

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

County of Fulton, Fulton County Board	:	
of Elections, Stuart L. Ulsh, in his	:	
official capacity as County	:	
Commissioner of Fulton County and	:	No. 277 M.D. 2021
in his capacity as a resident, taxpayer	:	No. 3 MAP 2022
and elector in Fulton County, and Randy	:	
H. Bunch, in his official capacity as	:	
County Commissioner of Fulton County	:	
and in his capacity as a resident,	:	
taxpayer and elector of Fulton County,	:	
Petitioners/Appellees	:	
	:	
v.	:	
	:	
Secretary of the Commonwealth,	:	
Respondent/Appellant:	:	

ORDER

NOW, August 28, 2023, upon consideration of Petitioner/Appellant’s (collectively, Fulton County) Emergency Motion to Adjourn Proceedings (Motion) requesting an emergency stay of the scheduled August 28, 2023 evidentiary hearing, the Motion is DENIED and the Special Master hereby ORDERS as follows:

1. The evidentiary hearing for purposes of the Special Master’s appointment of a neutral third-party escrow agent currently fixed for Monday, August 28, 2023, at 9:00 a.m. in Courtroom 3001, Third Floor, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, shall RECONVENE at 1:00 p.m. today, August 28, 2023, in the same place.

2. Attorney Thomas J. Carroll (Attorney Carroll) may attend and participate in the evidentiary hearing via WebEx Video Conferencing (WebEx). The Special Master notes that the Motion

does not contain any direct representation that Attorney Carroll's present medical conditions prevent his participation in the evidentiary hearing other than that Attorney Carroll "was prescribed . . . medication [with] warnings to not drive or operate machinery while taking it." Motion ¶ 3.

3. Attorney James M. Stein, who is presently counsel of record representing Fulton County, may attend the evidentiary hearing in person or remotely via WebEx.

4. The County may direct any attorney licensed to practice in the Commonwealth of Pennsylvania to enter an appearance in this matter and appear at the evidentiary hearing. Counsel unable to attend the evidentiary hearing in person may appear via WebEx. Counsel intending to appear via WebEx shall immediately provide their email address and telephone number to CommCourtRemote@pacourts.us, Bridget.Holbein@pacourts.us and Paul.Ritchey@pacourts.us.

5. Fulton County's attorney(s) chosen pursuant to Paragraph 2, 3, or 4 of this Order is directed to join the hearing 15 minutes before the starting time. To facilitate participation in the hearing, various WebEx applications are available for download at pacourts.webex.com. Please see Protocol for WebEx Video Hearings, attached to this Order. In the event of technical difficulties, the attorney may contact the Court's IT staff at 717-255-1626. The Court will immediately send Attorney Stein and Attorney Carroll WebEx invitations in the event they participate in the hearing remotely.

6. The evidentiary hearing shall proceed at 1:00 p.m. as scheduled and, if no Pennsylvania counsel are able to attend on behalf of Fulton County, the Special Master will expect Attorney Russell M. Newman, who was admitted pro hac vice on August 24, 2023, to fully represent Fulton County during the hearing. *See* Pa.R.Civ.P. 1012.1(d)(2) ("Upon [pro hac vice admission] being granted, the sponsor. . . shall attend all proceedings before the court **unless excused by the court.**"). *See also* *Cty. of Fulton v. Sec. of Commonwealth*, 292 A.3d 974, 991 n.69 (Pa. 2023) (*Fulton County*

D).¹ Counsel admitted to practice in Pennsylvania may enter an appearance on behalf of Fulton County at any time during the evidentiary hearing.



RENÉE COHN JUBELIRER, President Judge of the
Commonwealth Court of Pennsylvania Appointed as
Special Master

Order Exit
08/28/2023

¹ In *Fulton County I*, the Supreme Court addressed a similar situation where Attorney Carroll filed a Motion to Adjourn Oral Argument two days before the September 14, 2022 argument scheduled before that Court, wherein Mr. Carroll “assert[ed] emergent personal reasons that allegedly prevented him from ‘prepar[ing] for oral argument ... and/or associat[ing] other counsel as a substitute this close to the time for the presentation of oral argument.’” *Fulton County I*, 292 A.2d at 991. In the accompanying footnote, the Supreme Court stated:

Attorney Carroll had not yet informed this Court that Attorney Lambert was his co-counsel, nor had he sought her admission pro hac vice below or in this Court. Although the rules governing pro hac vice representation direct that the sponsoring attorney must be in attendance at all court proceedings in connection with the representation, that **requirement is qualified by a carve-out** when sponsoring counsel is ‘excused by court.’ See Pa.R.Civ.P. 1012.1(d)(1).) This is not to say that we would have granted such a request. But, had Attorney Lambert been admitted pro hac vice, **it would have given Attorney Carroll a good-faith alternative to filing a disfavored, last-minute request for a continuance reflecting no contingency planning.**

Id., at 991 n.69 (emphasis added). In the instant proceedings, the Special Master granted Attorney Newman admission pro hac vice four days prior to the scheduled hearing, which gives Attorney Carroll a good-faith alternative to filing “a disfavored, last minute request for a continuance....”
Id.



Protocol for WebEx Video Hearings

Protocol BEFORE the hearing:

Twenty-four (24) hours before the scheduled hearing, the Court shall provide counsel, any pro se party, and the court reporter with the information for connecting to the video hearing, including the date and time of the hearing. This invitation will be sent by email.

It is the responsibility of counsel to provide the connection information to their clients and witnesses. It is the responsibility of any pro se party to provide the connection information to their witnesses.

It is the responsibility of all parties to provide the Court with their contact information. An email address will be required to join the video.

A witness list must be provided to the Court by the date set forth in the court's scheduling order, and otherwise no later than forty-eight (48) hours before the hearing, with a valid email address for each witness. The Court will provide the attorneys with a contact email to which the witness list should be sent. The witness list shall include the case caption and docket number and the full name of each prospective witness.

All participants must appear by video connection unless otherwise authorized by the Court.

Email invitations will be sent to participants at least 24 hours before the hearing. If a participant has not received the email invitation from the Court, please check your SPAM or Junk folder before contacting the Court.

All parties and witnesses must connect to the hearing or call into the video system at least 15 minutes before the scheduled start time.

Minimum Technology requirements:

All counsel and pro se parties appearing before the Court must have one of the following:

A computer with a functioning web camera, microphone and speakers;

A video conferencing system that supports Session Initiation Protocol (SIP) calling;

A tablet device that supports Cisco WebEx with a functioning forward facing camera, microphone and speakers; or

An alternative device used to connect to Cisco WebEx in the past.

If you experience audio issues with your computer/tablet audio, the Court recommends that you have our system call you by using the option listed in 0 below.

The Court's IT Department will endeavor to contact counsel, any pro se party, and witnesses in advance of the hearing to test their connection to the WebEx platform.

Ground Rules and Video Conferencing Etiquette:

When not speaking, please mute your microphone. This helps prevent background noise.

Earbuds or headphones are preferable to avoid feedback.

Be aware of your behavior. Because you are on a video conference, people can see what you are doing at all times and *WebEx video conferences are recorded*. Further, others may view the proceedings via public livestream web link that will be provided to the parties and posted to the Court's website in advance of the proceeding.

If connecting from a laptop, plug in the laptop wall power.

Follow all instructions in the video conference invitation and note important supplemental information, such as a backup phone number in case you are disconnected.

Please be respectful; speak slowly and only one at a time.

Try not to speak over other parties. There is a slight delay when using video technology.

The Court appointed crier will be on the call to open and close court and to swear-in witnesses if needed.

Technical Support

If you have any questions or need technical assistance, contact 717-255-1626.

Invitation from the Court:

Prior to your scheduled hearing, you will receive an email from the Court with connection instructions. Please make sure to monitor your SPAM or Junk folder so that you receive the message. It should come from @pacourts.us. Here is the information from a sample invitation.

Commonwealth Court Legal Systems invites you to join this Webex meeting.

Meeting number (access code): 613 778 564 ③
Meeting password: Cy54FR39aBE

Wednesday, March 25, 2020
8:00 am | (UTC-04:00) Eastern Time (US & Canada) | 10 mins

[Join meeting](#) ①

Join by phone
Tap to call in from a mobile device (attendees only)
[1-855-244-8681](#) Call-in toll-free number (US/Canada) ②
[1-650-479-3207](#) Call-in toll number (US/Canada)
[Toll-free calling restrictions](#)

Join from a video system or application ④
Dial [613778564@pacourts.webex.com](tel:613778564@pacourts.webex.com)
You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business ⑤
Dial [613778564.pacourts@lync.webex.com](tel:613778564.pacourts@lync.webex.com)

In the invitation, there are multiple connection options:

WebEx: Click on the Green *Join Meeting* button. ①

Phone: Dial either of the numbers listed under *Join by phone*. ②

When prompted, enter the Meeting number (access code) listed near the top of the invitation. ③

Use the SIP dial in connection number provided for non-WebEx devices such as video conferencing systems. ④

Microsoft Lync/Skype for Business connection information is also provided. ⑤

Controls while connected to WebEx:

Once connected to a meeting, if you move your mouse, the below control panel should appear. These are the normal controls, but some of them may be disabled which means they will not appear. The icons will be the same.



From left to right, the controls are:

Mute/unmute microphone

Turn on/off camera

Share your desktop

Recording control (Only available to the Court)

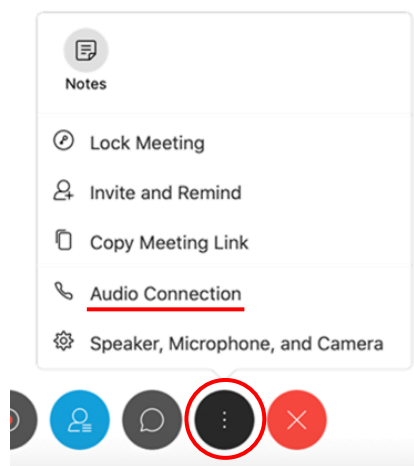
Open/Close the participant list

Chat windows

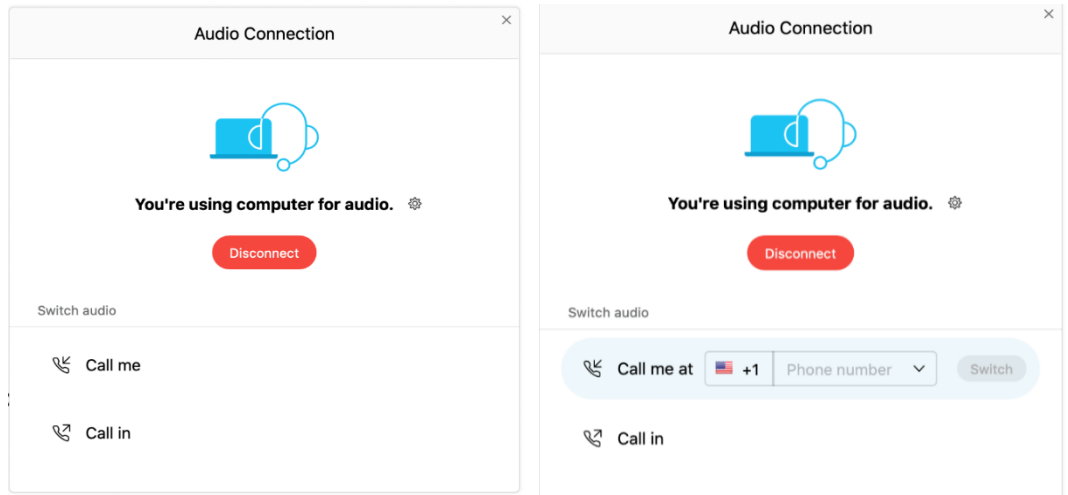
Options – has more controls available

End Meeting

Under the More Options button (7 above, the 3 dots icon). If you are having audio difficulties with your computer audio, you can have the system call you. Click on the 3 dots icon and then choose Audio Connection.



Click on the option “Call Me.” Enter the phone number that the system should call and press the switch button. When the call comes in, you will be prompted to press “1” to connect.



At the end of your call, press the red X to be disconnected.

Procedures regarding Exhibits:

Exhibits should be pre-marked numerically: i.e., P-1, P-2, etc.; and R-1, R-2, etc.

Be aware of personal identifying or confidential information contained in exhibits used during a video hearing, and redact where appropriate consistent with the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania*.

No later than the date on any order of the Court, or in the absence of a specific date, twenty-four (24) hours prior to the hearing, counsel and any pro se party shall upload all exhibits intended for use during the hearing to the link provided and should email the Court at CommCourtRemote@pacourts.us to confirm all exhibits have been successfully uploaded. Parties are directed to provide their witnesses with copies of the exhibits in advance of the hearing to which the witnesses can refer during their testimony.