

Wait! Don't Cancel That Hearing

A Zoom Trial Guide

By: David A. Carroll &
Patrick S. Beck

Please think twice before cancelling your hearing. Zoom trial is here. Hello friends and colleagues of the Bar. I wish this communication to you was the product of a more positive situation, but as you all know, times are tough right now with the current COVID-19 pandemic. As such, it has become apparent that members of our profession cannot continue to work under the normal circumstances, but nevertheless, “the show must go on.” Therefore, in order to keep up with our obligations, we all must modify our operations, especially when it comes to court appearances. While the state of Florida has suspended all jury trials, essential matters are still coming to the court and some courts are allowing hearings to continue via video conferencing. With the passage of the new administrative directives, the Judge can now swear in parties and witnesses without the need of a notary being present. This past week, my office was involved in such a trial and I would like to share my experience with you and give you some pointers, that may help when you have your video trial.

Last Monday, I had the pleasure of attending my first video trial, with Judge Lacey Powell Clark presiding over a Family Law matter. In my opinion, the technical part of the hearing went very well, with very few interruptions. I believe, the parties were happy to complete the trial that day instead of a lengthy postponement.

For this trial, the opposing party was unrepresented. Even so, we were able to work through any technological issues. The opposing party used a cell phone that dropped its connection four or five times during the six-hour trial. We would pause briefly to allow her to reconnect. I believe here, that if the cell phone is used with a Wi-Fi connection it would be more stable than using cellular signal. The opposing party positioned the phone in such a manner that we could easily see and communicate with her. We had exchanged most of our documentation before trial during discovery. However, there were times that we did not recognize a document, so the moving party could show us the document on the camera, helping us to locate them in our files. We had one exhibit the opposing party had provided to me but had not provided to the court. We were able to quickly scan and email that document to the court and within a few minutes we were testifying about the document.

It appears that the Circuit Court has adopted “Zoom” as the video conferencing platform, so here are some helpful things you should know about Zoom if you are not already familiar. First, Zoom does not require you to have an account to attend a meeting, but any person attending a meeting will be required to download the Zoom app on their Mac, PC, ISO, or Android device prior to joining a meeting. If you have a client that will be joining through their personal device, I recommend that you conduct a functionality test with your client, well in

advance of the proceeding. For this, you will need to create an account to enable your office to host the test meeting with your client. A standard Zoom account is free, but note that meetings with more than two individuals, for longer than 40 minutes, require a paid subscription plan. Luckily, the court has purchased such a subscription, so attorneys are not required to purchase a subscription for video conferencing with the court. Participants can attend from their smart phone if needed. However, in our trial, a smartphone dropped the connection a few times and there were some distractions from the push notifications being sent to the smartphone user. If a smartphone must be used, it will probably operate best with a Wi-Fi connection rather than through cellular. (Even so, the dropped connections were easily accommodated).

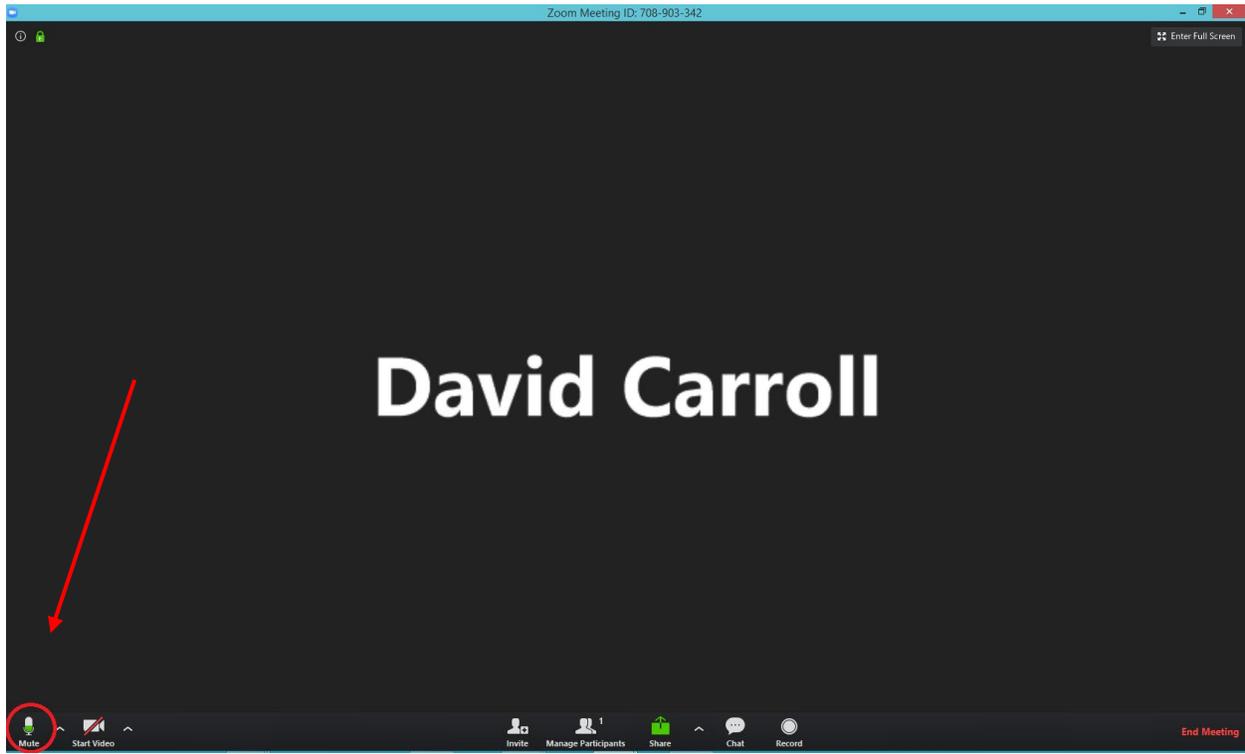
You also need to consider how you would like to set up the room in which you would like to attend your meeting. Prior to your video conference, you should test your setup. For my experience, I set up a laptop with a built-in webcam, in our conference room. This made it particularly easy for me to adjust the viewing angle of the camera. I, however, needed to fit both my client and me into the frame, so the laptop had to be placed at a considerable distance. For this reason, I purchased an external microphone for the computer rather than utilizing the laptop's built in mic and risking difficulties with sound quality at such a far distance. The microphone was just a USB external microphone. The microphone can be directional or omnidirectional. I selected omnidirectional for this because more than one person would be talking. I purchased the Samson "G-Track Pro" (about \$130) from Best Buy, but there are other options. I also linked the laptop in this conference room to a TV monitor. The TV monitor was provided for any other observers in the conference room such as the court reporter.

Additionally, for my video conference hearing, I set up another conference room just for my witnesses. For this, I set up a second laptop in another smaller conference room in my building. When I called a witness, I had a member of my staff escort the witness into the witness conference room to begin their testimony. We found that we needed to utilize an additional room because there was too much noise interference when two laptops, in the same meeting, are too close to each other. Perhaps I should have also set up a separate space for my client as well, to further limit contact.

Now I will go over some basic functions of Zoom. First, I want to note that for a video conference of more than two individuals, Zoom is very intuitive in that the person displayed on the user interface is automatically switched, depending on who is talking at the time. This is the default view and is called "Speaker View." You can also toggle to "Gallery View" as an alternative and that option just displays all current participant in the same screen in separate boxes. To toggle between these viewing options, there is a button in the right-hand corner of the Zoom interface.

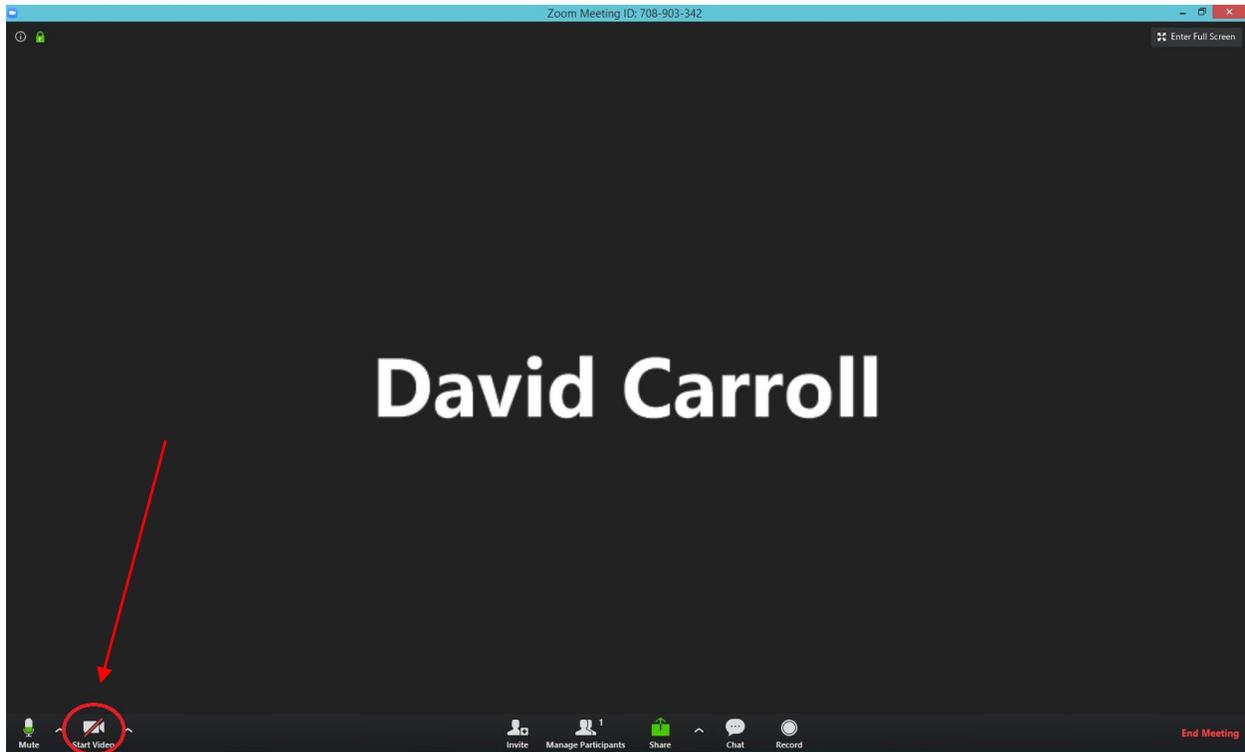
Zoom Functions

Mute Button:



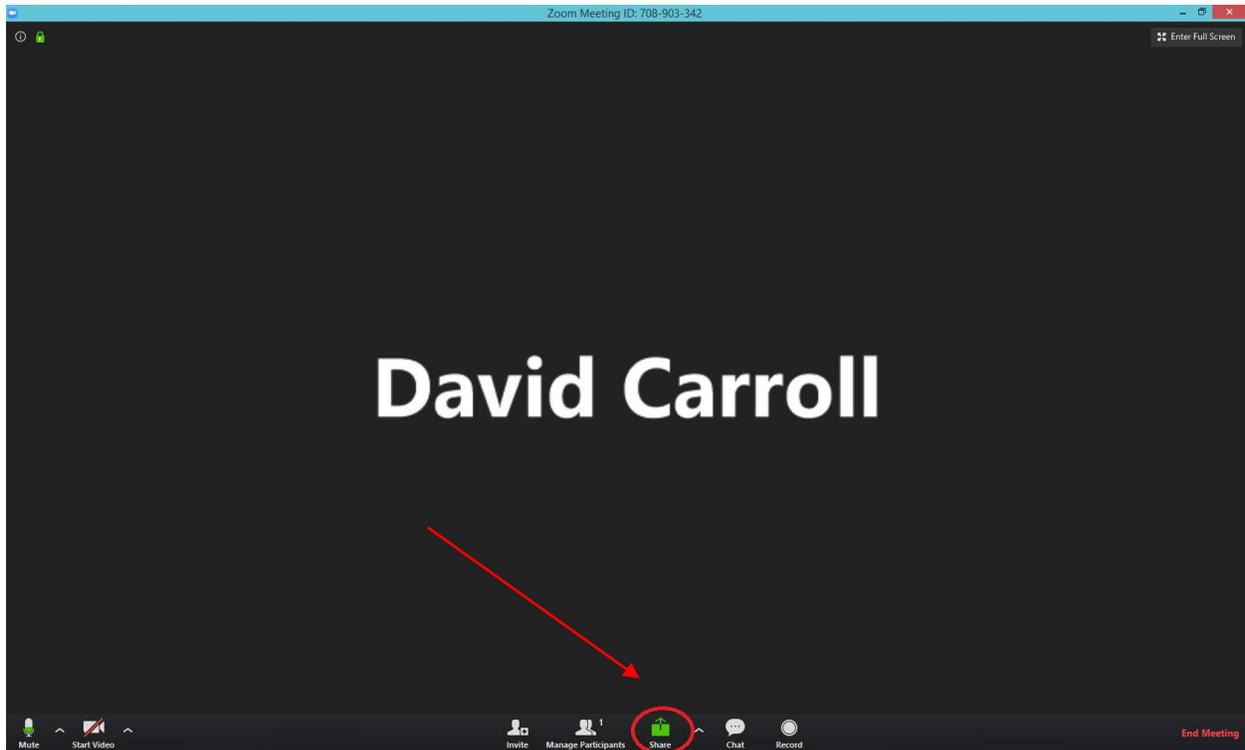
Located in the Bottom Left Corner is the “Mute” button. A tap with your mouse will toggle the microphone between off and on. Use this to shut off microphone input as necessary to prevent distractions from unexpected noise. Additionally, the small caret (^) next to the “Mute” button will display a menu that will allow you to select between microphone input sources. If you utilize an external microphone, you may need to change the source here.

Start Video Button:



Located to the right of the “Mute” button, is the the “Start Video” button. Tapping this button will toggle between live video via your webcam and a default user image, which is normally just your name. As you can see above, my video feed is off, and my name is displayed in its place. The Start Video button also has a caret (^) next to it. This will display a menu that will allow you to select between different video sources as applicable.

Share Button:



The “Share” Button is located at the bottom, near the middle of the user interface, and is green. This feature will allow the user to temporarily replace their live video feed with whatever the user would like to show the other conference participants. When you select this button, a selection window will appear that will allow you to display any windows that are already open on your computer. For Example, if you need to show attendees a PDF file, open the PDF file on your computer, and then you will see it listed in the selection window. Once you click the PDF file, Zoom will temporarily suspend your live video feed and instead, display a live image of your PDF. To stop sharing hit the “Stop Share” button at the top of the screen and Zoom should resume your live feed. Other options in the share selection window include the ability to display a whiteboard that can be freely drawn on and an Airplay option from ISO devices.

Finally, here is a list of additional considerations for your Zoom hearing:

- Make sure lighting in the room is adequate.
- Make sure lighting on your subject is good. Avoid backlighting and harsh overhead lights as this will cause faces to be extremely dark. Remember, you want to be seen!
- If using exhibits, make sure all parties are provided with copies, in advance of the hearing.
- Have a scanning device ready in case you need to scan and email documents to parties during the proceeding.

- Again, test your setup beforehand so any technological issues are worked out prior to the commencement of the hearing. This is important to keep the hearing on schedule and prevent wasted time.
- Communicate, before the trial, with Judicial assistants to confirm that you have all the necessary information and link for the Zoom session.
- Speak with opposing counsel and/or their staff prior to the hearing to discuss the technological issues, arrangements for witnesses, the exchange of exhibits for trial, and work out any other issues.
- Be patient with everyone involved in the trial, this is a learning curve for all of us.
- In addition to hearings, also consider using Zoom in place of meeting with clients in person.

Again, my first video trial experience with Zoom was very positive. Conducting trials by video is new to most of us, and it will require a higher level of cooperation between attorneys to ensure the hearings go smoothly. Please reach out to opposing counsel well ahead of the hearing to resolve any technological issues. Judge Clark and her Judicial Assistant Mr. Sam were very helpful and patient which contributed to the overall success. Further, I would also like to offer help to anyone in need of advice on how to use Zoom. Please send any questions to:

Davidcarrolllaw@hotmail.com

Good Luck Folks! This too shall pass!

Please find below, pictures of how I was set up for my conference, as examples:



Here was the basic setup we had in our conference room. Notice the microphone is was plugged into the USB port on the computer and placed strategically between where the client would be seated and me for the best audio results. The TV monitor was placed in front of the Court Reporter who attended our hearing and was ideal for the performance of her job.



This picture is essentially the previous image, but in this example the “Speaker View” that Zoom sets by default is selected. The view mode in the previous example is “Gallery View”



The picture to the left is the smaller conference room I set up for the presentation of our witnesses. This was just a secondary computer, connected to the same Zoom session.

This setup worked very well for me, but Zoom is very versatile and will work well with many other arrangements.