

**Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.**

In re

DISTRIBUTION OF CABLE ROYALTY FUNDS

**CONSOLIDATED PROCEEDING
NO. 16-CRB-0009 CD (2014-17)**

PROTOCOLS AND PROCEDURES FOR VIRTUAL HEARING

The Copyright Royalty Board (CRB) will conduct the allocation phase hearing for the captioned case via videoconference using Zoom Webinar. The remote proceedings are intended to facilitate a fair and timely resolution of the case during a period where the CRB is unable to conduct a hearing on site in Library of Congress facilities. The remote hearing is a formal CRB proceeding. Below are specific technical instructions, protocols, and procedures for using both Zoom Webinar and Veritext Document Sharing during the remote hearing.

I. Zoom Webinar: How to Access the Hearing

1. During the Hearing there will be one Zoom Webinar link to access the Hearing, unless technical or security issues require a new link. The link is only for use by those types of users listed in Section II below. It must not be provided to any others.

Attendee Link: Use the following information to connect to the Webinar as an attendee only:



2. Panelist Links: Invitations to the hearing will be sent out to individual panelists by Veritext prior to the start of the Hearing based on the panelist participant information provided by each party to Veritext. Panelist invitations are unique to each panelist. Panelist invitations will be sent from Zoom and each panelist will use the connection information from that e-mail for the duration of the hearing. Panelist invitations cannot be shared amongst multiple participants.
3. The hearing will commence at 10:00 a.m. ET and conclude at 6:00 p.m. on days when the hearing is in session. The virtual green room will be open no later than 9:45 a.m. on hearing session days to allow for set-up and technical support.

II. Zoom Webinar: The Major Users

The goal for using Zoom webinar is to control and limit the number of people visible at any given time during the allocation hearing. To minimize distractions, the following is intended to make the Zoom video tiles of the key people as large as possible, while still being able to see what is being shared on the screen (e.g., demonstratives, exhibits). For that reason, the Zoom Host will designate only the key participants as panelists during a given session/witness examination, as outlined below. Attendees will only be in view- and listen-only mode, and they can only be muted or unmuted at the host's discretion.

4. There are three classifications of users for Zoom Webinar:

a. **Host:** Controls the classifications of users and video and audio access for each attendee. The host will not be visible during the hearing, but all participants will be able to communicate with the host as needed. Third-party, Veritext, will serve as the "Zoom Host" for the proceeding. This will include three technicians:

- **The Zoom Host** will oversee the Zoom-related responsibilities for the Hearing. Brian Sack ([REDACTED]) will be the Zoom Host.
- **The Exhibit Host** will be responsible for the YouTube audio stream, Exhibit Share, and videographic responsibilities. Michael Toth ([REDACTED]) will be the Exhibit Host.
- **The Timekeeping Host** will keep time for the Hearing. Bob Brasch ([REDACTED]) will be the Timekeeping Host.

For any operational questions, issues, or concerns, please contact all three individuals listed below:

- Jonathan Pearl – [REDACTED]
- Andy Fredericks – [REDACTED]

If at any time you experience technical issues or have questions related to Zoom or the YouTube streaming session, please e-mail both Brian Sack ([REDACTED]) and Michael Toth ([REDACTED]).

b. **Panelist:** Video and audio are presented and you have control of both. You can share your screen while in Panelist mode.

- **Primary Video Panelists:**
 - **The Judges:** Chief Judge Shaw, Judge Strickler, and Judge Ruwe will all be panelists for the Hearing and have video and audio presented. They will be able to control their video and microphones themselves.

- **The Witness.** When on the stand, the witness will be a panelist and will have video and audio presented. They will be able to control their video and microphones themselves. The witness will join the hearing as an attendee and the Zoom Host will promote the witness to Panelist when the witness takes the stand.
- **Presenting Attorneys:** The primary examining and cross-examining attorneys for a given witness will also be designated as video panelists. They will have video and audio presented (but see notes below). They will be able to control their video and microphone as needed.
- **Note:** Attorneys who are designated as Panelists will not present audio or video unless they are presenting an opening or closing, examining a witness, cross-examining a witness, addressing a question from the Judges, or making an objection.
- **Additional Panelists:**
 - **Court Reporter:** A court reporter will be a panelist but will not present video. The Zoom Host will ensure that the court reporter is at all times connected and able to interrupt with audio as needed.
 - **ASL Interpreters:** Two sign language interpreters will be designated as panelists during all sessions. Both will have video and audio enabled, but only one will present video and audio at any given time. The host will be provided with a list of interpreters to be so designated at regular intervals.
 - **CRB Staff:** Ms. Whittle and Mr. Painter and any other staff designated by the CRB will be panelists for the proceeding but will not present video or audio, except when they must address issues or clarifications with audio.
 - **Additional Counsel:** Additional counsel from each Party may appear as a panelist to ensure that each Party remains represented and examination or cross-examination can continue in a timely manner. Additional Counsel will have the ability to activate video and unmute.
 - **Parties' Hearing Technicians:** Technicians ("hot seat" operators) for the Parties will be panelists while their party's counsel is a panelist but will not present video. The trial technicians should be muted unless addressing issues with attorneys when presenting

demonstratives or slides. The technician responsible for sharing exhibits and/or demonstratives will have video control during their party's counsel's presentation for purposes of aiding their Panelist's examination. Hearing Technicians will use Zoom Screen Share to present documents.

- c. **Attendees:** Attendees can see and hear what is being presented but have no ability to present video or audio. Non-presenting attorneys for the Parties (other than presenting attorneys and additional counsel as described above), and Party representatives, if any, will be in attendee mode during the Hearing. The maximum number of client accounts connected to the Zoom Webinar shall be ten per Party. There will be a single, common Zoom Webinar link for all attendees. Other CRB staff may join and will be in attendee mode.
- d. The Parties will inform the Zoom Host of the identity of persons who will be Panelists and Attendees and any change in those roles during the Hearing reasonably in advance of when such persons will attempt to access the Webinar.

5. Zoom Account Names:

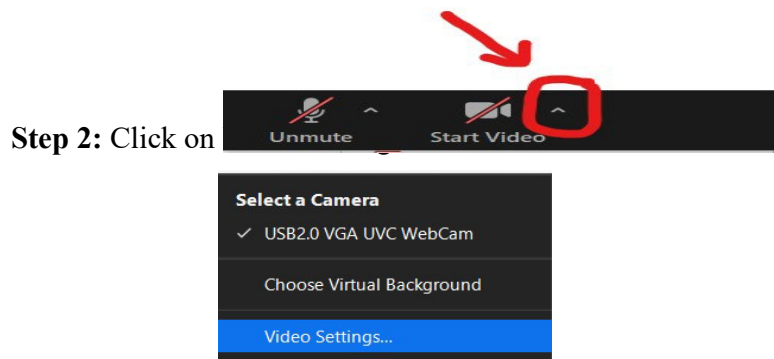
- a. Before the Hearing begins
 - All of the CRB staff and attorneys should prepopulate their Zoom account names to indicate their name and affiliation, e.g., Ms. Whittle (CRB Clerk).
 - Presenting Attorneys and Additional Counsel should prepopulate their Zoom account names to indicate their name and affiliation, e.g., Jane Doe (PTV).
 - Witnesses should populate their Zoom account names with the word "Witness" followed by the witness's name and the name of the Party on whose behalf the witness submitted testimony in the proceeding (e.g., "Witness – Janet Roe (PS)"). (Witnesses may log in as Attendees and be elevated to Participant status by the Zoom Host when they are called to testify. If so, they will populate their Zoom account names at that time.)
 - Party Representatives must populate their Zoom account names with the word "Party" followed by their names and the initials of the Party they represent (e.g., "Party – Jane Doe (CCG)").
 - All Attendees must populate their Zoom account names with the word "Attendee" followed by the Attendee's name and affiliation, e.g., Attendee – John Doe (CTV).

- b. If a user needs to modify their Zoom account name after they have connected to comport with this requirement, they can contact the Zoom Host who has the power to do so.

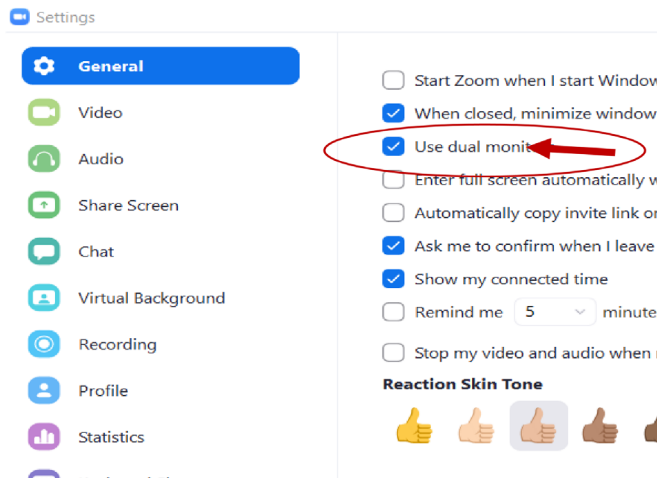
III. Optimizing Screen Space and How to Adjust Screen Settings

- 6. Using Two Monitors with Zoom Webinar.
 - a. The Hearing is best viewed using at least two display monitors. Zoom Webinar can be spread across the monitors so that one monitor can show the video of all the panelists. The other monitor would serve as the document screen, where exhibits, demonstratives, or other documents may be displayed.
 - b. To use two monitors, take the following steps:

Step 1: Click on Start Video up arrow at the bottom left of the main Zoom screen.



Step 3: Go to the general tab and check use dual monitors



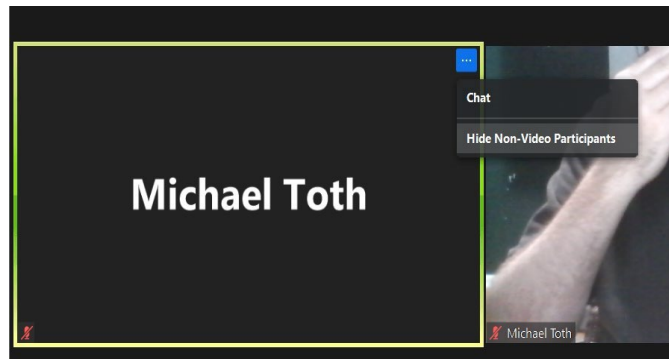
REMINDER: Make sure this setting is in place *before* the Hearing begins. If a user is using one screen (monitor), whether a panelist or

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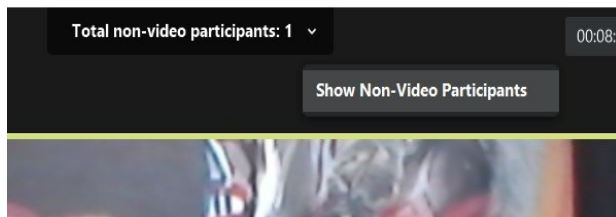
attendee, the user can re-size their screen and manually “drag” it so that documents display on one side and video of the panelists on the other.

7. Removing and Restoring Panelists without Video
 - a. Whenever during the Hearing “gallery mode” is enabled, Panelists may remove video tiles of panelists who are not “showing their video,” if they want to customize their screen and only see certain individuals.
 - b. Removing the View of Non-Video Users:

- **Step 1:** Go to any user that is not showing their video.
- **Step 2:** Hover over their box and click on the 3 dots.



- c. Restoring the View of Non-Video Users
 - To get the non-video users back, click the down arrow **at the top of the main Zoom screen** and click “Show Non-Video Participants”



8. The Hosts will monitor the Hearing to ensure that all key panelists always remain connected. If at any time any of the Primary Video Panelists, the court reporter, the CRB hearing clerk, the CRB economist, or any of the Judges disconnects from the Hearing, the Zoom Host will interject and note which Panelist has disconnected. If any of the Primary Video Panelists, the court reporter, or the CRB hearing clerk first notices that one of the above persons has disconnected, he or she should also interject and note which panelist has disconnected. The Hearing will be paused until the connection issue is resolved.

IV. Zoom Webinar: Opening Statements

9. For opening statements only, the Judges and presenting attorneys will be Panelists. The Parties will do their best to hold as much of their opening statements in public session as possible.
10. If a presenting attorney will be presenting slides or documents that contain Restricted information during opening, but the presenting attorney's oral statements will **not** include Restricted information, then that portion of the Zoom Webinar shall be available only to any attendees who are permitted to view such Restricted information under the Judges' Protective Order issued on February 17, 2022 ("Protective Order") and under the Judge's Order 27 Granting In Part And Denying In Part PTV Motion To Compel JSC To Produce Documents but the public audio stream will be left on.
11. If a presenting attorney's oral statements during opening will include Restricted information, then the Zoom Webinar shall be locked as outlined in Section VIII below, and the public audio stream will be turned off.
12. During opening statements, the only attorney with the camera on should be the attorney currently presenting an opening statement. When the attorney finishes his/her statement, he/she will disable video, and the next attorney presenting will enable his/her video and present, and so on through the end of opening statements.
13. When openings conclude, the Zoom Host will make all presenting attorneys and the Judges visible and audible to address any outstanding questions and issues.

V. Zoom Webinar: Process for Examining/Cross-Examining Witnesses

14. **Calling the Witness.**
 - a. The participant presenting the witness shall be responsible for ensuring that the witness is ready to join the Zoom Webinar in a timely manner.
 - b. When it is time to call a new witness, Chief Judge Shaw will call for a five-minute technical recess in order to join the witness to the Zoom Webinar. This technical recess shall not count against any Party's chess clock time.
 - c. During the technical recess, the party calling the witness will notify the witness and instruct the witness to join the Zoom Webinar. The Zoom Host will admit the witness to the Zoom Webinar and conduct a sound and video check. The Zoom Host will indicate to the Judges when this is complete.
 - d. Chief Judge Shaw will confirm that the witness does not have impermissible documents, browser windows, chat applications, etc. in

front of him/her, and that nobody is in the room with the witness (with the sole exception of counsel and/or personnel supporting counsel such as trial-support personnel, who, if they are in the room with the witness, must remain on video the entire time they are in the room with the witness during the testimony of the witness). Chief Judge Shaw will remind the witness that he or she may not communicate with anyone other than through the Zoom Webinar while testifying.

- e. During examination of a witness, the Judges, witness, examining attorney, and attorneys who will cross-examine the witness will be on the screen.
- f. Chief Judge Shaw will resume the hearing, administer the oath and indicate that the examining attorney may proceed.

15. Examining the Witness

- a. **Direct Examination:** During direct examination the examining attorney will be unmuted. Cross-examining attorneys will mute himself/herself, unless objecting during the course of the direct examination.
- b. **Cross-Examination:** Once the direct examination concludes, the attorney conducting the cross-examination will unmute and introduce themselves. The direct examining attorney will mute himself/herself, unless objecting during the course of the cross-examination.
- c. **Cross-Examinations Involving Multiple Parties:** In the case where multiple attorneys will conduct cross-examination, the respective parties will take turns (in a pre-determined order) and only present their video when actually cross-examining the witness. As each participant starts its cross-examination the new cross-examining attorney will turn his or her video on and the previous cross-examining attorney will disable his or her video and remain on mute for the duration of the cross-examination.
- d. **Redirect:** At the conclusion of cross-examination, the direct examining attorney will unmute himself/herself and inform the Judges and participating attorneys whether there will be a redirect of the witness. During redirect, only the Judges, witness, presenting attorney, and each cross-examining attorney will be visible.
- e. **Recross:** At the conclusion of redirect examination, each cross-examining attorney will unmute himself/herself and inform the Judges and other participating attorneys whether he or she requests the opportunity to recross-examine the witness. If multiple parties are granted a recross-examination, they will proceed in the same order and method as prescribed for cross-examination.
- f. **Objections:** When objecting, the objecting attorney should unmute him/herself (if muted), state his/her name and client affiliation, and then basis for objection. **Do Not Speak Over Each Other:** Raise your

objection but be conscious of the videoconferencing lag time and issues that may be involved with multiple attorneys speaking at once regarding an objection.

- g. This process will be the same for expert and fact witness examinations.

16. Chat Feature

- a. The Chat feature will be enabled during the hearing for panelists, however, the Zoom Host shall set the feature so that no “private” chats are allowed and panelists may only “chat” to the entire group of panelists, except that Panelists may chat privately with the Zoom Hosts to alert them to technical issues. The Chat feature shall be used if panelists have technical issues that need to be addressed in real time.
 - b. Chat and Q&A will be disabled for attendees, but the “hand-raising” feature will be enabled for attendees only. The hand-raising feature should only be used if someone has a technical issue (i.e., needs their video and audio access to be adjusted) and/or is being asked by the Judges, clerk, or presenting attorneys to be promoted to a full panelist.
17. **Breaks and Recesses.** For all breaks and recesses, the panelists should disable both video and audio until back in session. The Zoom feed will not be turned off during breaks and recesses, but the audio feed on YouTube will be paused and a message posted that the hearing is in recess.

VI. Zoom Webinar: Specific Rules for Witnesses

18. **Effect of Witness Testimony.** Witness testimony will have the same effect and be binding upon the witness in the same manner as if such witness was sworn in by the CRB in person in open court at Library of Congress.
19. Subject to the Judges’ discretion, no person other than counsel (and personnel supporting counsel such as trial-support personnel) may be present in the physical room from which the witness will testify during the testimony of the witness. If counsel and/or personnel supporting counsel such as trial-support personnel are in the room with the witness, all such persons must remain on video the entire time they are in the room with the witness during the testimony of the witness. In the event a witness inadvertently is disturbed during the course of providing testimony, the Judges may exercise their discretion to pause the hearing and chess clock.
20. While the witness is testifying, he or she may not view, consult or have either physical or virtual access to any documents except witness testimony, exhibits, and any impeachment devices, provided through the Document Share platform or provided in hard copy. A witness may have a physical copy of his or her written testimony for use and reference while testifying. Witnesses will also have access to the Exhibit Share “witness binder” folder which will contain the exhibits used during the course of the examination as they are introduced into the record.

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21. Witnesses testifying via Zoom shall utilize the Zoom link only during the time they are testifying, unless accessing the Webinar as an attendee (provided that such witnesses are permitted to do so) or otherwise authorized to use the link by the Judges. Upon the conclusion of his or her testimony, the witness shall disconnect from the Zoom link and the Zoom Host shall confirm that the witness is no longer a panelist.
22. **Counsel may not communicate with the witness via any unapproved methods during the witness examination (e.g., text message, chat, email, etc.). Any violation of this prohibition shall immediately be brought to the attention of the Judges.**
23. For the avoidance of doubt, these protocols and procedures are not meant to modify or abrogate the rules governing witness sequestration in this hearing, and those rules **shall** control in the event of a conflict.

VII. Zoom Webinar: Daily Schedule

24. By **11 pm ET** the evening before a particular session, a **single email** will be sent to the Zoom Host at ([REDACTED]), Ms. Whittle, and Mr. Painter from a Technology Working Group representative that lists the following information for the next day's session, provided that no participant shall be deemed to be bound by such communication so long as they provide written notice to Veritext and the Tech Working Group before the relevant witness takes the stand of any changes to the information from such communication:
 - a. Witness(es) taking the stand and order;
 - b. Attorney(s) conducting the direct examination of the particular witnesses(es);
 - c. Attorney(s) conducting the cross-examination, including order of examining attorneys to the extent multiple attorneys will be conducting direct or cross-examinations;
 - d. Any additional attorneys, including second chairs, who should be designated as non-video panelists; and
 - e. By witness, a list of attendees who may not stay in the Webinar for each Restricted session (e.g., in-house counsel for the Participant whose restricted information is being discussed).

VIII. Zoom Webinar: How Restricted Sessions Will Be Handled

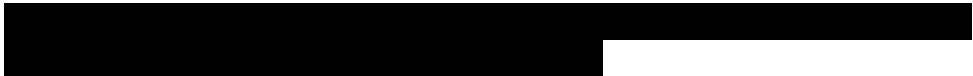
25. Attendees who cannot see or hear Restricted portions of a particular **session** will be removed from the Zoom Webinar and the Webinar will be locked by the Zoom Host to ensure they cannot re-enter the virtual courtroom unless and until the Restricted session ends. The public audio stream will also be turned off so that it is not accessible during a restricted session.

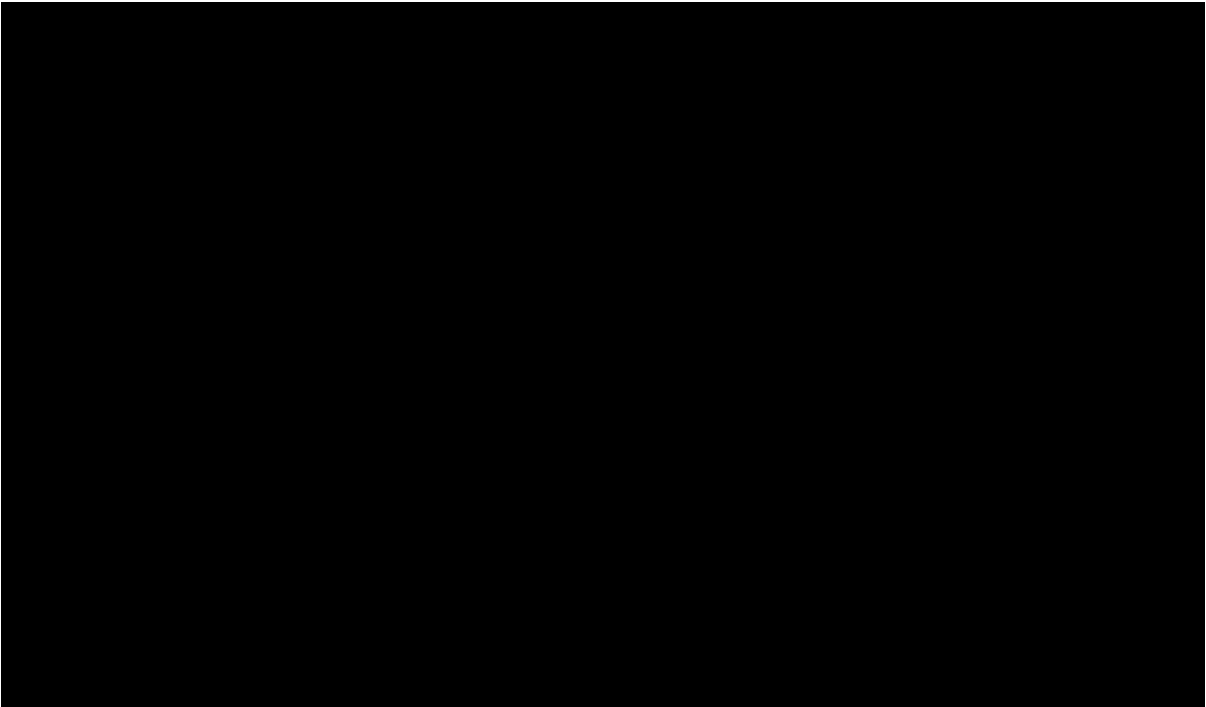
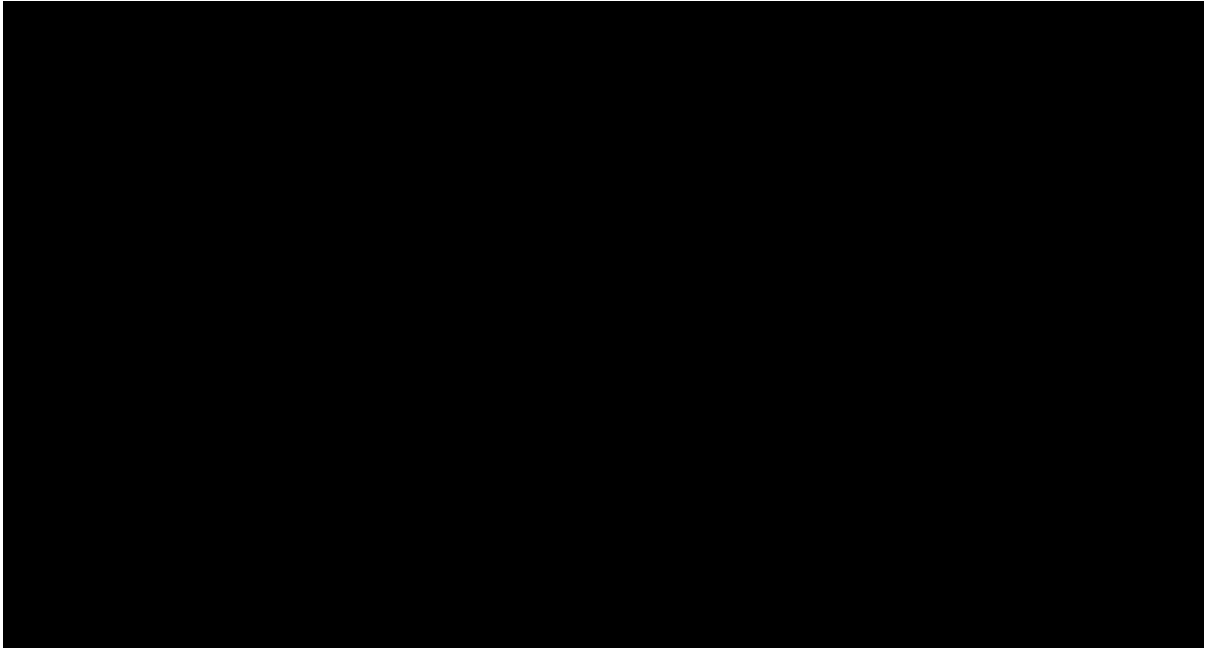
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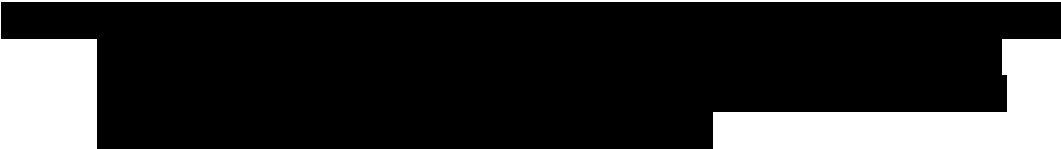
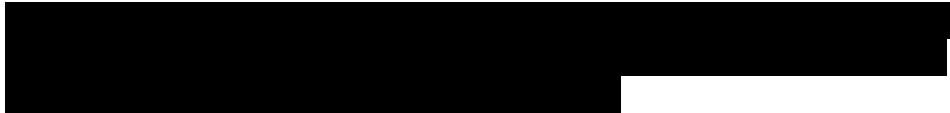
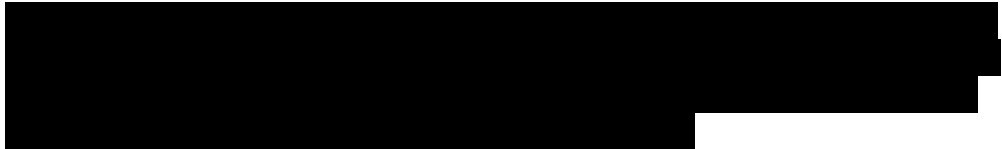
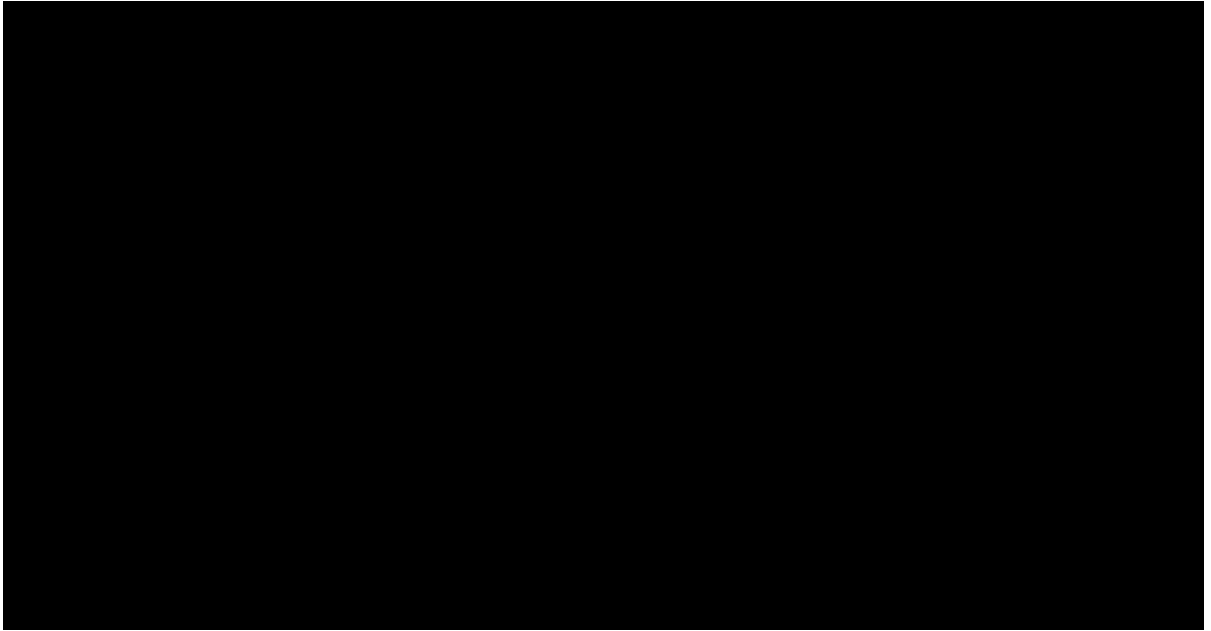
- 26. During the hearing, the presenting attorney must indicate for everyone when we are going into restricted session, based on his/her questioning. It is best practice to estimate the amount of time the attorney believes we will be in restricted session. This is no different than with an in-person hearing. **Chief Judge Shaw will announce that we are going into restricted session and that the attendees not permitted in the restricted session need to leave the Webinar within the next 60 seconds.** Once the affected attendees begin to leave the session, the Zoom Host will quality control and confirm (based on their list of attendees authorized for restricted session) that all un-authorized attendees have left the Webinar. If unauthorized attendees have not left the Webinar within 60 seconds, the Zoom Host will place those non-compliant attendees “on hold” as panelists and ensure they are not a part of the restricted session. Once all unauthorized attendees have been removed, the Zoom Host will lock the Webinar and turn off the public stream. The Zoom Host may ask the presenting attorney to clarify if there are questions about who may stay in the Zoom Webinar during a particular Restricted session. When the Zoom Host says, **“the room is cleared,”** the hearing will continue in **restricted** session.
- 27. When the presenting attorney indicates to the Judges that his/her questioning regarding Restricted information is complete, **Chief Judge Shaw will announce that the restricted session has ended** and the Zoom Host will simply “unlock” the Webinar, and turn the public audio stream back on and the proceedings will continue in public session. If needed the Zoom Host will also release the “on hold” panelists and demote them back to attendees.
- 28. Each party will be responsible for letting its representatives know when they can re-enter the Webinar and the session is no longer restricted.

IX. Exhibit Sharing and Document Access: How to Use Veritext Exhibit Share

[REDACTED]







X. Teleconference Line—Contingency Call-in Line for Hearing

- 29. If there is an error or malfunction with Zoom Webinar, the Judges may determine that the Hearing shall proceed by dial-in by using the telephone number provided in the Zoom dial-in invitation or another number to be provided by the Participants if that dial-in number also does not function properly (see below).

Backup Conference Call Info:

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Name	Toll-Free #	Passcode	Host Passcode	International #
Cable Royalties (2014 - 2017) Backup Conference Call	██████████	██████████	██████████	██████████

- 30. The Judges will have their own, separate teleconference medium to conduct any as-needed deliberations during the Hearing. The Judges will disable both audio and video at any point that they leave the virtual hearing room for deliberations. The Zoom Host will verify that the Judges cannot be heard or seen during any such deliberations. Once the Judges enable video the Parties will be alerted that the Hearing is back in session.

XI. Recording the Hearing

- 31. The Exhibit Host will be responsible for recording the Hearing and will circulate the video recording each evening to only the Judges, the counsel of record for each Party, and any CRB staff that is afforded access to the videos.
- 32. The Technology Working Group will put together the service list for the video recording. **The video recording will be subject to the Protective Order and should not be forwarded to any non-Parties. Improper dissemination of the recording will be considered a violation of the Protective Order.**

XII. Live Stream of the Hearing

- 33. Veritext will control the live stream of the Hearing and provide access to members of the public. The live stream will be audio-only.
- 34. Any public live stream of the Hearing will be made available on the CRB website: <https://www.crb.gov/distribution/>. ██████████
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- 35. During the live stream, a slide will be displayed as the video on the YouTube stream with the name of the matter and the status of the proceeding, i.e. In Session, Concluded, etc. If the session is Restricted, it will not be live-streamed, and the public will see a placeholder slide that reads **“CURRENTLY IN RESTRICTED SESSION.”**
- 36. The public feed will not be accessible after the Hearing ends each day.

XIII. Hearing Chess Clock

- 37. Per Order 28, dated February 24, 2023, the Judges allocated 100 hours for the hearing, divided equally among the parties so that each party is allocated 16 hours and 40 minutes. The Timekeeping Host will keep time for the hearing and provide the Participants and the CRB Clerk with time allocations at the

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end of every hearing day. The Participants will also keep time and compare notes at the end of the hearing day.

XIV. Conduct in Virtual Hearing Room

38. Although being conducted using videoconferencing solutions, the Hearing constitutes a hearing. Counsel should dress as they would for an in-person hearing session. No one other than the Exhibit Host (*e.g.*, via a videographer on behalf of the Exhibit Host) or the Court Reporter may record images or sounds from any location.