

# UNITED STATES DISTRICT COURT WESTERN DISTRICT OF VIRGINIA



## Virtual Jury Trials Attorney Handbook

March 2021

## Table of Contents

<b>Introduction</b> .....	<b>3</b>
<b>Professionalism and Conduct</b> .....	<b>4</b>
<b>Technological requirements</b> .....	<b>5</b>
<b>Technology Check</b> .....	<b>6</b>
<b>Training Videos</b> .....	<b>7</b>
<b>What to do when things go wrong</b> .....	<b>7</b>
<b>Turn off non-video participants</b> .....	<b>9</b>
<b>Turn off non-video participants for all ZoomGov meetings:</b> .....	<b>9</b>
<b>Turn off non-video participants for a specific ZoomGov trial:</b> .....	<b>11</b>
<b>Waiting Room &amp; Breakout Rooms</b> .....	<b>11</b>
<b>Trial Invitation</b> .....	<b>12</b>
<b>Trial Exhibits</b> .....	<b>13</b>
<b>Displaying Exhibits During Trial</b> .....	<b>16</b>
<b>Tips for Attorneys in Virtual Jury Trials</b> .....	<b>19</b>

## Introduction

The Western District of Washington developed this handbook to guide attorneys through the use of the ZoomGov platform for conducting virtual trials. The United States District Court for the Western District of Virginia has adopted this handbook, with modifications, for use during civil jury trials conducted by ZoomGov.

The entire trial will take place using the ZoomGov platform. The parties, counsel, witnesses, and jurors (if applicable) will not be physically present in the courtroom.

The ZoomGov platform is a secure system that is separate from the commercial or free version of ZoomGov and is not prone to some of the security issues those platforms have experienced.

This handbook is a work in progress. As such, your feedback is greatly appreciated by the Court.

## Professionalism and Conduct

All participants shall treat video and telephonic hearings as though they were in a courtroom.

Remember the basics – one speaker at a time, stopping for objections - the court reporter is creating the court record and needs to hear parties clearly. There is an inherent delay when communicating via video or telephonic conference platforms and, to assist the court reporter in making an accurate record, counsel should exercise extra care to avoid talking over another participant. Consistent use of the mute/ unmute function can assist in this regard.

All participants are expected to adhere to Western District of Virginia Local Rule 6, Attorneys.

Counsel shall inform all witnesses about testimony expectations. Witnesses, counsel, and parties should be in locations that are suitable for trial. It is strongly recommended that you test the ZoomGov connection with your witness or witnesses - See Technology Check section.

The area used for participating in a ZoomGov session should be:

- quiet (limited background noise as much as possible)
- isolated from others and with some level of privacy
- free from distractions
- sitting, rather than standing, is recommended
- the desk or table should be relatively empty
- participant's face should be clearly visible in the video
- consider backgrounds carefully as they can be a major distraction
- avoid backlighting

Participants should take the following steps:

- mute their microphones when not actively speaking / unmute as necessary
- use a PC, laptop or large tablet for the video portion of the hearing
- consider use of dual monitors and a good quality web camera
- consider audio quality (better results are generally achieved by using a headset equipped with a microphone rather than relying on build in computer speakers and microphone)
- close all other programs to avoid popups
- silence cell phones use them only as backup to the ZoomGov connection

Further, witnesses shall be instructed:

- they may not use any other devices during their testimony
- with respect to any hardcopy set of exhibits provided to the witnesses, they are not to use the exhibits unless directed to do so (*Counsel should provide hard copies of any exhibits and confirm they have been received by each witness at least two days before the witness is called to testify*)

Counsel should confer regarding the following issues and advise the Court of any agreements or issues to be resolved:

- The equities for witness and counsel participation in the ZoomGov trial, including whether:
  - ♦ a party or parties may be in the same physical space as counsel;
  - ♦ witnesses may be in the same physical space as counsel for one of the parties;
  - ♦ counsel and a witness may to communicate outside the ZoomGov platform while the witness is testifying; and
  - ♦ witnesses need to be accommodated by coming into the courthouse in order to testify
- Time zone considerations
- Interpretation/translation considerations

## Technological requirements

You will need a computer (highly recommended) or tablet (not recommended) with either speakers and a microphone or a headset with a microphone, and a camera. If using a computer, you might be prompted to download and run ZoomGov (highly recommended). If using a tablet, you should download the free ZoomGov app in advance of connecting to the ZoomGov meeting.

You will have the opportunity to check your audio upon joining a meeting. Using headphones with a microphone is preferred to reduce other noise and feedback. Also consider using a web camera for better video quality.

You will receive notice for a video conference from court staff. The notification will include a link to “Join ZoomGov Meeting” as well as a Meeting ID and Passcode. You can join the ZoomGov session by clicking on the link or by inputting the Meeting ID and Passcode into the Zoom Application.

Internet Connectivity Speeds – minimum upload speed is 800kbps and minimum download speed is 1.0Mbps. For gallery view and/or 720p HD video you need 1.5Mbps upload and 1.5Mbps download.

[www.speedtest.net](http://www.speedtest.net) is a free internet connectivity speed test. It is critical to test

connectivity in real world conditions such as internet use by multiple users and higher traffic during business hours.

You can find the technical support details at:

[https://support.ZoomGov.us/hc/en-us/articles/201362023-Systemrequirements-for-Windows-macOS-and-Linux.](https://support.ZoomGov.us/hc/en-us/articles/201362023-Systemrequirements-for-Windows-macOS-and-Linux)

## Technology Check

The Court will ordinarily require the attorneys to participate in a technology check with court staff.

During that session, you are strongly encouraged to practice the following skills:

- Calling and examining a witness
- Examining a witness about an exhibit as to which admissibility is stipulated. The exhibit can be “published” by using the “Share Screen” in ZoomGov
- Laying a foundation for an exhibit as to which admissibility is disputed. The exhibit will be available to the witness, counsel, and Presiding Judge outside the ZoomGovGov.com platform (e.g., in hard copy form, on another electronic device, or in another screen on the same computer being used to participate in the ZoomGovGov.com session); if admitted, the exhibit can be published to the jurors using the “Share Screen” function in ZoomGov
- Using the ZoomGov annotation tools, enlarging and highlighting an exhibit while examining a witness about it
- Using the ZoomGov whiteboard feature, asking a witness to draw a diagram and offering the drawing as a demonstrative exhibit
- Sharing a video recording
- Impeaching a witness with prior deposition testimony
- Posing objections

## Training Videos

The Western District of Washington created several training videos and posted these to its YouTube channel. These videos cover skills and knowledge which all participating attorneys must have:

### Zoom Videos

- Excerpt Conducting Remote Bench Trials in King County Superior Court CLE
- Joining & Configuring Audio & Video In Zoom
- How to use Zoom's Virtual Backgrounds
- Zoom Meeting Controls Overview
- How to Share Your Screen in Zoom
- How to use Breakout Rooms in Zoom

### Box.com Videos

- An Introduction to Box – The Cloud Content Management Platform
- Getting Started with Box
- Five skills to get started fast with Box
- Demo: Using Box every day

## Troubleshooting ZoomGov Issues

What to do when things go wrong

- Resist the urge to panic. We all know things won't be perfect. We are in this together.
- Preparation is key. Review ZoomGov's FAQ and troubleshooting pages. Discuss in advance with counsel and witnesses how to address issues during the hearing.
- Audio issues? Be ready to pause until the source of the issue is identified.
- Video issues? Be prepared to shift to a telephonic (audio only) appearance (if appropriate) or to recess for in-person appearance (if permitted by and in accordance with public health requirements (e.g., masks)).
- Be patient with yourself, the participants, and the Court.

The Zoom platform has several pages available with troubleshooting tips.

General FAQ for using ZoomGov can be found at:

<https://support.ZoomGov.us/hc/en-us/articles/206175806-Top-Questions>

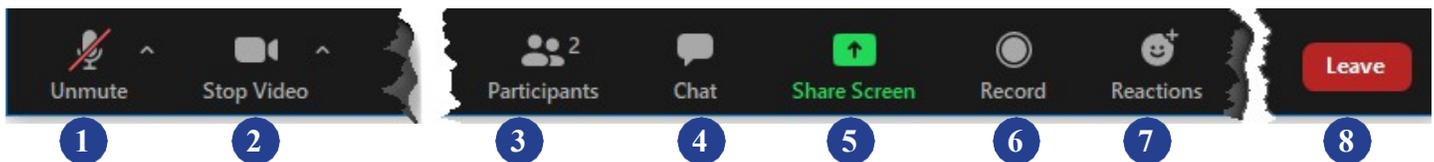
Video/Camera issues: Varies depending on OS and device:

<https://support.ZoomGov.us/hc/en-us/articles/202952568-My-Video-Camera-Isn-t-Working>

Audio issues: Only use one audio source per location. Echoes can be caused by a participant connecting to audio on multiple devices or multiple participants in one room or area using multiple audio devices: <https://support.ZoomGov.us/hc/en-us/articles/202050538-Audio-Echo-In-A-Meeting>

## Basic ZoomGov Controls

On a computer, a menu bar containing participant tools may appear and disappear as you scroll over the ZoomGov meeting, typically at the bottom of the screen. Mobile app interfaces will appear differently but contain most of the same functionality.



1. Mute/Unmute your microphone – Click the up arrow next to the microphone icon to open audio settings. Here you change your speaker and microphone settings.
2. Start/Stop your video feed (Turn on/off camera) – Click the up arrow next to the camera icon to open video settings. Here you can change your camera settings.
3. Participants – Click to open a pop-out screen that shows a list of participants in the meeting. From this panel, the host can mute/unmute all participants and more. Includes a “Raise Hand” button that you may use to raise a virtual hand.
4. Chat – Click to open the Chat panel where you can start or respond to a chat.\*
5. Share your screen – Click to start sharing your desktop display or any window/application on your computer with others in the meeting. Click **the** up arrow to reveal sharing options. This option be used ONLY as authorized by the Court.

- 6 Record – not available
- 7 Reactions. This feature is disabled.
- 8 Leave Meeting – Leaving the meeting will disconnect you.

Somewhere on your ZoomGov screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” shows the active speaker. “Gallery view” tiles all of the meeting participants.

*\*Note: The Court has configured the Chat feature so that participants can send a chat message to ONLY the Host or Co-host(s).*

## ZoomGov Settings

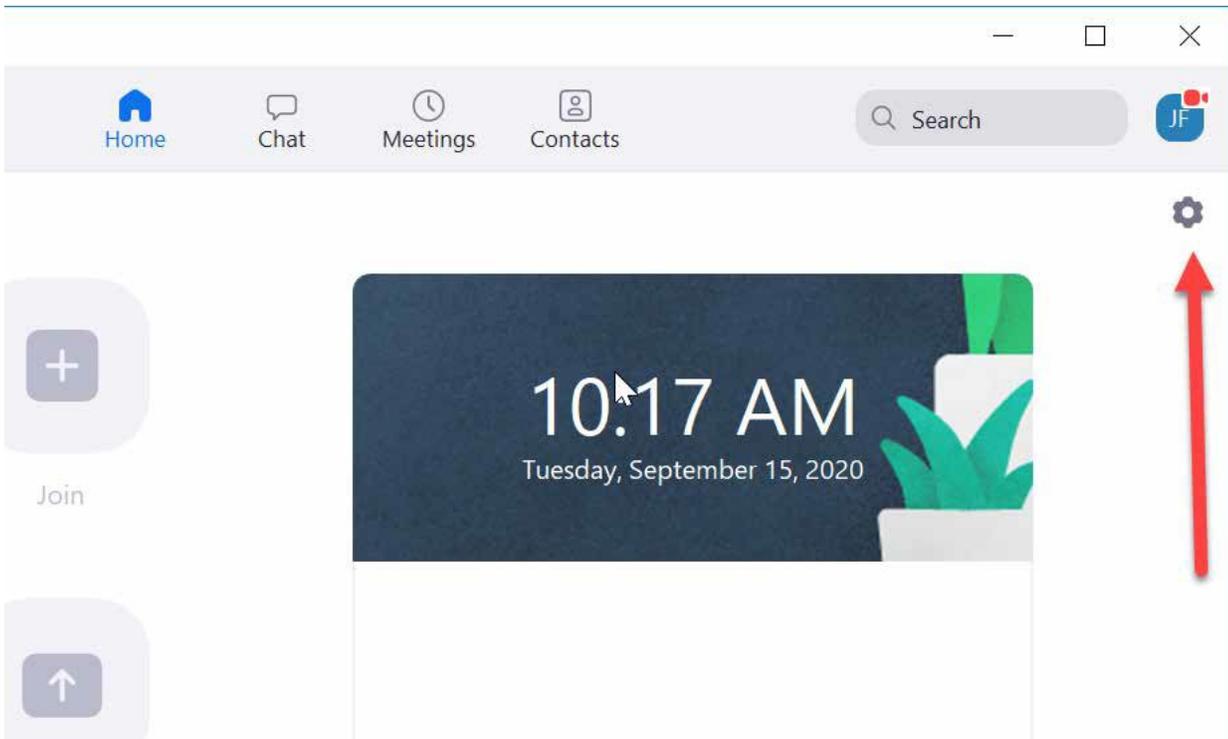
There are some basic ZoomGov settings that you might want to adjust prior to your trial.

### Turn off non-video participants

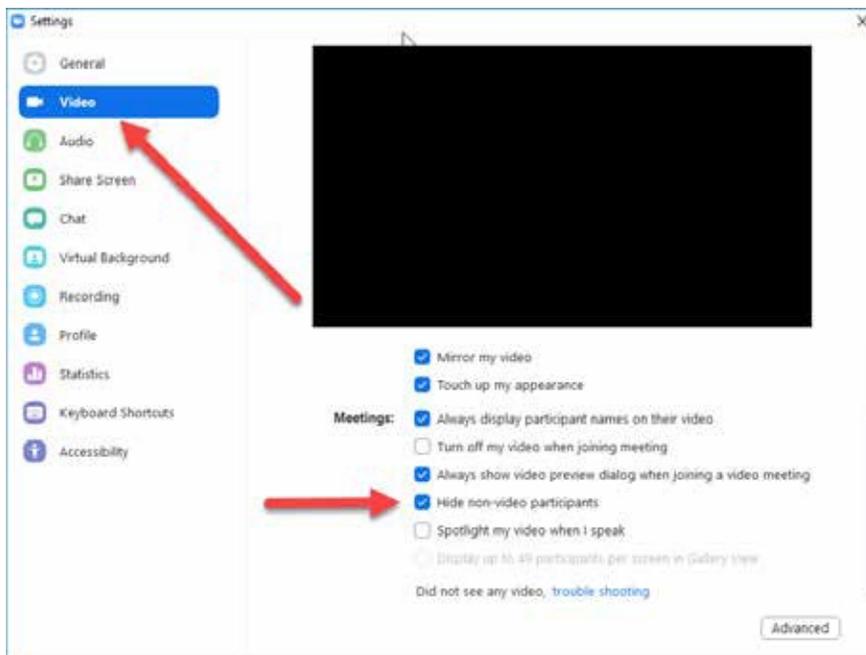
ZoomGov can display only a certain number of video participants at a time. If you are using an iPad, this number is smaller than what is available on a computer. It is important for you to be able to see and observe all the key participants during the trial. Participants who have video turned off consume space on your ZoomGov screen even though you cannot see them. For non-video participants, ZoomGov will show you boxes with the participants’ names. To maximize the number of video participants you can view, you can have ZoomGov display only participants who are using video. You can do this for ALL ZoomGov meetings or for just a specific ZoomGov trial.

Turn off non-video participants for all ZoomGov meetings:

Launch the ZoomGov app on your computer and click on the sprocket to access ZoomGov settings.



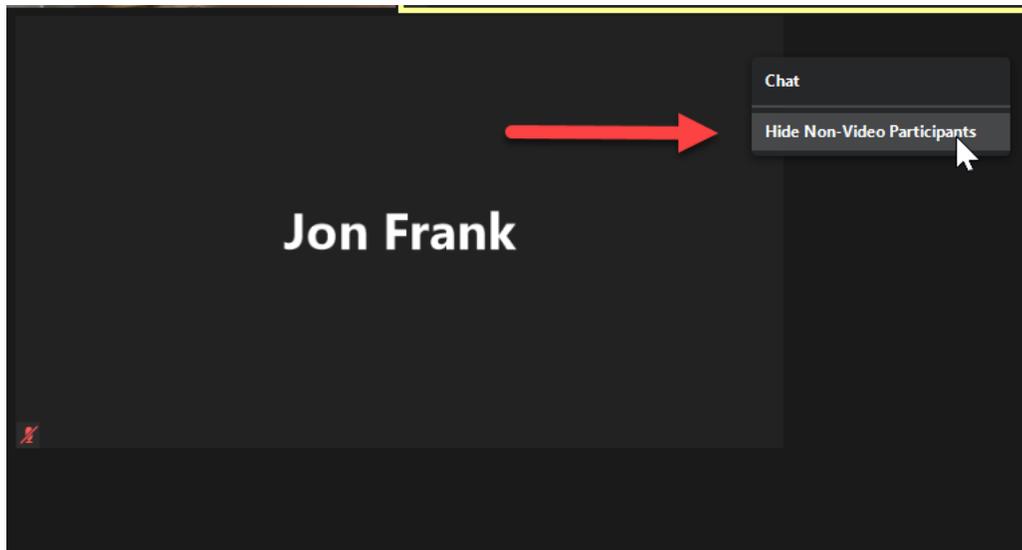
In the ZoomGov settings, click on Video and you'll see a checkbox for Hide non-video participants.\*



Turn off non-video participants for a specific ZoomGov trial:

Once you have joined your trial you will see all of the participants who have also joined. If there are participants who have joined with their video off, you will see a box with just their name. Hover your mouse over this box and you will see an ellipses button .

Click this button and you can select Hide Non-Video Participants.\*



\*This option is not available on an iPad.

## Waiting Room & Breakout Rooms

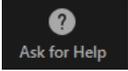
The Court has enabled a virtual waiting room in the ZoomGov platform. This means that when you join the ZoomGov meeting you are automatically placed in a virtual waiting room until court staff admit you into the virtual courtroom. This approach ensures the security of the trial and allows for witnesses, for example, to log into the ZoomGov session for the trial but not join the virtual courtroom until it is time for them to testify.

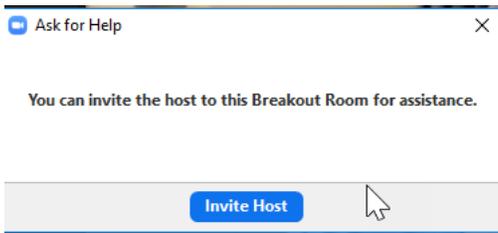
The ZoomGov platform allows for virtual (breakout) rooms. The Court uses this function to maintain a virtual jury room.

Breakout rooms can also be used if counsel wish to confer with their client privately. If you need to confer with your client and have so indicated to court staff, court staff will change your designation in ZoomGov to co-host. This will allow you to leave the breakout room at anytime and return to the virtual courtroom. After you return, your co-host designation will be revoked.

A breakout room can be setup and assigned only by court staff who as Hosts.

When you are in a breakout room, the chat feature will allow you to chat only with other people in the breakout room. If you need help from court staff, are done, or have

a question, use the  button. This feature will invite the Host for the trial to the breakout room.



Court staff will then join your breakout room, where you can get help or indicate that you have finished and can now rejoin the trial.

## Trial Invitation

The courtroom deputy or trial coordinator for your trial judge will send a ZoomGov meeting request for your trial date. This request will include instructions and a link to join the ZoomGov meeting at the appropriate time. Once you've clicked the link to join you will then have the opportunity to test your audio by clicking on "test Computer Audio". Once you are satisfied that your audio is working correctly, click on "Join audio by computer."

Below is an example of how a trial invitation email might appear.

## 20-CV-1234 Virtual Trial

1 minute ago at 9:34 AM

From Jon Frank >

[More](#)

Jon Frank is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1607646345?pwd=VnpabW1IM2dOYWpyTGNwVFJlcGtwUT09>

Meeting ID: 160 764 6345

Passcode: 812811

One tap mobile

[+16692545252](tel:+16692545252),1607646345#,,,,,0#,,812811# US (San Jose)

[+16468287666](tel:+16468287666),1607646345#,,,,,0#,,812811# US (New York)

Dial by your location

[+1 669 254 5252](tel:+16692545252) US (San Jose)

[+1 646 828 7666](tel:+16468287666) US (New York)

Meeting ID: 160 764 6345

Passcode: 812811

Find your local number: <https://www.zoomgov.com/u/adtpZr2KsE>

Join by Skype for Business

<https://www.zoomgov.com/skype/1607646345>

## Trial Exhibits

The Court uses a secure file-sharing service, Box.com, for electronic exhibits. Each party will have a folder on the system for exhibits. The Presiding Judge for your trial might, however, provide alternative instructions on exhibits.

*Currently the United States Attorney does not accept invitations for using the court's Box.com account. If you are an AUSA, alternative options must be arranged.*

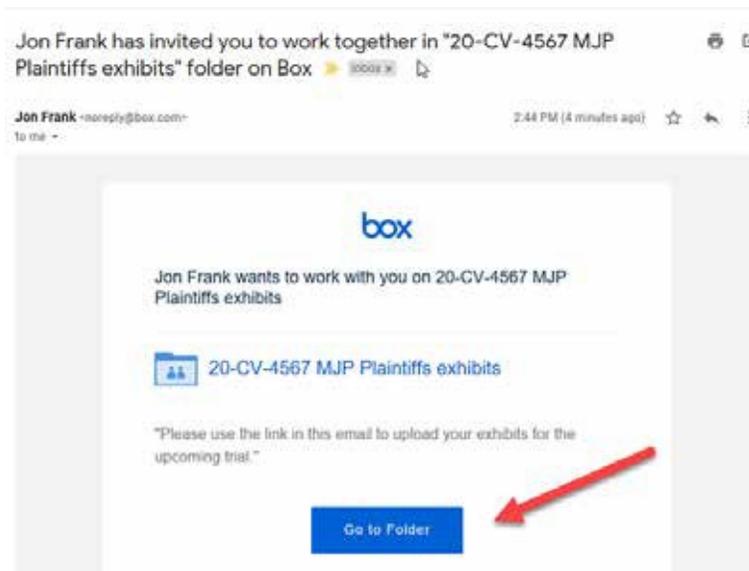
Counsel should confer regarding:

- process of providing exhibits to witnesses for their testimony, including whether by hard copy or electronically;
- use of demonstrative exhibits;
- use of physical exhibits; and
- process for witness annotation of exhibits during testimony and preserving any such annotations.

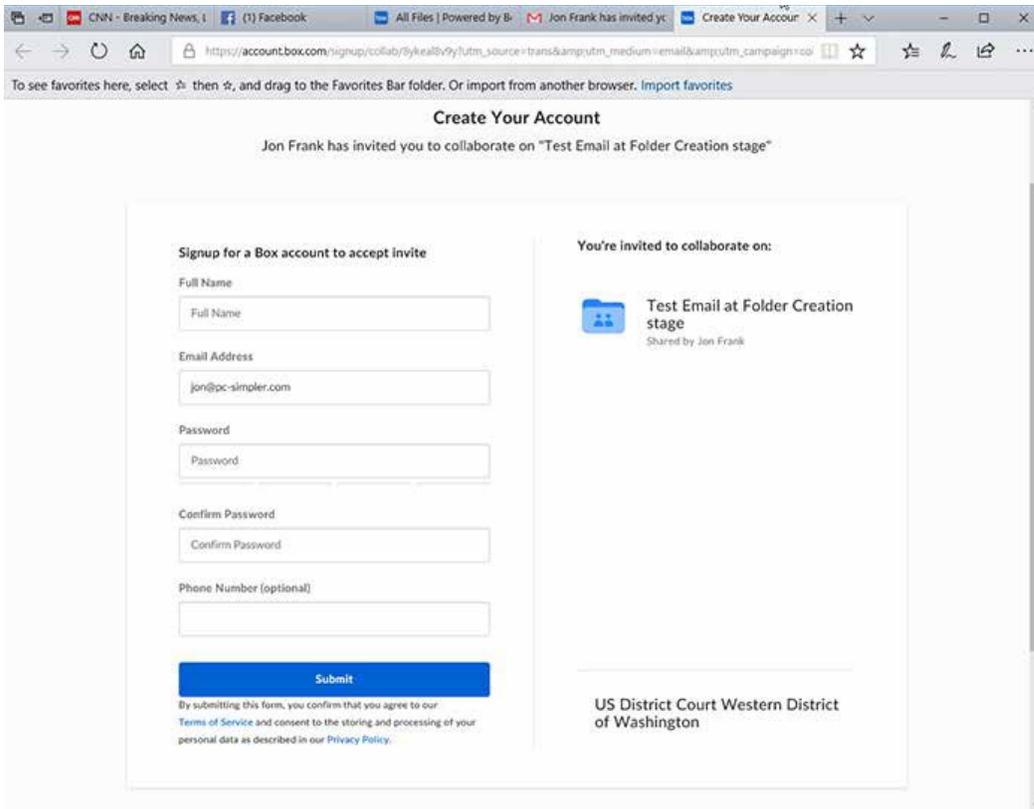
The Court does not set a limit on the number of individuals who can have access to Box.com folders for a particular case, but each invitation to share Box.com folders must be manually addressed, so court staff appreciate receiving a list of only those team members who will actually upload documents. Each of those individuals will need to create a Box.com account. If others wish to simply view what is in the various

folders, links can be made available via email. The persons who receive these links will not be required to have a Box.com account, but they also may not upload documents or modify the contents of the folders. This manner of access (via an emailed link for the folder containing admitted exhibits) is what the jurors will be provided when they begin deliberations.

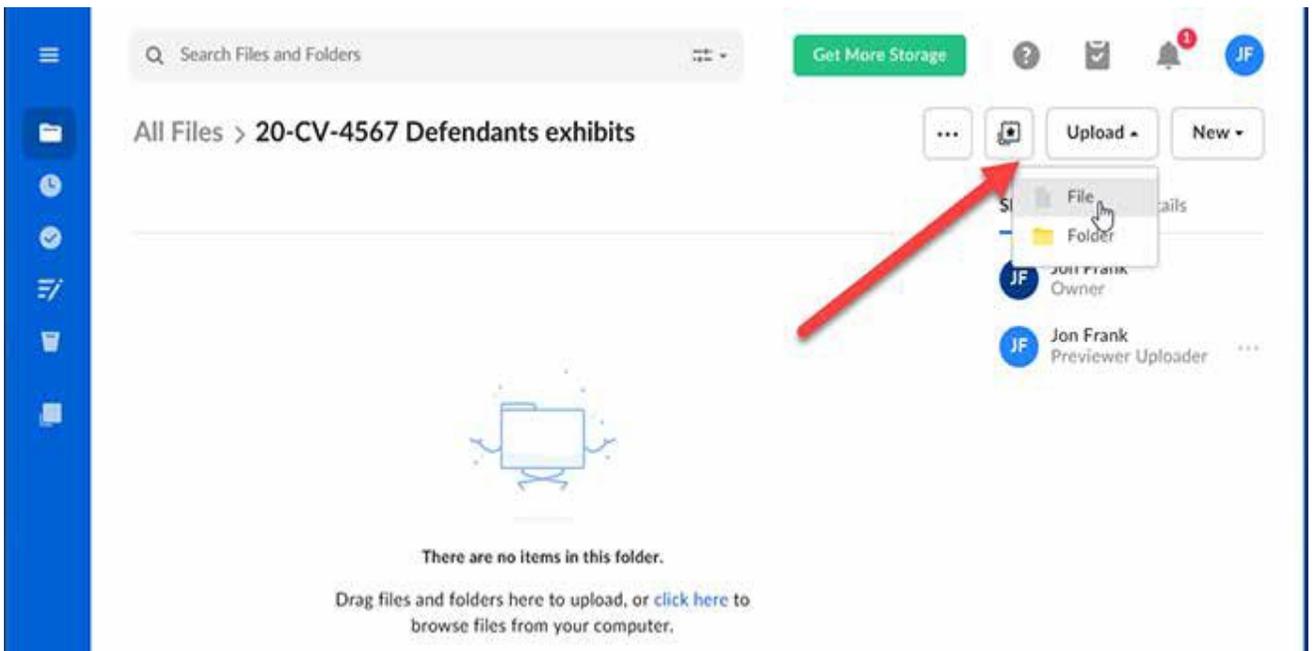
Below is an example email inviting the recipient to share a Box.com folder.



Clicking on the Go to Folder button will take you to Box.com. If you do not already have a Box.com account, you will then be prompted to create one.



After you create an account, or if you already have an account, you will be prompted to log in. Once you are logged in, you will have the option to upload PDF documents to your trial folder.



Navigate to where the files are stored on your computer or network and upload them.

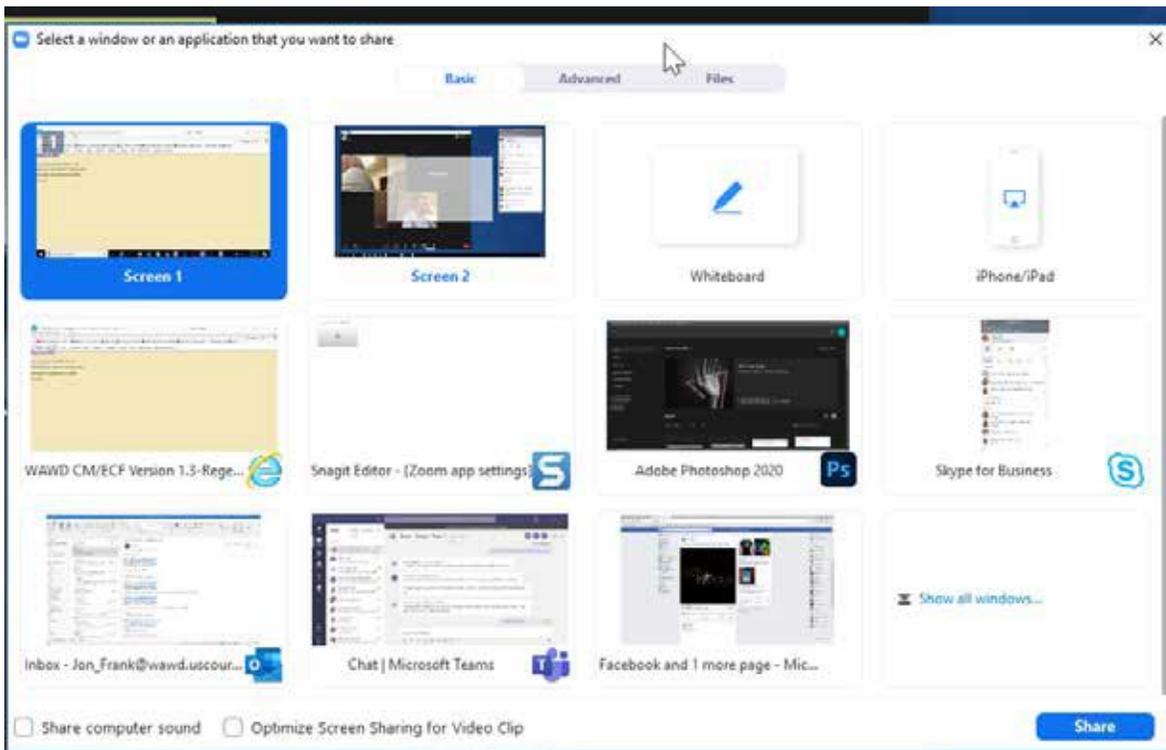
## Displaying Exhibits During Trial

Exhibits can be “published” to the jury through either the Box.com system (not recommended) or another program on your computer (recommended). If exhibits are “published” via your computer, the Court expects that those exhibits will be identical to what was submitted to the Court via Box.com. The Judge might require you to certify this fact prior to the trial.

If you use a display system that allows annotation, and you want the annotated version to be an official exhibit, that system must allow you to save the annotation in a format that can then be loaded into the Box.com platform. If the annotation is for demonstrative purposes, then whether the system can save the annotation does not matter.

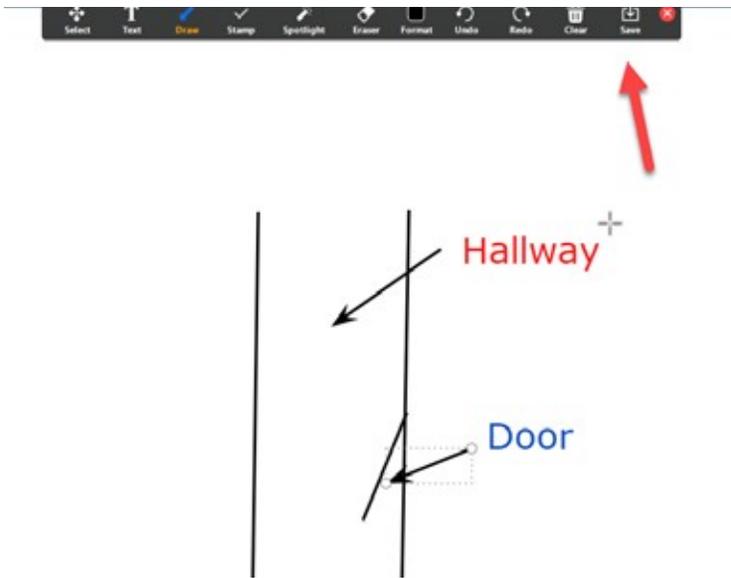
To “publish” exhibits during trial you will open the exhibit, through either Box.com or on your computer, and then use the “Screen Share” function in ZoomGov to share your “desktop” or an open window. If you are choosing the latter option, you will need to make sure you have your system set to display the exhibits in one window to prevent needless delays.

Click “Share Screen” on ZoomGov controls.



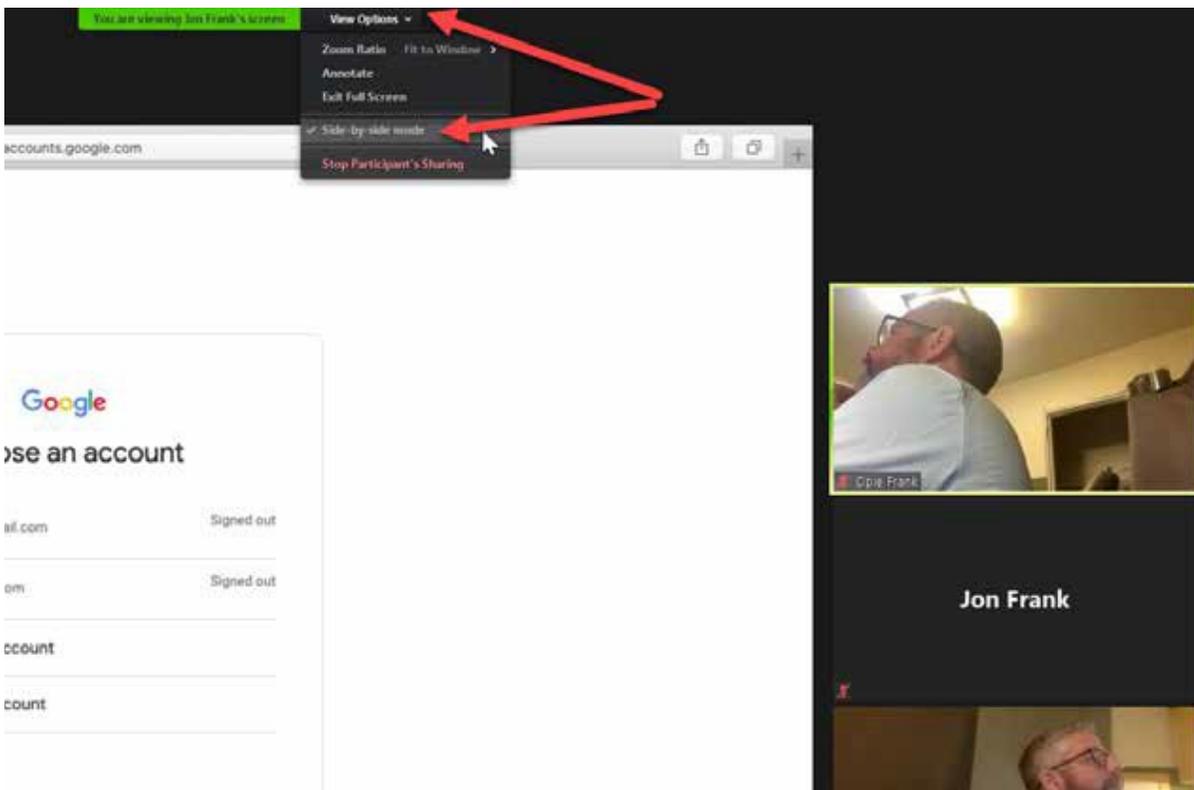
ZoomGov will give you the option of screen(s), application, or whiteboard to share. If you are displaying video, you will want to check the boxes for “Share computer sound” and “Optimize Screen Sharing for Video Clip.”

If you use the Whiteboard option and want the final drawing to be admitted as an exhibit, you will need to save it when you have finished. Clicking the Save button in the annotation control bar will save the file to your computer. This file will be in your Documents folder > Zoom > date/time/Zoom meeting name.



If the other party is displaying a screen, you will want to make sure your view settings are set so that you can still see participants.

At the top of your ZoomGov window, you will see a menu bar indicating screen sharing. Click on the dropdown for View Options and make sure it is set to Side by Side mode. Doing so will maximize your view of participants by displaying them to the side of the shared screen.



## Tips for Attorneys in Virtual Jury Trials

- Keep a list of Court and IT contacts available.
- Fully review the pretrial orders. Ask any questions relating to these orders before the trial begins.
- The Court recommends using headphones with a microphone attached, or a separate microphone, to eliminate background noise and make it easier to hear the individual speaking.
- Having two monitors is helpful: one for the presentation of evidence and one to view the individuals in the trial.
  - Powerpoint is a useful tool for presentation of evidence and opening and closing.
- Test openings, closings, and presentation of evidence with someone on the Zoom platform before the trial. This platform is different than presenting in Court and you will want to familiarize yourself with Zoom and ensure you are comfortable with the technology.
- Do not present exhibits straight from Box.com. Save them locally on your computer in an easily accessible location.
- Log on to the Zoom meeting early so you can test your equipment (audio and video) before the start of the trial.
- Hard copies of relevant exhibits need to be sent to witnesses before the trial.
- Think about your lighting, the background visible on the screen, and your microphone placement.
- Do not use your iPhone for conducting trials.
- Some Judges require you to stand during the presentation of evidence. You can either have a standing desk or create a “podium” to switch to for evidence presentation.
- Be cognizant of talking while others are talking. Objections can be made in a respectful way without talking over others.
- If you are not speaking, please have your mic muted to eliminate background noise.
- Test audio with your witnesses before trial. Ensure they are using a suitable mic (headphones with a mic recommended) and they are easy to hear and understand.
- If your connection is dropped during the hearing, dial back in. If you encounter issues, contact the Court immediately.