

UPDATED NOTICE OF TEMPORARY MODIFICATION
OF APPEARANCE PROCEDURES BEFORE
JUDGE THOMAS P. AGRESTI

Dated and Effective: July 26, 2022

Consistent with the proactive measures taken by Judge Thomas P. Agresti concerning the use of the *Zoom Video Conference Application* (Zoom), all Counsel and Parties-in-Interest having matters on Judge Agresti's docket are advised that the Court remains open, with additional modifications in terms of the manner in which matters are heard before the Court. These additional modifications include the use of *Zoom* where indicated by the Court. The use of the telephonic hearing process as described in the Court's April 8, 2020 Notice will only be utilized where specifically indicated by the Court and the procedures set forth in the April 8, 2020 Notice should be followed in such an event. Therefore, going forward, *Zoom shall be mandatory* unless otherwise ordered by the Court ("Zoom Hearing"). The modifications involving Zoom Hearings are as follows:

(1) *Appearances:* All those Parties and Attorneys intending to appear must participate remotely by using the *Zoom Video Conference Application* (hereinafter "Zoom"). *Furthermore*, while use of a conference room setting is acceptable when a person appears before the Court, the equipment used must be capable of rendering the person's appearance via a "head shot" using the equipment's zoom-in feature thereby making the appearing person's head, shoulders and upper torso area only visible to the Court. *Failure to achieve this "appearance status" may result in the imposition of sanctions including a monetary fine or denial of the request of counsel or witness to participate in the pending proceeding.* Over time, the benefit of experience during the

Pandemic has shown the Court that only certain forms of a remote Zoom appearance will be proper and acceptable going forward. The following forms of “appearance” will no longer be acceptable:

- (a) Remote appearance from a parked car or public places are no longer acceptable. All appearances by attorneys and other professionals must be from a formal office location or setting, which can be in a home, as long as of the formalities and solemnity of a court appearance are upheld.
- (b) Similarly, while witnesses may appear from a household setting, those settings must be free from noise or interference from others living in the household. Unless appearing as a party or witness, children shall not be present during or interfere with the remote appearance and must be appropriately separated from the area where the remote appearance occurs.
- (c) Animals shall not interfere with or appear in any remote appearance.
- (d) If the conditions set forth above cannot be achieved by the lay witness, the witness is to appear in the office of the attorney offering the testimony or representing a party.
- (e) Witnesses or Parties appearing in any Zoom proceeding cannot testify in the same conference room where others are also expected to appear, including the attorney calling the witness. A separate Zoom connection in a separate location is required for each witness/party.
- (f) Any violation of the foregoing conditions or any other mandates listed below, ***including the connectivity mandate***, will result in the immediate termination of that person’s Zoom appearance privilege for the proceeding at issue even though in all other respects the proceeding will continue at the discretion of the Court and the terminated appearance will be deemed a non-appearance after Notice.

(2) ***Zoom Hearing Attire:*** Appropriate professional courtroom attire is required for attorney attendance and suggested for Parties and witnesses.

(3) ***Use of Exhibits:*** Any Exhibit(s) to be used during a Zoom Hearing is/are to be submitted to Chambers in electronic medium format ***at least three (3) days prior to the start of the***

proceeding consistent with the requirements of Judge Agresti’s General Procedures found at the Court’s website at <https://www.pawb.uscourts.gov/procedures>. The Party offering the Exhibit(s) is required to assure that the Exhibit is in legible form in the electronic medium. Any Exhibit(s) not complying with this requirement will not be permitted to be made part of the record of the proceeding.

(4) ***Impeachment Materials:*** Any document a Party wishes to use for impeachment purposes and not part of its case in the first instance must be delivered to Chambers in electronic medium ***format at least three (3) days prior to start of the proceeding*** to which they relate and otherwise comply with Judge Agresti’s General Procedures referenced in Paragraph 3, above, relating to the pretrial submission and identification of Exhibits including the use of Bates Stamp numbering. The Party submitting impeachment materials to Chambers need not make Exhibit(s) identified as impeachment material available to the opposing Party prior to the start of the proceeding but is required to put opposing Party(ies) on notice of the submission.

(5) ***Noticing:*** Effective immediately, when noticing any self-scheduled motion, counsel and parties-in-interest are directed to complete, file and serve the attached “Notice of Zoom Hearing and Response Deadline Regarding Motion of [Name of Party] for [Insert Relief Sought]” which is annexed hereto at “Attachment A.”

(6) ***Initializing Zoom Hearing:*** To participate in and join a Zoom Hearing please initiate and use the following link at least 15 minutes prior to the scheduled Zoom Hearing time: <https://www.zoomgov.com/j/16021303488>, or alternatively, to attend and use the following Meeting ID: 160 2130 3488. For questions regarding the connection contact Judge Agresti’s Staff Lawyer or Deputy-in-Charge at 814-464-9760.

(7) ***Minimization of Noise Interference:*** One of the challenges the global health crisis has created is the need for many to conduct work out of informal workspaces which are often

not protected from the ambient noises of life (for example, pets, other persons in the household, phone line interference, etc.). As a result, all Zoom participants must make a concerted effort to minimize all background noise. As part of this effort,

- (a) All Zoom participants must mute their microphone even before connecting to the Zoom Hearing;
- (b) Microphones are to remain muted unless actively speaking;
- (c) Unless directly addressed by the Court, during the course of the Zoom Hearing, Counsel may indicate a desire to speak by “raising their hand” in the **Chat Feature** of the Zoom Hearing mode. Using this feature will send a notification to the Court and Counsel will be provided with an opportunity to address the Court. Counsel should familiarize themselves with the Chat Feature prior to the Hearing; and,
- (d) In order to reduce the “echo effect,” when speaking during the Zoom Hearing the participants shall reduce the volume of his/her microphone to the lowest level possible to allow the participant to reasonably participate in the Zoom Hearing.

(8) **Recording of Hearing:** Other than the Court, no party or hearing participant may record any part of the Hearing, whether by use of the Zoom recording capabilities, third-party applications, or by any other means.

(9) **Speed Tests:** Prior to the date of the Zoom Hearing, all hearing participants are directed to test their internet connection speed to ensure that it is at least 3 Mbps. Participants shall also test their ability to run Zoom using <https://www.zoom.us/test>. Counsel shall ensure that all witnesses have access to Zoom and have complied with their testing obligations prior to the Hearing.

(10) **Zoom Operating Instructions:** For the purpose of ensuring a smooth and efficient hearing, prior to the date of the Zoom Hearing all hearing participants (including counsel and witnesses) shall review the following information in order to familiarize themselves with the use

of Zoom *and assure that all equipment/hardware/software so used are in appropriate operating equipment at the time of the Zoom hearing:*

- (a) **Hardware:** Zoom is compatible for use on mobile devices (such as a smartphone or tablet) as well as personal computer (laptop or desktop) which have camera and microphone function.
- (b) **Installation/Update of Zoom:** To participate you need to install the Zoom app on your smartphone/tablet or install the Zoom software on a Windows or Mac laptop/desktop. If you already have Zoom installed on the device you are using for the Hearing, you must ensure the application is updated to the most recent version.

	<p>Apple SmartPhones or Tablets can download the Zoom App from the Apps Store. Android devices can use the Google Play Store.</p> <p>You do not need to create a Zoom account, the app installed is all you need</p>
<p>Zoom Client for Meetings</p> <p>The web browser client will download automatically when you meeting, and is also available for manual download here.</p> <p>Download Version 4.6.11 (20559.0413)</p>	<p>Windows or Mac laptops can download the Zoom software from: https://zoom.us/download</p> <p>You do not need to create a Zoom account, the app installed is all you need</p>

- (c) **Testing Your Device:** As stated above, all hearing participants are required to test their device compatibility with Zoom requirements prior to the date of the Hearing. Participants can test their ability to operate Zoom at <https://www.zoom.us/test>. Tests must be conducted on the same device that will be used to participate in the hearing.
- (d) **Using Zoom:** Using the device on which Zoom has been installed and tested, click on the link to the meeting.

 <p>Join Audio</p>	<p>When you join the meeting, the microphone button above will look like this, click on it, and follow the prompts to connect audio to the conference.</p>
<p>Zoom Functions</p>	<p>Exits Meeting</p> <p>Mutes/Unmutes Microphone or Camera (Red = muted)</p>  <p>Switches between Gallery (see all participants) and speaker (see active speaker only) View</p>

For additional assistance using Zoom, please consult the Zoom “Help Center” at <https://support.zoom.us/hc/en-us> which offers “quick start guides” and video tutorials.

(e) **Screen Mode:** Parties are expected to view the Hearing using the “Speaker View” mode.

(11) **Zoom Exemption:** As previously noted, all participants in the Zoom Hearing shall participate via Zoom. However, upon appropriate cause shown, filed no later than Noon of *the day prior* to the Zoom Hearing, the Court may allow a one-time exemption and grant Counsel participation by telephonic means.

(12) **Further Relief:** The Court may review or amend these temporary procedures on a case-by-case basis, to the extent there is cause and extenuating circumstances to do so. To the extent counsel or any party-in-interest desires relief from any of these interim procedures, such party shall file with the Court a written motion to modify the applicable procedures. In any such motion, the party requesting relief shall state with particularity the modification sought and the reason why it is necessary or appropriate for the Court to modify the applicable procedure.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re:

DEBTOR NAME(S), : Case No. _____-TPA
 Debtor(s) : Chapter __
 MOVANT NAME(S), :
 Movant(s), :
 v. :
 RESPONDENT NAME(S), :
 Respondent(s). :

**NOTICE OF ZOOM HEARING AND RESPONSE DEADLINE
REGARDING MOTION OF [NAME OF MOVANT] FOR [RELIEF REQUESTED]**

TO THE RESPONDENT(S):

You are hereby notified that the Movant seeks an order affecting your rights or property.

You are further instructed to file with the Clerk and serve upon the undersigned attorney for Movant a response to the Motion by no later than _____, 20__ [seventeen (17) days after the date of service below], in accordance with the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and the general procedures of Judge Agresti as found on his Procedures webpage at <http://www.pawb.uscourts.gov/procedures>. If you fail to timely file and serve a written response, an order granting the relief requested in the Motion may be entered and the hearing may not be held. Please refer to the calendar posted on the Court’s webpage to verify if a default order was signed or if the hearing will go forward as scheduled.

You should take this Notice and the Motion to a lawyer at once.

A Zoom Video Conference Hearing will be held on _____, 20__, at ____:____.m. before Judge Thomas P. Agresti via the ***Zoom Video Conference Application*** (“Zoom”). To participate in and join a Zoom Hearing please initiate and use the following link at least 15 minutes prior to the scheduled Zoom Hearing time: <https://www.zoomgov.com/j/16021303488>, or alternatively, you may use the following: **Meeting ID: 160 2130 3488**. For questions regarding the connection, contact Judge Agresti’s Staff Lawyer or Deputy-in-Charge, at 814-464-9760. ***All attorneys and Parties may only appear by Zoom*** and must comply with Judge Agresti’s ***Updated Notice of Temporary Modification of Appearance Procedures***, dated and effective July 26, 2022, and continued until further order, which can be found on the Court’s website at <https://www.pawb.uscourts.gov/content/judge-thomas-p-agresti>. Under the current COVID-19 circumstances, the general public may appear telephonically if unable to do so via the Internet. When the need to appear telephonically arises members of the general public should immediately contact Chambers to make telephonic arrangements. Only ten minutes is being provided on the calendar. No witnesses will be heard. If an evidentiary hearing is required, it will be scheduled by the Court for a later date.

Date of Service: ____, __ 20__

Attorney for Movant/Applicant

Signature

Address

Telephone Number

Attorney I.D. No.