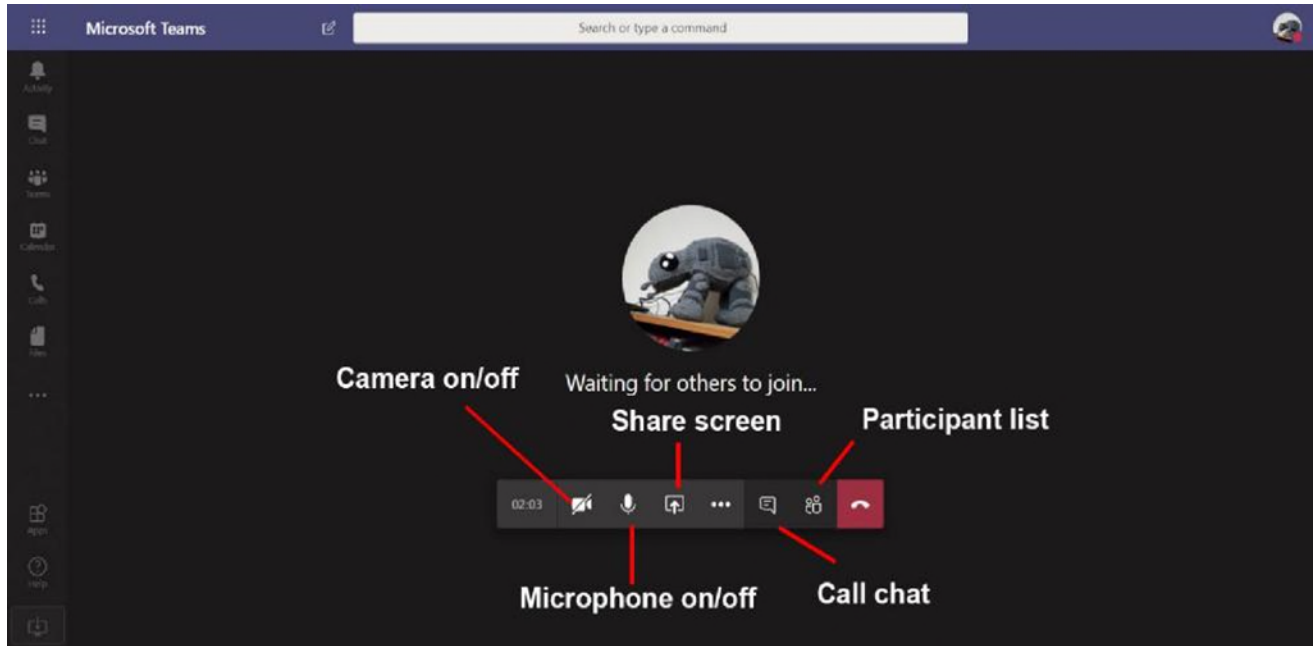


Participating Through Teams

Once in the hearing, you will see the screen below. If others have bypassed the virtual lobby or have already been let into the hearing, you will see other participants and observers, if any, on the screen. The participants and observers you will see will be the last four participants or observers to speak. You have the option of “pinning” participants to your screen so you will see the same person(s) regardless of who is speaking. right click on the person’s video and click “pin” or click on the “Participant List,” click on the three dots next to the person’s name and select “pin.”

Note: You may pin participants, but you will lose the ability to see anyone else who is speaking. The judge will be “pinning” the court reporter, the witnesses offered when the witness is testifying, and the lead attorney or agent for each party.

The control bar at the bottom appears if you move your mouse around in *Teams* (it may disappear after time with no activity). In the *Teams* control bar, from left to right, are the following options: camera on/off, microphone on/off, share screen, three dots (more options), call chat, and participant list.



The camera for the lead attorneys or agents, the witness currently testifying, and the court reporter must always be turned on during the hearing unless otherwise directed by the judge.

III. Prior to the Start of a Video Conference Proceeding

A. Entire Tribunal Hearing

1. Parties shall submit their exhibit lists and exhibits, with the exception of rebuttal exhibits, to the MTT by **e-filing or email** and all other parties by **email on or before** the date specified in the order scheduling the hearing (i.e., prehearing conference or status conference summary). **Exhibits shall be submitted as PDF documents.**

- Exhibits shall be **separately** marked (i.e., P-1, P-2, R-1, R-2, etc.) and **properly** paginated to facilitate their review during the hearing.⁴

⁴ Parties have in the past either **not paginated** their valuation disclosures **or re-paginated** their valuation disclosures when they are submitted as exhibits. Both the failure to paginate and the re-pagination of valuation disclosures causes issues with respect to the review of those exhibits during the hearing. As a

- Exhibits shall be submitted separately (i.e., separate e-filings or separate email attachments) or in a single document. If a party submits a **single document** with multiple exhibits, the party **shall** bookmark **each** separate exhibit within the document.

If the exhibits are e-filed, the exhibits shall be designated as “Exhibits (proposed) for Hearing,” as provided in the e-filing drop down menu for subsequent filings.

If the exhibit list and exhibits are emailed, the parties **shall utilize** the following email address for the MTT: taxtrib@michigan.gov **unless** a different email address is provided in the order scheduling the hearing. **As for the parties**, the parties shall utilize the email addresses identified in the pleadings **unless** notification of a change in an email address is submitted to the MTT and all other parties **in advance of** the date specified for the filing of exhibit lists and exhibits in the order scheduling the hearing.

The docket number of the case (i.e. MOAHR Docket No. 19-001234, etc.) **and the name of the Presiding Judge** shall be included in the subject line of the emails with a reference to the filing of an exhibit list and exhibits.

2. Parties are **encouraged** to stipulate to facts and the admissibility of exhibits and expert witnesses and submit those stipulations to the MTT by email utilizing the above-noted email address in **advance** of the scheduled hearing date.

The docket number of the case (i.e. MOAHR Docket No. 19-001234, etc.) and the name of the Presiding Judge shall be included in the subject line of the emails with a reference to the filing of stipulations of fact and/or witnesses, as appropriate.

3. With respect to rebuttal exhibits, the rebuttal exhibit or exhibits, if any, shall be marked (i.e., P-1, P-2, R-1, R-2, etc.), properly paginated, and emailed to the MTT and all other parties prior to the offering of the rebuttal exhibit or exhibits for admission. **The rebuttal exhibit or exhibits shall be submitted as PDF documents** and emailed to the MTT and all other parties utilizing the above-noted email addresses for the MTT and all other parties **prior** to the offering of the rebuttal exhibit or exhibits.

If the rebuttal exhibit or exhibits are admitted, the attorney or agent that offered the witness testifying with respect to the rebuttal exhibit or exhibits shall email the exhibit or exhibits to that witness.

result, parties are **required to paginate** their valuation disclosures prior to their initial filing and exchange **and are precluded from re-paginating** those exhibits when they are **e-filed or emailed** to facilitate their review during the hearing.

The docket number of the case (i.e. MOAHR Docket No. 19-001234, etc.) and the name of the Presiding Judge shall be included in the subject line of the emails with a reference to the filing of rebuttal exhibits.

The emailing of such exhibits may require a brief recess to facilitate the receipt of the rebuttal exhibit or exhibits by the Presiding Judge, the opposing party or parties, and, if appropriate, the witness that will be testifying with respect to the exhibit or exhibits.

4. Parties **shall**, in **advance** of the hearing, provide their witnesses with copies of all exhibits that each witness would need for his or her direct testimony.
5. Parties **may** prepare written opening remarks and email those opening remarks to the MTT and all other parties utilizing the email addresses noted above in **advance** of the scheduled hearing **unless** otherwise provided in the order scheduling the hearing. Copies of the parties' opening remarks, **if prepared and emailed to the MTT and all other parties, shall also** be emailed to the court reporter in **advance** of the scheduled hearing utilizing the email address provided to the parties by the court reporter.

The docket number of the case (i.e. MOAHR Docket No. 19-001234, etc.) and the name of the Presiding Judge shall be included in the subject line of the emails with a reference to the filing of opening statements.

IV. **Conducting a Video Conference Proceeding**

Entire Tribunal Hearing

It is the MTT's intent that such hearings will be conducted like all other hearings previously conducted by the MTT with some slight modifications to facilitate both the conducting and transcribing of the hearings. It is, however, also expected that parties will have engaged in serious negotiations prior to the commencement of a scheduled video conference hearing to resolve the case or limit the issues to be resolved.

1. Depending on the case, the MTT or judge may, **upon the request of a party or upon its own initiative**, schedule a test hearing prior to the date of the scheduled hearing to reduce the need for adjournment or any delay on the day of the scheduled hearing. Such tests are intended to benefit the parties and the MTT and the MTT expects the parties and/or their attorneys or agents will make themselves available to participate in any ordered test.

2. The participants (i.e., attorneys, agents, witnesses, the court reporter, etc.) **must** “join” the hearing at least 15 minutes before scheduled start of the hearing so that:⁵
 - a. The parties’ attorneys or agents can identify themselves for the court reporter and provide the court reporter with (i) the names of any witnesses to be offered for testimony, (ii) the order in which those witnesses will be called, and (iii) whether any witness should be removed from the hearing after the judge’s opening remarks subject to recall prior to that witness being offered for testimony.
 - b. The identified witnesses shall also inform the court reporter as to whether they are in separate, secure rooms with closed doors so to avoid any unnecessary interruptions and whether the identified witnesses are alone in those rooms and, if not, the identity of the person or persons in the same room with that witness.

Note: Participants wishing to play audio or video exhibits during the hearing should also notify the court reporter that they would like to do so if permitted by the judge. **To share a screen**, the participant would first have to be designated a presenter by the judge. **If designated**, the participant would move their mouse so that the control bar appears, click on the third icon from the left (i.e., the square box with arrow) or, if that icon is not there, click on the three dots, select “Share” and then select one of the participant’s screens, desktops, windows, or programs to share. Once the participant is finished sharing, the participant would click on the “Stop Sharing” icon in the bottom right-hand corner of their screen and the judge would return them to their original attendee designation.

3. The hearing shall be called to order by the judge, who shall make opening remarks including directions necessary for the commencement, conducting, and adjournment, if necessary, of the hearing. Necessary directions would include, but are not limited to:
 - a. Directing participants to:
 - (i) Have their cell phones on silent.
 - (ii) Use their cell phones during the hearing only for purposes of participating in the hearing or communicating with co-counsel or other identified participants excluding witnesses when that witness is testifying.
 - (iii) Mute their microphones when cell phones are being used for purposes of communicating so as to avoid any interruptions with the conducting of the hearing.

⁵ The MTT will admit participants and observers into the hearing through the “virtual lobby” no later than 15 minutes before the scheduled hearing time.

- b. Directing witnesses to refrain from reading from exhibits or other writings (i.e., statements, texts, etc.) unless specifically directed to do so and indicating that any unauthorized reading may result in the striking of that witness' testimony or the potential discounting of that witness' testimony.
- c. Indicating that participants, including the judge, may be required to repeat statements, questions, and testimony if a statement, question, or testimony is, **as indicated by the court reporter**, unclear because parties were speaking over each other or for technical reasons (i.e., freezing, unclear audio, etc.). To avoid or, at least, reduce the need for repeated statements, questions, or testimony, directing:
 - (i) Everyone to stop speaking when the judge speaks.
 - (ii) Attorneys or agents to note their objections by waving their hand and stating, "Your Honor." The attorneys or agents should then wait for the judge to recognize them before making their objection.
 - (iii) Witnesses to stop testifying when they see an attorney or agent waving their hand or hear an attorney or agent state "Your Honor" for purposes of making an objection.
 - (iv) Opposing attorneys or agents to wait until they are recognized by the judge for purposes of making a response to the objection.
 - (v) Witnesses to only begin testifying when the attorney or agent asks a question of the witness or the witness is recognized by the judge after an objection for purposes of responding to a question.
 - (vi) Attorneys and agents to refrain from interrupting their witness' testimony. Rather, the attorney or agent should, if practicable, wait until the witness is finished speaking before asking another question.
- d. Indicating that the hearing may be adjourned if the judge, court reporter, or a participant is unavailable to continue the hearing for technical reasons as follows:
 - (i) If the judge is unavailable, the court reporter should go off the record until the judge is available at which time the judge will indicate that the hearing is back on the record. If the judge is unable to return, the judge or Tribunal will contact the attorneys or agents and court reporter by telephone to indicate that the hearing is adjourned and will be rescheduled.
 - (ii) If the court reporter is unavailable, the hearing will be recessed until the court reporter is available. If the court reporter is unable to return, the court reporter shall contact the Tribunal by telephone and the judge will inform the participants that the hearing is adjourned and will be rescheduled.

- (iii) If a lead attorney or agent is unavailable, the hearing will be recessed until the attorney or agent is available. If the attorney or agent is unable to return, the attorney or agent shall contact the Tribunal by telephone and the judge will inform the court reporter and other participants that the hearing is adjourned and will be rescheduled unless that party has a co-representative and that co-representative is available and able to continue the hearing.
- (iv) If the witness testifying is unavailable, the hearing will be recessed until that witness is available. If the witness is unable to return, the witness shall contact the Tribunal and the judge will inform the court reporter and other participants that the hearing is adjourned and will be rescheduled unless that party has another witness that can be offered to testify and said offering and testimony will not prejudice the opposing party or parties given the inability to complete the examination of the unavailable witness prior to said offering and testimony.

Upon completion of any necessary comments, the judge will commence the hearing by resolving any issues relating to the removal of a witness from the hearing subject to recall prior to that witness being offered for testimony and the playing of audio or video exhibits and then asking Petitioner's lead attorney or agent to present their first witness.

4. With respect to the offering of witnesses, the judge will ask the offered witnesses to identify themselves and swear them in before questioning begins. The judge may also, at his or her discretion, ask the witness to identify any documents that the witness has available to him or herself.
5. Upon the conclusion of all testimony, the judge will provide for the filing of written, limited closing remarks (i.e., arguments versus findings of fact or conclusions of law). The judge will also, at his or her own discretion, provide limits on the length of the closing remarks.