

## MOAHR MTT Guide for Participating in Video Hearings via *Teams* Platform

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

A video hearing is a proper and permitted MTT proceeding conducted through electronic means rather than in a courtroom (i.e., in-person).<sup>1</sup> The usual rules, procedures, courtesies, and formalities applicable to an MTT courtroom hearing are applicable to an MTT video hearing and are expected to be complied with. The decision as to how a hearing will be conducted (i.e., electronic or in-person) will be decided by the MTT. In making such decisions, the MTT will consider issues such as the nature of the case; the technology available to the parties; the number of witnesses to be called; the parties' ability to effectively participate in a video hearing (i.e., separate computers in separate rooms, etc.); and how best to uphold the interests of justice.<sup>2</sup>

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

Comments made by participants or observers 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 participant or observer from the hearing for cause, which will be indicated in the record.

### I. Video Conference Options

The MTT will be conducting video hearings through the *Teams* platform, which allows invited participants and observers to join a video hearing using audio and video from a desktop, laptop, tablet, or smartphone. Although video hearings via *Teams* may be set up using email addresses, the MTT will be posting a link in the order scheduling the hearing as follows:

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<sup>1</sup> See R 792.10121 and R 792.10201.

<sup>2</sup> Microphone quality differs from computer to computer and can also be impacted by connection issues and the use of separate computers in the same room (i.e., feedback, etc.). Two possible solutions to improve poor audio are the use of headsets or earbuds 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 audio connection prior to joining a hearing, as indicated below.

HEARING DATE:	<b>August 20, 2020</b>
HEARING TIME:	9:00 a.m.
TEAMS HEARING LINK:	<a href="#">Join Microsoft Teams Meeting</a>
	+1 248-509-0316 United States, Pontiac (Toll) Conference ID: 695 113 463#
PARTICIPANTS' GUIDE:	<a href="https://bit.ly/3gWLDJJ">https://bit.ly/3gWLDJJ</a>

If a hearing must be continued on a subsequent date, two separate hearing information tables may be included in the scheduling order or another scheduling order issued. The parties or their attorneys or agents are required to provide the “Zoom Hearing Link” to their participants so that they can “join” the hearing. 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 audio and video.

### Open Meetings Act Compliance

To ensure compliance with the Open Meeting Act, the scheduling order for each hearing will include a “Teams Hearing Link” that can be utilized by observers wishing to attend a hearing.<sup>3</sup>

The scheduling orders can be accessed through our website by clicking on the “Virtual Hearings” tab and the docket number of the applicable case.

Participants and observers who need assistance with speech or hearing issues may also participate in a video hearing by dialing 7-1-1 and using the Michigan Relay service. More information about this service may be found at [https://www.michigan.gov/mpsc/0,9535,7-395-93308\\_93325\\_93425\\_94040\\_94041---,00.html](https://www.michigan.gov/mpsc/0,9535,7-395-93308_93325_93425_94040_94041---,00.html). For other disability accommodations, please contact the MTT in advance of the hearing.

**Note:** Observers will be directed to turn off or mute their microphones 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 the *Teams* app

Although it is **not** required, it is **recommended** that participants and observers **download** the free *Teams* app for improved quality of participation or observation. If

<sup>3</sup> See MCL 15.264.

the free **Teams** app is **not** downloaded, it is **assumed** that all participants will be able to connect to the hearing with both functional audio and video to fully participate in or observe a hearing that will be conducted using **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.

**Android based mobile devices and tablets.** It is **strongly** recommended that the **Teams** app 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** app be downloaded for free from the App Store and installed on your device.

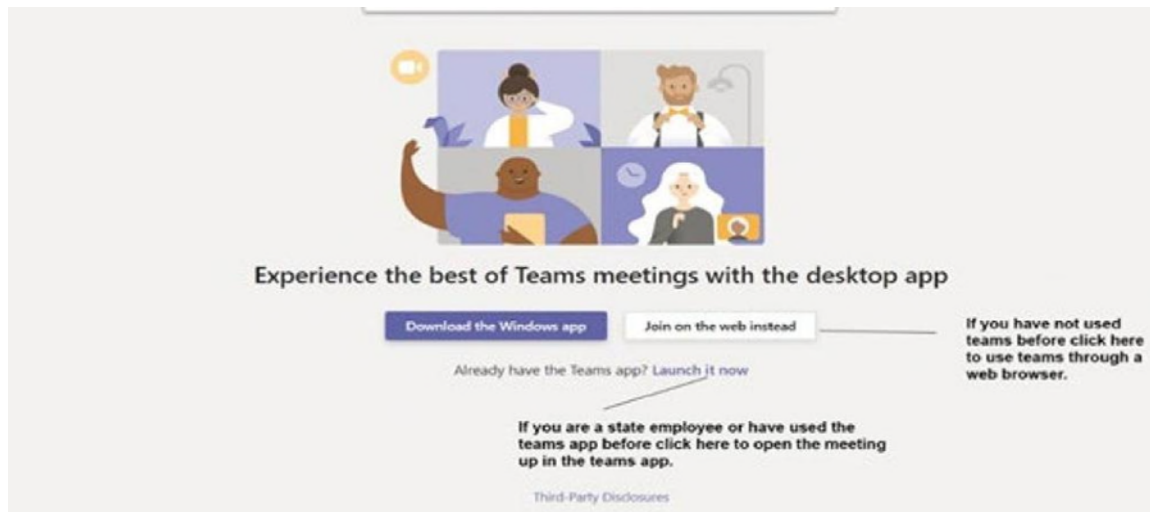
Once the link is emailed to you by the MTT, clicking the link will automatically launch the **Teams** program. Alternatively, the program can be used in your mobile web browser if you are using *Google Chrome*. This will reportedly **not** work with *Safari*.

### **Joining a Video Conference Proceeding**

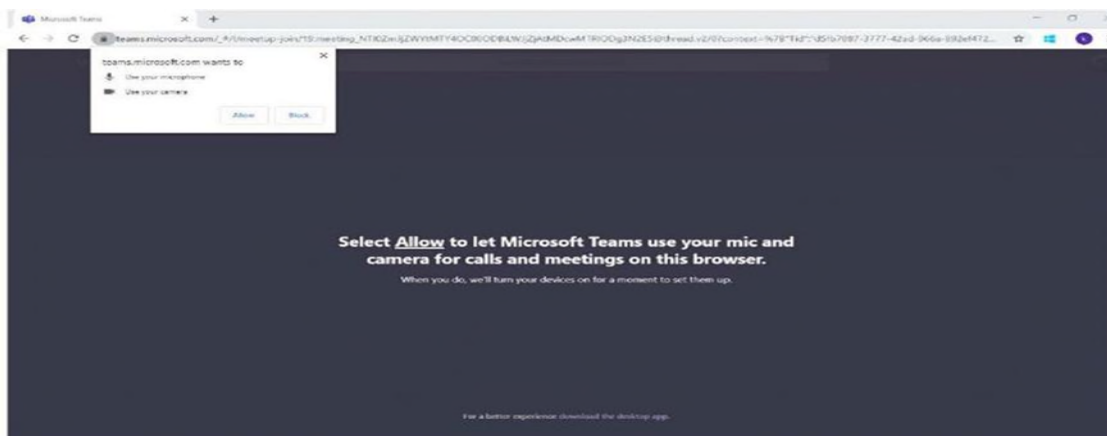
To join a scheduled video hearing, click the “Join Microsoft Teams Meeting” link in the order scheduling the hearing.<sup>4</sup> After clicking the “Join Microsoft Teams Meeting” link you will be directed to the following page:

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<sup>4</sup> 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 **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 if your microphone or audio and camera or video are both turned on. (Note: The lead attorneys or agents, witness testifying, and the court reporter **must** turn their audio and video on unless otherwise directed by the judge.)

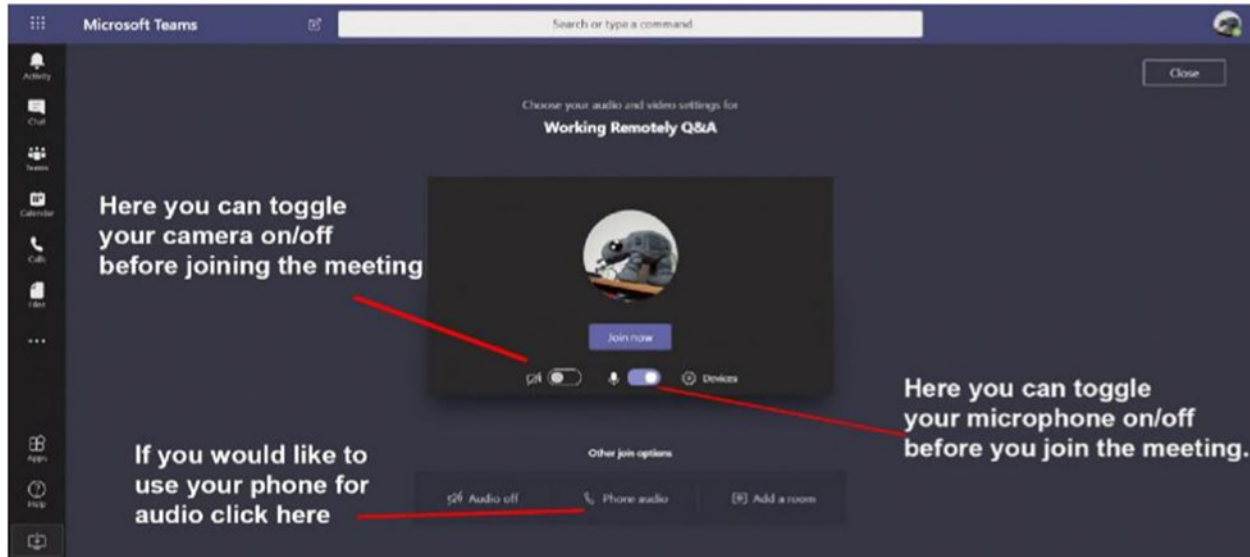


## Pre-Join Window

After clicking “Allow” you will be taken to the “virtual lobby.” In this window, you will be required to 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 or “audio” 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 15 minutes in advance of the scheduled start time to admit participants and observers except for state employees who can bypass the virtual lobby.

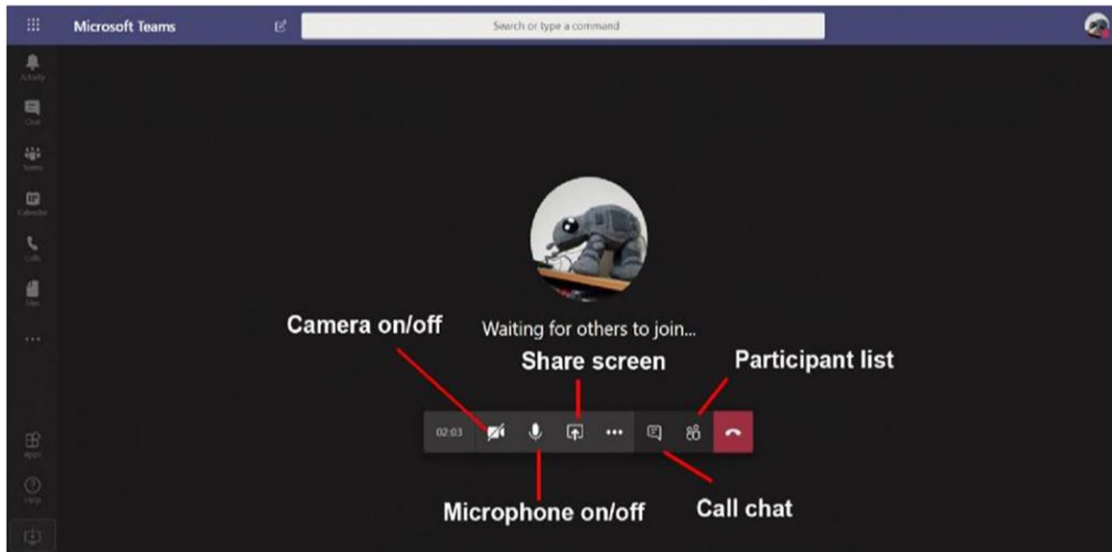


## Participating Through **Teams**

Once in the hearing, you will see the screen below. If others have bypassed the virtual lobby or have already been admitted to 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 Hearing

#### 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 for the filing and exchange of exhibits lists and exhibits in the order scheduling the hearing (i.e., prehearing conference or status conference summary). **Exhibits submitted by email 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.<sup>5</sup>
- Exhibits shall be submitted separately (i.e., separate e-filings or separate email attachments) or in a single PDF document. If a party submits a **single PDF document** with multiple exhibits, the party **shall bookmark each** separate exhibit within the PDF document. If a party **neglects to bookmark** each separate exhibit in the PDF document, **it will not be considered until** that party bookmarks each separate exhibit in the PDF document (i.e., a

<sup>5</sup> In the past, Parties have 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 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.

revised and bookmarked PDF document) except upon a finding of good cause by the Tribunal.

**If the exhibit list and exhibits are e-filed**, the exhibits shall be designated as “Exhibits (proposed) for Hearing,” as provided in the e-filing site’s drop down for filing designations.

**If the exhibit list and exhibits are emailed**, the parties **shall utilize** the following email address for the MTT: [taxtrib@michigan.gov](mailto:taxtrib@michigan.gov) **unless** a different email address is provided in the order scheduling the hearing. **As for the parties**, each party shall provide an email address to all other parties for use in the emailing of exhibit lists, exhibits including rebuttal exhibits, if any, and other documents indicated herein. The email address or addresses shall be provided **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.

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.

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 and the name of the Presiding Judge** shall be included in the subject line of the emails with a reference to the filing of stipulation of facts.
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 the email address or addresses provided by those parties.

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.

**The docket number of the case 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.

#### IV. **Conducting a Video Hearing**

##### A. **Entire Tribunal Hearing**

1. 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.
2. Depending on the case, the MTT may, **upon the request of a party or upon its own initiative**, schedule a test **Microsoft Teams** 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 scheduled test.
3. The attorneys, agents, and the court reporter) **must** "join" the hearing at least 15 minutes before the scheduled start of the hearing so that the attorneys and agents can identify themselves for the court reporter and provide the court reporter with the names of any witnesses to be offered for testimony.<sup>6</sup>
4. The hearing shall be called to order by the judge, who shall make certain pre-hearing inquires and 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 observers to turn their audio or microphones off (i.e., mute) to avoid interrupting the hearing and cautioning them that they may be removed if they interrupt the hearing.
  - b. 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

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<sup>6</sup> The MTT will, as also indicated above, admit participants and observers in the waiting room into the hearing no later than 15 minutes before the scheduled hearing time.



- other identified participants excluding witnesses when that witness is testifying.
- (iii) Mute their microphones when cell phones are being used for purposes of communicating to avoid any interruptions with the conducting of the hearing.
- 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, it is recommended that:
- (i) Everyone stop speaking when the judge and court reporter are speaking.
  - (ii) Attorneys or agents note their objections by stating “Your Honor” and then wait for the judge to recognize them before making their objection.
  - (iii) Witnesses stop testifying when they hear an attorney or agent state “Your Honor” for purposes of making an objection.
  - (iv) Opposing attorneys or agents wait until they are recognized by the judge for purposes of making a response to the objection.
  - (v) Witnesses 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.
- 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 prehearing issues (i.e., the placement of a witness in the waiting room subject to recall prior to that witness being offered for testimony, the playing of audio or video exhibits, etc.) and then asking Petitioner's lead attorney or agent to make their opening statement.<sup>7</sup>

5. With respect to the offering of witnesses, the judge will ask the offered witnesses to identify themselves and swear them in before questioning begins.
6. Upon the conclusion of all testimony, the judge will provide for oral or written closing statements limited to arguments only (i.e., no proposed findings of fact or proposed conclusions of law). The judge may, if written closing statements are to be submitted, provide limits on the page length of the closing remarks.

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<sup>7</sup> Participants wishing to play audio or video exhibits during the hearing should, as indicated above, notify the presiding judge prior to the commencement of the hearing.