

<sup>1</sup>Checklist for items to consider for remote trials / hearings

I. Setup / initial things to consider

Complete	Issue
	Does the Court need physical copies of documents or other materials? If so, how will those be coordinated?
	<p>How will electronic materials be delivered to the Court?</p> <ul style="list-style-type: none"> <li>• Consider email file size restrictions</li> <li>• Consider requirements to download/unzip versus being able to view in a browser in real time</li> <li>• Consider who besides the Court will need access (opposing counsel, clerk, court reporters, witnesses)</li> </ul>
	<p>Are you going to provide hard copy documents to the witness?</p> <ul style="list-style-type: none"> <li>• Consider the preferences of each witness</li> <li>• Consider that people tend to read off of the screen rather than look at paper</li> <li>• Consider that the screen may be an “excerpt” and thus some details may be missed</li> <li>• Consider shipping times to witnesses and how the binders will be “sealed” to avoid alterations</li> <li>• Consider that documents that are not in shipped binders will likely still be used</li> </ul>
	<p>How long will you provide the Court / opposing counsel / the witness / the court reporters with access to electronic files?</p> <ul style="list-style-type: none"> <li>• Consider the length of time to write an opinion</li> <li>• Consider any costs that are associated with hosting the documents</li> <li>• How are you going to exchange demonstratives?</li> </ul>
	<p>How is the trial going to proceed—all remote or hybrid setup?</p> <ul style="list-style-type: none"> <li>• Consider audio sources—having more than one audio source in the same room leads to feedback</li> <li>• Consider strength of Wi-Fi signal / ability to hard wire equipment (hard wired connections are more stable and faster with less interference)</li> <li>• Consider issues with a hybrid setup—do you need to outfit the Court with additional video screens / projectors / audio, keeping in mind that these are all additional sources of interference</li> </ul>
	<p>What platform are you going to use for trial?</p> <ul style="list-style-type: none"> <li>• Does the Court have specific requirements for a particular platform (for example, Zoom, Jabber, WebEx, GoToMeeting, Skype for Business)?</li> <li>• Does the Court have specific requirements for platforms that may not be used, or does the Court require the parties to provide equipment for the Court’s use?</li> </ul>

<sup>1</sup> Shared by Daniel Attaway of Womble Bond Dickinson (US) LLP of Wilmington, Delaware.

Complete	Issue
	<p>How much support does the Court need?</p> <ul style="list-style-type: none"> <li>• The Court’s staff is strained under the burden of moved and virtual hearings, etc.—how can you make it easier?</li> <li>• Can someone physically be in the Courtroom to provide technical support for the Court?</li> <li>• Can someone other than the Court be the trial coordinator?</li> </ul>
	<p>Does the Court/Court reporter have the ability to provide remote Realtime to the parties?</p> <ul style="list-style-type: none"> <li>• Realtime is invaluable for remote settings</li> </ul>
	<p>How are you going to set up your “court” space?</p> <ul style="list-style-type: none"> <li>• Can the firm’s equipment SIP into the trial (this provides the most stable connection)?</li> <li>• Hard wire everything possible (don’t have to worry about wireless mics, etc. dying or blips in Wi-Fi which can knock you offline)</li> <li>• Directional microphones are very useful (cut down on picking up ambient sound); don’t use ambient microphones—they pick up too much distracting noise</li> <li>• Focus the camera on the speaker—should be as tight as reasonably possible</li> <li>• Do a dry run with sound and lighting (and have someone watch it on the trial platform)</li> <li>• Make sure that you consider what people are going to be wearing</li> <li>• Minimize distractions in the background</li> <li>• If you are at a podium—can have a high table next to you for easier access to materials</li> <li>• Who will be in the courtroom with you—try out the setup to ensure that it works for you</li> <li>• Camera placement with respect to the screen (make sure that when you are looking at the screen you are also looking at the camera—it is not good to have the camera off to one side of the screen) (also want to make sure that you are far enough away from the camera)</li> <li>• How are you going to communicate with team members (this is especially important if they are not going to be physically present with you—although if possible, they should be in the room)?</li> </ul>

Complete	Issue
	<p>How are the witnesses going to be set up?</p> <ul style="list-style-type: none"> <li>• Do at least one dry run with the witnesses to make sure that everything works</li> <li>• Test the equipment / lighting / connection with each witness and do so at a time reasonably approximating when they will testify <ul style="list-style-type: none"> <li>○ This is especially important if the witness is on Wi-Fi, because you need to test it with the load that will be present at the time (are family members heavily using the internet)</li> <li>○ Use the platform you will be using for trial (platforms have different bandwidth requirements, for example, WebEx requires a higher bandwidth than Zoom)</li> <li>○ Make sure that you can see them and hear them and that there are no distractions in the background</li> </ul> </li> </ul>

**II. Things to work out with the other side**

Complete	Issue
	<p>Who are you going to use for the vendor?</p> <ul style="list-style-type: none"> <li>• How are costs going to be split?</li> <li>• Confirm that the vendor is going to be a neutral third party</li> </ul>
	<p>How are witnesses going to be questioned / who is going to be on the screen?</p> <ul style="list-style-type: none"> <li>• Provide hard copies, but how strictly enforced?</li> <li>• If you are providing hard copies / documents to the witnesses, how are you going to ensure they are not opened beforehand?</li> <li>• For provided hard copies, need to balance ease of getting into with security (i.e., it should not be a present to open)</li> </ul>
	<p>Instructions to witness</p> <ul style="list-style-type: none"> <li>• What can the witness have with him/her when testifying (no notes, no phones, only materials from questioning counsel, documents must be the same as those offered)?</li> <li>• Make sure the witness knows that there can be no internet searching</li> <li>• What can the witness have open on her screen?</li> <li>• Methods for sequestration</li> <li>• Clear instructions that are communicated beforehand are key</li> </ul>
	<p>Procedures during trial</p> <ul style="list-style-type: none"> <li>• How are you going to handle objections?</li> <li>• Are there special cleaning procedures that need to be implemented when different people are using the same equipment?</li> <li>• How do you handle if someone key drops (for example, the Court, the witness, an attorney)?</li> </ul>

	<ul style="list-style-type: none"> <li>• What procedures do you need for contacting the other side on breaks if necessary (make sure that everyone has exchanged cell phone numbers at the least)?</li> </ul>
	What is the backup plan if something goes down—or at least how do you get in touch with the relevant parties and the Court to discuss how to proceed?

### III. Considerations for during trial

Complete	Issue
	<p>How are you going to make the proceedings public if required?</p> <ul style="list-style-type: none"> <li>• Stream via YouTube or some other service</li> <li>• Record and release at a later time</li> <li>• MAKE SURE YOU KNOW THE OPTIONS AND THE DRAWBACKS TO EACH</li> </ul>
	<p>What procedures are in place to make sure that those who must join are there?</p> <ul style="list-style-type: none"> <li>• How are you going to contact them if they are not?</li> </ul>
	Do you need to ask the Court to accommodate witnesses out of order / at certain times because of time differences?
	How are you going to handle transitions to new witnesses / taking attorneys?
	How do you plan to get bench briefs / memoranda to the Court during trial—will they be filed or sent electronically as well?
	<p>Are you going to have a viewing room?</p> <ul style="list-style-type: none"> <li>• There is much more going on on the screen so it can be hard to keep track of everything—consider having individuals watching certain players (e.g., the judge or opposing counsel)</li> <li>• How are people in the viewing room going to communicate with people in the Courtroom (Jabber comes in handy here)</li> <li>• Make sure the room is far enough away that the Courtroom does not pick up sound</li> </ul>
	If people are remote, make sure that you have a way to communicate with them well in advance of the trial
	<p>Should you have a separate “breakout” room—this leaves the Courtroom always in the “courtroom,” but allows a separate room to meet with the client witnesses over zoom</p> <ul style="list-style-type: none"> <li>• Make sure you know who is in your breakout room</li> </ul>
	Do you have IT support readily available?