

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 BAO XUYEN LE, as Personal  
9 Representative of the Estate of Tommy Le;  
10 HOAI "SUNNY" LE; and DIEU HO,

11 Plaintiffs,

12 v.

13 REVEREND DR. MARTIN LUTHER  
14 KING, JR. COUNTY; and KING  
15 COUNTY DEPUTY SHERIFF CESAR  
16 MOLINA,

17 Defendants.

C18-55 TSZ

ORDER RE: PROCEDURES  
AND PROTOCOLS FOR  
VIRTUAL JURY TRIAL

18 The jury trial scheduled to commence on **April 19, 2021, at 9:00 a.m.**, shall be  
19 conducted using the following procedures and protocols.

20 **A. Remote / Virtual Trial Format**

- 21 1. The entire trial will take place using the ZoomGov platform. The parties,  
22 counsel, witnesses, jurors, and court staff will not be physically present in  
23 the courtroom.
2. The public, including members of the media, will have telephonic access  
via a number published on the district's website. Members of the public  
shall not record any portion of the proceedings in any manner.

1 **B. Preparation**

- 2 1. Counsel shall familiarize themselves with the ZoomGov and Box.com  
3 platforms by reviewing the King County Superior Court CLE program on  
4 conducting remote trials (modified for federal court) and tutorials located at  
5 <https://www.wawd.uscourts.gov/attorneys/remotehearings>.
- 6 2. Counsel shall ensure that they and each of their witnesses have the  
7 hardware, software, data bandwidth, and Internet access required to  
8 participate remotely. The minimum system requirements are posted at  
9 <https://www.wawd.uscourts.gov/attorneys/remotehearings>.
- 10 3. Counsel shall also ensure that they have one or more alternative means of  
11 communicating with their clients and witnesses, as well as with the Court,  
12 outside the ZoomGov platform (*e.g.*, via cellular phone or email).
- 13 4. Counsel shall consider establishing a high-speed Internet connection (a  
14 hard-wired connection is generally preferable to a wireless Internet  
15 connection), and shall take steps to limit Internet usage by others during the  
16 proceedings if such usage might impact a participant's connection speed.

17 **C. Recording**

- 18 1. The Court will provide a court reporter for the trial. No portion of the trial  
19 shall be recorded or broadcast, in whole or in part, in any fashion by any  
20 participant (attorney, party, witness, or juror) or public observer.
- 21 2. The prohibition on recording includes any audio or video recording,  
22 photographs, and/or screenshots. The parties and counsel shall ensure that  
23

1 each trial participant for which they are responsible acknowledges and  
2 agrees to the prohibition on recording.

3 **D. Witnesses and Participants**

4 1. Counsel shall provide, via email to the Court's law clerk, the following  
5 information for each party, attorney, paralegal, legal assistant, trial or  
6 technical consultant, and witness who will participate remotely:

- 7 • Name and Zoom identity
- 8 • Email address
- 9 • Phone number
- 10 • Participant status (*e.g.*, party, attorney, witness, etc.)

11 2. Prior to trial, the Court's law clerk will supply to counsel the links for the  
12 ZoomGov sessions. Counsel shall forward the links to other participants,  
13 including witnesses, as appropriate.

14 3. After using the link to access the ZoomGov session, participants will enter  
15 a virtual waiting room. They will be admitted from the virtual waiting  
16 room into the virtual courtroom when appropriate. Counsel are responsible  
17 for notifying witnesses when and how they are expected to report to the  
18 virtual waiting room.

19 4. Participants who will not be examining witnesses, testifying, or otherwise  
20 presenting matters during the proceedings (*e.g.*, paralegals, legal assistants,  
21 and trial or technical consultants) shall use the ZoomGov platform controls  
22 to mute their microphones and deactivate their cameras.  
23

1 **E. Exhibits**

- 2 1. Exhibits shall be numbered in advance of trial in accordance with the  
3 protocol set forth in the Minute Order entered September 21, 2020, docket  
4 no. 245.
- 5 2. All exhibits shall be uploaded by counsel to the “Box.com” platform via  
6 one or more links that the Court’s law clerk will provide via email prior to  
7 the trial date.
- 8 3. Exhibits as to which admissibility has been stipulated shall be uploaded to  
9 the Box.com folder labeled “Admitted Exhibits.” Exhibits as to which  
10 admissibility is disputed shall be uploaded to the respective Box.com  
11 folders labeled “Plaintiffs’ Proposed Exhibits” and “Defendants’ Proposed  
12 Exhibits.” At the end of each trial day, the Court’s law clerk and counsel  
13 will confer, and the Court’s law clerk will transfer into the “Admitted  
14 Exhibits” folder any exhibits in the folders for “Plaintiffs’ Proposed  
15 Exhibits” and/or “Defendants’ Proposed Exhibits” that have been offered  
16 and admitted into evidence.
- 17 4. After the close of evidence and before the jury begins deliberating, the  
18 Court’s law clerk and counsel will confer to confirm that the “Admitted  
19 Exhibits” folder accurately reflects the evidence admitted during the course  
20 of trial. During their deliberations, the jurors will be provided access to the  
21 Box.com folder for “Admitted Exhibits.”
- 22 5. Hard copies of all exhibits shall be delivered to the Court’s courtroom  
23 deputy clerk, Gail Glass, at 700 Stewart Street, Seattle, WA 98101, at least

1 five (5) judicial days before the first day of trial. These exhibits shall be  
2 bound in one or more three-ring notebooks and appropriately tabbed by  
3 exhibit number. While testifying, each witness shall have available a copy  
4 of any exhibit that he or she will be expected to use or examine during the  
5 trial. The witness shall not access any copy of an exhibit unless and until  
6 instructed to do so by the examining counsel. With regard to exhibits as to  
7 which admissibility is disputed, the Court will conduct proceedings outside  
8 the presence of the jury during which counsel may present arguments and,  
9 if necessary, voir dire witnesses, using the screen-sharing function in  
10 ZoomGov to display the exhibits at issue. To the extent possible, the Court  
11 will rule on the admissibility of exhibits before a witness who is expected  
12 to use or examine such exhibits testifies.

- 13 6. The parties shall comply with Local Civil Rule 32(e) concerning the use of  
14 depositions at trial. Video depositions that are used as substantive evidence  
15 shall be broadcast via ZoomGov using the screen-sharing function.  
16 Counsel may, but are not required to, upload video depositions to their  
17 respective Box.com folders, but the recordings will not be transferred to the  
18 “Admitted Exhibits” folder. Transcripts of depositions used during the trial  
19 for impeachment or as substantive evidence need not be sealed prior to their  
20 use. Counsel may either show the portion of the transcript at issue to the  
21 witness using the screen-sharing function in ZoomGov or transmit the  
22 entire transcript to the witness via mail, email, or otherwise in advance of  
23 his or her testimony.

1 7. If a program or platform other than Box.com will be used to publish  
2 exhibits to the jury, then counsel shall file, prior to the first day of trial, a  
3 certification signed under penalty of perjury indicating that the exhibits to  
4 be displayed to the jury using the other program or platform are identical to  
5 the exhibits uploaded into the folders on Box.com.

6 8. All parties shall use the same naming convention for exhibits uploaded to  
7 Box.com. The naming convention shall include the exhibit number, as well  
8 as a brief description of the exhibit, which shall be sufficiently clear that  
9 jurors can understand the nature of the exhibit without having to open the  
10 electronic file.

11 **F. Professionalism During the Trial**

12 **1. Ambient Noise Protocols**

13 a. All participants who are not actively being questioned as a witness,  
14 asking questions of a witness, defending a witness, or providing or  
15 responding to opening statements, closing arguments, or other  
16 arguments, shall use the ZoomGov platform controls to mute their  
17 microphones. The Court's law clerk, who will "host" the ZoomGov  
18 sessions, will mute any participant who fails to follow this protocol.

19 b. Participants using multiple devices in a single workspace to access  
20 the trial should avoid audio feedback issues by using the microphone  
21 and speakers on only one device at a time, or by using headphones.

22 **2. Courtesy and Decorum:** To the extent possible, remote trial participants  
23 should conduct themselves in the same way they would if they were

1 physically present in a courtroom. They should avoid interrupting someone  
2 who is speaking, except as necessary to raise an objection. Virtual trial  
3 participants should silence electronic devices other than the devices  
4 necessary to their remote participation, close unnecessary computer  
5 programs or applications, and take steps to remove or minimize anything in  
6 their remote workspace that might distract from the integrity of the  
7 proceedings. The Court understands that conducting trial virtually, from  
8 one's home, for example, presents many challenges. The Court asks all  
9 remote participants to do their best to maintain professionalism in order to  
10 conduct a fair and efficient trial.

11 **3. Objections:** When an objection is made, the witness shall stop talking  
12 until the Court rules on the objection. If the objection requires a discussion  
13 outside the presence of the jury, the jurors will be placed in the virtual jury  
14 room.

15 **4. Disconnection:** In the event that the Court, a party, an attorney, a witness,  
16 a juror, or anyone else necessary to the proceedings becomes disconnected  
17 from the remote trial, the trial will stop while the connection is re-  
18 established. If the participant has difficulty reconnecting, he or she should  
19 call or text Gail Glass at (206) 290-5147. In advance of calling a witness to  
20 the virtual stand, counsel must establish with the witness a protocol for  
21 contacting the witness in the event of disconnection and ensure that the  
22 alternative means of communication (*e.g.*, a cellular phone) is operational.  
23

