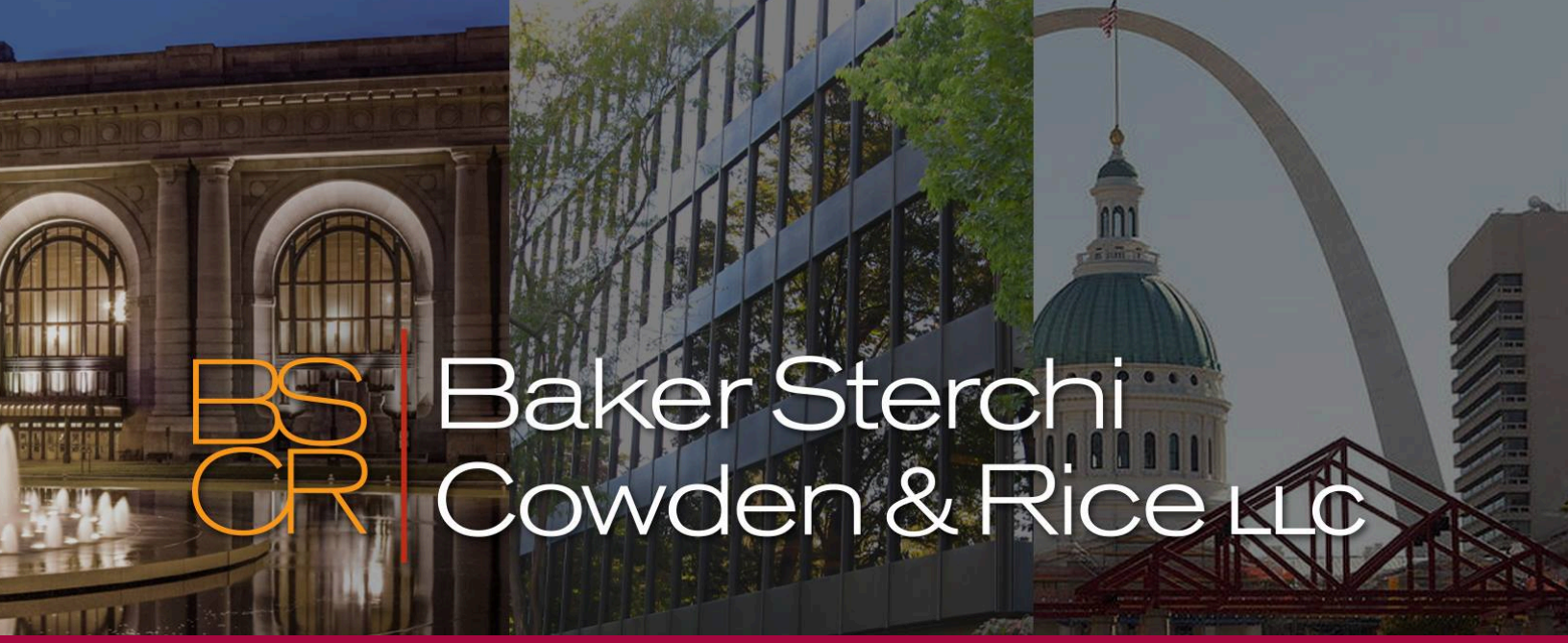

REMOTE DEPOSITION PROTOCOL

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OVERVIEW

Despite the interruption of the coronavirus/COVID-19 BSCR depositions can still proceed. With Alaris Videoconferencing Services, you can connect with the deposition witness, the court reporter and other parties remotely, saving the time, cost and hassle associated with travel. Alaris quickly and easily connects all your participants through our secure, global videoconferencing services, including mobile and video/text streaming capabilities through the Zoom platform.

ZOOM PLATFORM

Features within Zoom are indeed robust and include the following:

• Mac, Windows, Linux, Chromebooks, iOS, and Android

• Group messaging

• Screen share documents, photos, and video clips

• Simultaneous screen sharing

• iPhone/iPad screen share with iOS mirror

• Annotation and co-annotation

• Keyboard and mouse control

• Whiteboarding

REQUIREMENTS & EQUIPTMENT

Dialing in by Phone

When you elect to call in to your remote depositions using your cellphone (because the audio quality may be better than your laptop), be sure you go into your settings and disable all incoming calls and notifications. If a Mac, iPad, or other tablet is being used, remember to disable incoming calls and notifications on those devices as well. Those pesky distractions can definitely be an annoyance for participants in the remote deposition.

For Android users, Android Central has this advice:

How to disable incoming calls

Disabling all incoming calls is easier than you might think. There's no need to fuss with questionable third-party apps or sit on hold with your carrier to ask for manual call barring. In most cases, it's as simple as tapping through a few menu screens.

- Open the **Phone app**
- Tap the **menu overflow button** (three dots) in the upper right corner

- Tap **Settings**
- Tap **Calls**
- Within Call Settings, tap **Call Barring**
- Tap **All Incoming** (which should initially say “Disabled”)
- Enter the **call barring password**. Try “0000” or “1234”
- Tap **Turn On**

Once you’ve entered the correct call barring password, your phone will take a moment to process before showing “Enabled” under the All Incoming option, confirming you’ve successfully blocked incoming calls. If you don’t know your call barring password, don’t worry. It’s typically a simple string of numbers like 0000, 1234, or 1111, but if none of those work, ring up your carrier’s customer service line.

For iPhone users, Apple Support has this advice:

Set do not disturb on iPhone

Ask Siri**.** Say something like: “Turn on Do Not Disturb,” or “Turn off Do Not Disturb.”

1. You can also open Control Center, then tap the crescent symbol to turn on Do Not Disturb. When Do Not Disturb is on, the crescent symbol appears in the status bar.
2. To choose an ending time for Do Not Disturb, touch and hold the crescent symbol in Control Center, then choose an option, such as “For 1 hour” or “Until the end of this event.” You can also tap Schedule, turn on Scheduled, then set beginning and ending times.

CONNECTION

Next, let’s talk about internet connections. Check with your internet service provider (ISP) to double-check what your current status is regarding your internet speed. A great resource to immediately check your download and upload speed is **speedtest.net**. Make sure your download and upload speeds exceed the minimum requirements for Zoom. For best performance, an upload speed of greater than 5 Mbps is recommended.

Remember that the Zoom platform recommends the following for minimum bandwidth:

Bandwidth requirements

- 800kbps/1.0Mbps (up/down) for high quality video.
- For gallery view and/or 720p HD video: 1.5Mbps/1.5Mbps (up/down)
- Receiving 1080p HD video requires 2.5mbps (up/down)
- Sending 1080p HD video requires 3.0 Mbps (up/down)

WIFI SPEED RECOMENDATIONS:

1. Consider data caps. Check with your ISP and/or your invoice to see if this is a limitation.
2. Reset your router every month or so to refresh your internet connection.
3. Try repositioning your router, if possible.
4. Close ALL tabs on your browser that are not essential. All the open media can slow down your connection.
5. Clear your cache on your browser. As you visit websites and enter information, browsers collect information about you in the form of cookies. To get rid of the cookies and trackers, clear the cache on your browser.
6. Check with your ISP and see if a higher speed plan is available, if it works with your budget.
7. Check with other ISPs in town to see if they offer a better plan at an affordable price.

EXHIBITS

There are several options available for exhibits, but you'll need to decide ahead of time which route to pursue.

1. Digital platforms such as Agile Law or eDepoze allow you to digitally show, mark and share digital exhibits.
2. Pre-mark the exhibits and share them via a secure file transfer program, like ShareFile, or via email with all the parties.
3. Use the Zoom screensharing function in the videoconference to show documents to all parties from your desktop

BSCR recommends using the Zoom screenshare function. The following information relates to using the screenshare function:

Have your exhibits open on your computer, in PDF format, to easily and quickly present them to the witness. Through Zoom you can share your screen, or only selected windows, with other participants. If you have your exhibit folder already open on your desktop, with just a few clicks you can refer to a particular exhibit and never have to wonder if the witness is looking at the right document.

Exhibits do not need to be sent to the Court Reporter. Links to documents shared through the Chat feature can be accessed and downloaded by the court reporter and all parties. The Court Reporter will have the ability to download exhibits to be attached and hyperlinked to the final transcript.

Each attorney taking the deposition has control over their respective exhibits and when they are introduced and published to other participants. Only he/she can see them until the exhibit is identified.

Once the exhibit is introduced and shared with the other parties, they are able to save and download to their own computer. All counsel is able to review and question accordingly.

In the event, the witness brings documents that you want to mark as an exhibit, the witness should email the exhibits to counsel and the reporter. The only other alternative for immediate viewing during the deposition is to instruct the witness to hold the exhibit to the camera and "show" the exhibits. Best practice is to have exhibits converted to digital format and circulated digitally to the parties.

It is possible to screen share the exhibit and when you do so, you can choose a pointer function, a drawing function, a highlight function, etc. to direct the witness to a specific part of the exhibit.

Each attorney can control when their respective exhibits are introduced and published to other participants.

Each participant has the ability to introduce, present and share their own exhibits.

Zoom Screen Share allows attorneys to introduce videos as exhibits. When sharing a video, it critical you have a strong connection. It is recommended you close all other windows and if possible, have others in your household disconnect from WIFI.

PAID EXHIBIT PLATFORMS

AGILE LAW

http://www.agilelaw.com/

Agile Law is a user friendly tool recommended by Alaris. Simply drag and drop your PDF or image files or folders (no page limit) into Agile Law. Then organize your documents in whatever order you plan to use them in. Create tags and assign topic labels to your documents and search by relevant tags. All documents can be annotated by highlighting text, writing comments, or bookmarking (anything you can do with a pen, you can do) to prepare for the deposition. All markups, highlights, comments, notes are private and only visible to you. Only reveal the documents one at a time throughout the course of the deposition and the witness, opposing counsel, and any other participants will only see the documents you have revealed without any of your private annotations that you can see on your own screen.

All documents can be stamped with an exhibit sticker, that can be applied to anywhere on the document. By default the exhibit number is automatically filled in with the next available number for the case, but you are able to rename it to anything you'd like.

Your ipad or laptop will stay in sync with the witness. You can navigate to a different document or page and with the touch of a button sync back to the witness.

Witnesses can annotate a document that will be kept as part of the official record. Documents annotated by a witness are kept separate from the original so that you can see exactly what the witness annotated and have copies of both documents.

You can use this with any type of deposition including remote depositions. All counsel are able to follow along. The only thing required is internet connection.

Agile Law works with all web browsers and there is an app designed for the ipad or android tablets.

Before the deposition, the deposing counsel gives out a private PIN to each participant. No one can join without the PIN. Agile Law provides you with a link to include in your deposition notice with all of the information participants need to login and use. It's very simple and easy to follow.

During the deposition, the deposing counsel can see each participant and allow or deny them access. An unauthorized person who has obtained the private PIN cannot join without permission from the deposing counsel.

After the deposition ends, all participants will receive an email with a link that allows them to download PDFs of each exhibit. The download is secured by a PIN that is only shown to the approved deposition participants.

The court reporter is simply a participant in the deposition. The reporter can join the deposition and get copies with the exhibit stickers like anyone else. If the reporter needs a paper copy of the exhibits to add to the transcript then the reporter can simply print those documents. Because the program is not affiliated with any court reporter, you can use it with whatever court reporter you want.

E-DEPOZE

https://edepoze.com/

Alaris does not recommend using eDepoze due to issues encountered in previous depositions where eDepoze was used.

Additional information on eDepoze is provided in the event you are involved in a deposition where a party uses eDepoze. See resources on eDepoze attached separately.

CHAT

The private chat feature is disabled by default. Any attorney-client conversations should be held outside the presence of the audio/video interface. It is recommended that counsel communicate with client privately through mobile device or private email.

You can chat with the all parties participating, however private chats are disabled.

VIDEOGRAPHY & RECORDING OPTIONS

Remote depositions through Zoom can be recorded within the platform. This service incurs an additional $50.00/hour fee. Please note, the recording includes live assistance by an Alaris video professional, screen recording, post synchronization to the transcript and editing to remove breaks and all conversation not on the record.

Alaris requires you notify them upon scheduling that you would like your deposition to be recorded within the Platform.

It is recommended you include in the deposition notice that the virtual deposition will be recorded. *"Participants should be aware that this proceeding is being recorded and as such all conversation held will be recorded. Private conversations and/or attorney/client interactions should be held outside the presence of the remote interface. A link to the recording will be available to parties to the case, provided the requesting party has purchased a certified copy of the transcript."*

The deposition will be set up so that only the witness is shown on the recording so that the focus is on the witness and not bouncing back and forth between attorneys asking questions.

Participants have the option of participating via teleconference only. Participants can also join the event if they do not have a webcam. They will be able to see exhibits and other participants. However, other participants will not see them on video.

RECORDING THE CONFERENCE – DO I NEED A VIDEOGRAPHER?

Alaris remote depositions allow you to make a video recording of the proceeding. If you prefer to have a videographer in addition to the video recording, **Alaris is willing to allow the use of their Kansas City office or any of their other seven locations throughout the Midwest for any witness or counsel**. They have a sanitized space and can adhere to all social distancing requirements. The videographer will remain several feet away to video the deposition.

Alaris is willing to consider sending a videographer to an alternate location, but it will depend on availability and the videographer's comfort in the location chosen.

COMPLEX CASES – MULTIPLE PARTIES

When scheduling a deposition involving numerous attorneys, Alaris requires a trial/video technician to be on each deposition video-conference to actively record the sessions, guide participants with visual and audio recommendations, assist with exhibit presentation and ultimately edit the final video for all "on the record" testimony matching/syncing with the reporters transcript. When an Alaris trial/video technician is required there will be a $50 per hour charge for the service.

GIVE ME A BREAK

Taking a break during a remote deposition is the same as taking a break during a normal deposition, with one thing to keep in mind: you are potentially still on camera and can possibly still be heard. If you are having a private conversation, make sure that your phone and computer audio are muted and that you are off camera. Attorney-client conversations or discussions that are intended to be private with co-counsel should be handled outside the presence of this public video and audio, completed through either the private chat functions included with the service or completely off-line through your personal devices.

WITNESS PREPARATION

Witness preparation eliminates the added layer of anxiety from the virtual setting by:

- Practicing. Deponents can feel “alone” without counsel, so a practice session with the platform can help diminish this
- Reviewing procedures for pauses, objections, and exhibits
- Instructing deponents where to look for the most natural and effective presentation (particularly if being recorded)
- Familiarizing participants with the remote platform’s features (chats, mute, viewing exhibits, etc.)
- Coaching on attire and effective posture.

TRANSCRIPT

The court reporter prepares his/her transcript in the same manner as if the deposition was conducted in person. The reporter will identify on the transcript that he/she appeared remotely.

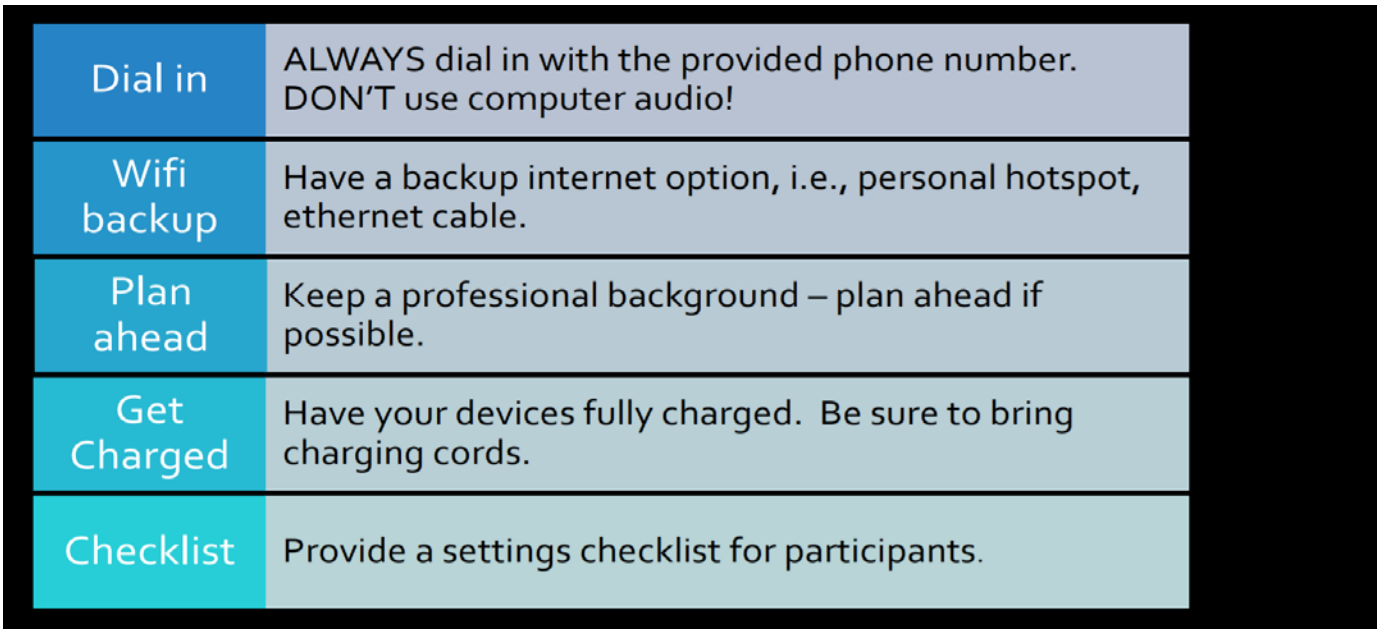
SCHEDULING

All requests for deposition coverage can be sent to scheduling@alaris.us. Please include the final Notice, names, email addresses and phone numbers for **all** attendees to receive the Zoom login information. Please confirm if there is a request that a video recording be made for the deposition.

DIRECT CONTACT FOR ALARIS:

Please contact Leda Gipson, Account Manager at lgipson@alaris.us or call her directly at 816-799-1903 if you need to discuss the details of your request or need assistance immediately. Alaris’ phones are monitored 24/7 if after hours please call 1-800-280-3376.

BEST PRACTICES



Ensure you have a strong Wi-Fi or internet signal – if you do not have a strong signal, the other participants will not be able to see or hear you, and you will likely have trouble seeing and hearing them. Be close to your wireless router to ensure a strong signal, or, better yet, use a wired connection to your laptop if you can.

Check your audio and video feed prior to the beginning of the videoconference and speak in a normal tone of voice. Mics can pick up a lot of noise, so you don't need to worry about shouting into yours. Talk as if you're talking to the rest of the participants in the same room with you.

To get the best audio possible while participating in a deposition remotely, join the audio via telephone or use an earpiece or headset for listening and mute your end of the line when you are not speaking to limit the background noise. Again, mics can pick up a lot of noise, so the papers rustling (or dogs barking) in the background can be distracting.

State your name when you object, so that the court reporter and legal videographer can properly identify you for the record. Remember, the court reporter is also looking at screens full of people, so be sure to help them out.

Try to ask questions at a little slower pace so that any participants who may have their devices muted can un-mute themselves in order to object before you move on to the next question.

Be sure that the room is well lit so the other participants can see you. If the sun is pouring in behind you, it's best to have drapes or blinds to cover the window to avoid appearing as a shadow.

Dress professionally and for the camera. Try to wear pastel, solid colors, and avoid polka-dots, stripes, and plaids.

Sit up straight and check the picture boundaries so that you know exactly how far you can move before you are suddenly off the screen.

Try not to look directly at the people on your screen, but instead into the camera lens, which helps develop a more natural interaction between participants.

Limit your physical movements as much as possible, and if you have to move, try to move more slowly so that your movements are not distracting to the other participants and so they don't appear "choppy."

Beware of the proceedings. While you may be comfortable sitting at your office desk or in your home, what you do is being seen by all of the participants, the sound is being heard, and it is being recorded by a legal videographer and court reporter.

Join by a smartphone or tablet app if you don't have a good computer with a webcam.

Do not use your phone to respond to e-mails and text messages while you are using it to participate in a mobile videoconference. Everyone will hear the clicks, become distracted, and the sounds can interrupt the audio feed to the legal videographer and court reporter.

Maximize your smartphone/tablet's battery life if using it to attend the meeting.

1. Keep your device on the charger whenever possible
2. Adjust the backlighting of your cell to a dimmer setting
3. Close unnecessary applications
4. Turn off application notifications for the duration of the videoconference

Purchase a smartphone/tablet case that has a stand so that you are not holding your device throughout the duration of the deposition. This will eliminate a shaky picture.

Finally, remember to put on pants, **even if you don't think you need them! Seriously.** You never know when you may need to stand up and stretch.

Additional tips for ensuring a smooth web conference deposition:

1. Audio transmission problems may be a concern when using your laptop. If testing reveals problems with the audio, an easy solution is to instruct your participants to use the telephone number associated with the Zoom booking. If you choose to use the telephone for audio, remember that everyone needs to mute their speakers on their device of choice before joining by telephone.

2. Advise the participants to turn off any and all notifications on the device they are using for the deposition. You don't want any distractions during the testimony.

3. If you're utilizing a Mac computer for your Zoom meeting, remember to disable WiFi calling so you don't have those unexpected phone calls come in during the proceedings.

4. More often in today's modern offices, you may not have the opportunity to plug in directly to the internet with hardwire. If you're lucky and the location has a hardwire connection, remember to bring any adapters so that you can connect your laptop via cable to the Internet.

5. Practice a mock web conference deposition with colleagues to ensure that you are comfortable with the features of the service and, also, that you're comfortable with the proper settings for your hardware.

6. Be sure to schedule a test call. It may be some participants first time attending a remote deposition. The test call will provide the time necessary to address any potential problems that may arise.

7. Advise all participants to call 15 minutes prior to the start time of the deposition to make sure everything is set up correctly.

8. Position the laptop in front of the witness and be sure the witness is facing a window, if there is one in the room. If the witness's back is toward the window, the backlighting prevents a good image for the attorney attending remotely.

EXAMPLE – DEPOSITION NOTICE

Please Take Notice that _____ will take the deposition of _____ by remote audio-video conference on _____, 202_.

Please Take Further Notice that:

1. The deposition will be conducted remotely, using audio-visual conference technology;
2. The court reporter will report the deposition from a location separate from the witness;
3. Counsel for the parties and their clients will be participating from various, separate locations;
4. The court reporter will administer the oath to the witness remotely;
5. The witness will be required to provide government-issued identification satisfactory to the court reporter, and this identification must be legible on camera;
6. Each participating attorney may be visible to all other participants, and their statements will be audible to all participants;
7. All exhibits will be provided simultaneously and electronically to the witness and all participants;
8. The court reporter will record the testimony;
9. The deposition may be recorded electronically; and
10. Counsel for all parties will be required to stipulate on the record:
    a. Their consent to this manner of deposition; and
    b. Their waiver of any objection to this manner of deposition, including any objection to the admissibility at trial of this testimony based on this manner of deposition.

EXAMPLE LANGUAGE – DEPOSITION NOTICE *(When the Court Reporter is attending remotely from the witness)*

PLEASE TAKE NOTICE that the deposition of [_____] will be taken in the above-entitled action before a Certified Reporter duly authorized to administer oaths in and for the County of [_____], State of [_____], by way of **REMOTE VIDEO CONFERENCING**. The deposition will take place at [_____], on [DATE], at the hour of [TIME] (Prep 9:00 a.m.) of said day and continue from day to day thereafter, Sundays and Holidays excepted.

EXAMPLE LANGUAGE – DEPOSITION NOTICE *(When the Court Reporter is with the witness)*

PLEASE TAKE NOTICE that the deposition of [_____] will be taken in the above-entitled action before a Certified Reporter duly authorized to administer oaths in and for the County of [_____], State of [_____], at LOCATION, ADDRESS, SUITE, CITY, STATE, ZIPCODE **[VIA ZOOM VIDEO CONFERENCE]** on [DATE] at the hour of [TIME] of said day and continued from day to day thereafter, Sundays and Holidays excepted, until completed.

EXAMPLE VERBIAGE – STIPULATION OF OATH

Before we proceed, I will ask counsel to agree on the record that under the current National Emergency, there is no objection to this deposition officer administering a binding oath:

to the witness remotely
to the witness by videoconference
to the witness not appearing personally before me

Please state your agreement on the record.

EXAMPLE VERBIAGE – STIPULATION OF OATH

Below is language where the parties could stipulate in agreement that the reporter would verify the ID of the witness/swear witness in via video:

The attorneys participating in this deposition acknowledge that the court reporter is not physically present in the deposition room and that the court reporter will be reporting this deposition remotely. They further acknowledge that, in lieu of an oath administered in person, the witness will verbally declare his/her testimony in this matter under penalty of perjury. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record.

ALARIS FAQ

We offer a simple videoconferencing solution to conduct depositions or mediations from any location by the use of a link allowing all parties to participate remotely. Alaris can provide you and your team the tools necessary to continue to meet all of your litigation needs.

Is there special software to install?

If you are using a desktop computer you may join through a browser window. If you are joining through a smart device, you simply need to download the free application from the app store that will be provided to you upon scheduling.

Is there a limit to the number of people that can attend remotely from various locations?

There is no limit to the number of people or locations.

How is "Live Stream" different from Videoteleconference (VTC)?

Live stream is a one-way communication. You will be able to see the deposition and hear it but not be a part of the deposition. Videoteleconferencing is two-way communication allowing you to participate in the deposition.

ATTENDEE CHECKLIST



- ❑ Do a test run 48 to 24 hours prior to meeting
- ❑ Click on the emailed Zoom link to join meeting
- ❑ Call phone number provided rather than using computer audio AND mute your computer audio
- ❑ Gallery view is all parties present on one screen
- ❑ Speaker view will be on whoever is currently speaking

TROUBLESHOOTING

Audio interference or feedback

Are all devices muted?

Have all parties dialed in via phone line?

Party can only see one participant

Are they on speaker view only?

Direct them to the gallery view option.

The video feed froze

Check internet connection.

Exit Zoom meeting and re-enter by clicking on emailed link.

A participant's link isn't working

Suggest they use Google Chrome Internet browser.

Older devices may need a driver update.

Re-send or initiate new Zoom link.

Alaris Remote Deposition Video

