

**FILED**  
Superior Court of California  
County of San Francisco

DEC 02 2020

CLERK OF THE COURT  
BY: Jean Bertelsen  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

KINSON WONG, individually and derivatively  
on behalf of R & G EXECUTIVE LOUNGE,  
INC.,

Plaintiff and Cross-  
defendant

v.

HENRY HUNG, an individual; JOE K. LING,  
an individual; and DOES 1 to 10 inclusive,

Defendants and  
Cross-complainants,

- and -

R & G EXECUTIVE LOUNGE, INC.,

Nominal Defendant.

JOE K. LING, an individual; HENRY HUNG,  
an individual,

Plaintiffs,

v.

KINSON WONG, an individual,

Defendant,

- and -

R & G EXECUTIVE LOUNGE, INC.,

Nominal Defendant.

**ORDER RE REMOTE TRIAL**

**Case No. CGC-17-557121**

Dates: December 7, 2020  
Dept.: 502  
Judge: Jeffrey S. Ross

Complaint Filed: February 16, 2017  
Cross- Complaint Filed: April 28, 2017  
Second Amended Cross-Complaint filed:  
March 8, 2019

**Case No. CPF-19-516644**

Complaint Filed: April 25, 2019

1 The parties and counsel having stipulated that, because of the COVID-19 pandemic, the trial  
2 should not be conducted in the courtroom and instead should be conducted entirely remotely using Zoom,

3 IT IS HEREBY ORDERED:

4 **I. MAINTAINING THE DECORUM OF THE COURT.**

5 Participants are required to observe the typical rules and procedures related to court appearances,  
6 including, without limitation, rules related to attire and the consumption of food and drink (other than  
7 water or, coffee, or tea) during the proceedings. Participants shall use best efforts to eliminate all visual  
8 and auditory distractions.

9 **II. PRE-TRIAL ARRANGEMENTS.**

10 **A. Remote Platform.** By agreement of the parties, the designated remote platform is Zoom  
11 Meetings.

12 **B. Management of Platform.**

13 The trial will be conducted remotely using the Litigation-Tech, LLC's HIPPA-compliant Zoom  
14 platform for the entire trial (at cross-defendant Wong's expense). During the Ling-Hung case in-chief and  
15 rebuttal, their counsel will "Co-Host."

16  
17 Absent good cause, a witness who is unavailable to testify when called may result in a waiver of  
18 the ability to call that witness.

19 **C. Preparing to Meet Technological Requirements.** Participants shall use best efforts to  
20 ensure that there will be clear video and audio transmission during the trial, including adequate  
21 familiarity with the Zoom platform and related software and hardware, e.g., microphones, webcams,  
22 headphones, multiple monitors, etc.

23 **1. Adequate Equipment.** The Parties are responsible for ensuring that each witness  
24 is familiar with Zoom and that every participant, including the Court, has the equipment to  
25 participate in the proceeding without undue delays.

26 **2. Test Sessions.** It is recommended that counsel conduct a test session with each  
27 witness in advance of the proceeding in which the witness practices using the Zoom platform,  
28

1 becomes familiar with the process for viewing electronic exhibits, and tests all audio and video  
2 equipment (including settings) that will be used at trial.

3 **D. Court Reporter.** If requested by the Court, the court reporter will be unmuted during the  
4 proceeding to allow for timely and effective requests for clarification. The court reporter should provide  
5 a cell phone number to the Court where the reporter may be reached during the trial in the event of  
6 technological issues.

7 **E. Camera/Remote Venue Set Up.** The faces of each participant in the trial must be clearly  
8 visible while speaking. No masks shall be worn for any participant in the trial appearing remotely. To  
9 the extent possible, each participant's webcam should be positioned at face level relatively close to the  
10 participant. Participants may use only neutral, non-distracting backgrounds, such as a solid color or  
11 bookshelf. The Court reserves the right to prohibit the use of virtual backgrounds in the event they  
12 interfere with the proceedings. [Note: The use of a "virtual background" potentially jeopardizes the  
13 integrity of the proceeding to the extent it limits the ability of the Court to see whether others are in the  
14 same room with the witness.]

15 **F. Multiple Participants in the Same Room.** All witnesses and counsel shall be alone in a  
16 room to the extent practicable. If some participants expect to be in the same room, this should be raised  
17 pretrial so that any related concerns may be discussed and addressed, and appropriate directions may be  
18 given regarding the positioning of cameras on each participant and avoiding audio feedback from the use  
19 of multiple devices.

20 **G. Party Identification.** All participants shall use their full first and last name when signing  
21 on to Zoom.

22 **H. Scheduling.** If participants are located in materially different time zones, the proceeding  
23 will be scheduled to be reasonably convenient for all, which may require a shorter than normal trial day.

24 **I. Confidentiality.** The Parties shall meet and confer in advance of the start of trial  
25 regarding a protocol for the use of confidential information, including sealed exhibits, at trial. The  
26 Parties shall raise any issues relating to confidentiality to the Court before trial commences.

27 **III. PROHIBITION ON RECORDING.**  
28

1 Any recording of a court proceeding held by video or teleconference, including “screen-shots” or  
2 other visual or audio copying of a hearing, is prohibited. Violation of these prohibitions may result in  
3 sanctions, including restricted entry to future hearings, denial of entry to future hearings, removal of  
4 Court-issued media credentials, or any other sanctions deemed appropriate by the Court.

5 **IV. OPENING STATEMENT / CLOSING ARGUMENT.**

6 The Court will permit counsel to use the “share screen” function in Zoom to display  
7 demonstratives during openings and closings. Counsel must cooperate and meet and confer to exchange  
8 any visuals or exhibits to be used in the opening statements or closing argument.

9 **V. WITNESSES AND PRESENTATION OF TESTIMONY.**

10 **A. Witness List.** Pursuant to the motion in limine Order, at the end of testimony each day,  
11 counsel must notify opposing counsel who will testify the next day and the approximate time estimate.

12 **B. Joining the Hearing.** Counsel should place a telephone call to witnesses to let them know  
13 when to join the courtroom proceedings. Unless the Court orders otherwise, no nonparty witness is  
14 permitted to view or listen to the testimony of other witnesses before their own testimony. Because this is  
15 a bench trial and the court as trier-of-fact is able to evaluate witness credibility and because the trial is  
16 being conducted remotely with parties whose first language is not English, any party may offer good  
17 cause for an exception to this rule. After testifying, nonparty witnesses may view or listen to the trial  
18 provided that they identify themselves on-line, and the party with whom the witness is affiliated  
19 represents to the Court that he will not recall the witness to testify (including for direct or rebuttal).

20 The attorney calling the witness is responsible for ensuring the witness has a separate video and  
21 audio feed. Attorneys should not attempt to “share” a connection with a witness.

22 The attorneys should have a cell phone contact information for witnesses in the event of  
23 technology issues.

24 **C. Witnesses.**

25 **a) Oath/Affirmation.** In addition to the standard admonitions, before each witness testifies,  
26 the Court may ask each witness to affirm: (i) no one else is present in the remote room where the witness  
27 is testifying other than those, if any, authorized by the Court; (ii) that all communications with the  
28 witness during his or her examination will be on the record, other than communications with the witness

1 and his or her attorney of record during breaks, and (iii) that the witness will not engage in any direct or  
2 indirect communications with anyone during his or her examination other than those communications  
3 made on the record.

4 **b) Prohibited Communications.** While on the witness stand, other than counsel and the  
5 judge, a witness shall not communicate with any other person by any means including any form of oral or  
6 written communication, hand signals, handwritten notes, or any form or type of electronic  
7 communication using any electronic device including phones, computers, tablets, pagers, etc.

8 **c) Access to Documents/Resources.** While on the witness stand, other than marked trial  
9 exhibits identified by the examining attorney and provided to the witness in advance or shown to the  
10 witness during the examination, a witness shall not have access to, review, or refer to any documents,  
11 notes, materials, electronic devices of any kind including phones, computers, tablets, pagers, etc. In  
12 advance of examining a witness, the examining party may provide the witness with hard copies of  
13 marked and disclosed trial exhibits that the examining party intends to use during the examination, after  
14 giving sufficient notice to the Court and counsel for all parties and the witness.

15 **d) Court Intervention.** The Court reserves the right to ask any witness to back up from their  
16 webcam so the Court and counsel can see the witness' hands and surroundings for the duration or  
17 portions of their testimony.

18 **D. Exhibit Books.** The Parties have conferred regarding exhibits and will provide the Court  
19 with two hard copies of Exhibits, one for the judge and one which the Clerk will mark. The parties have  
20 arranged for witnesses to have access to hard copies of exhibits.

21  
22 **3. Impeachment Exhibits.**

23 **a) Electronic Form.** If counsel wishes to use a document for impeachment purposes that  
24 was not previously disclosed as an exhibit, counsel must email an electronic copy of the document to the  
25 Court, trial counsel, and the witness at the time counsel seeks to use the document with the witness.

26 **b) Sealed Paper Copies.** If counsel prefers, he or she may also send a paper copy of the  
27 documents that counsel anticipates using for impeachment purposes to the Court and counsel for the  
28 other parties at least one business day before the anticipated use of those documents.

1           **E.     Objections.** The witness must stop speaking when either counsel objects. Counsel  
2 objecting shall raise her/his/their hand so that the witness and Court can see that an objection is being  
3 made. After the objection is made, the Court will be the first to speak and will instruct counsel how the  
4 Court wishes to proceed. Counsel and witnesses should note that there is a lag time on Zoom so that if a  
5 party signals an intent to interject an objection or the Court signals a need to interrupt, counsel or the  
6 witnesses should stop speaking so the objection may be made before an answer is given or the Court may  
7 instruct counsel or the witness

8           **VI.    TECHNOLOGICAL CONSIDERATIONS DURING THE HEARING.**


9           **A.     How to Join.** Counsel hosting the Zoom shall provide log-in information to all counsel  
10 who must provide the link to their witnesses. Counsel hosting the Zoom shall provide log-in information  
11 to the following Court email addresses: [jross@sftc.org](mailto:jross@sftc.org); [jbertelsen@sftc.org](mailto:jbertelsen@sftc.org); [department502@sftc.org](mailto:department502@sftc.org);  
12 and to the Court's extern at [rosenzweig@uchastings.edu](mailto:rosenzweig@uchastings.edu).

13           **B.     The Public.** Although the trial is being conducted on Zoom, it is a public trial, and the  
14 general public may listen to the proceedings by calling the Public Access Number posted on the Court's  
15 website for Department 502: (415) 796-6280; Access Code: 12129872#. The Rules of Court and the  
16 Local Rules of Court prohibit recording the proceedings.

17           **C.     Chat Features.** The chat function allows participants to type text (comments) during the  
18 proceeding and also allows participants to send files to other participants. The Court will determine  
19 whether the use of the chat function will be allowed during trial after discussion with the Parties. The  
20 following rules shall apply: (i) counsel may not initiate ex parte "chats" with the Court or any counsel or  
21 witness; (ii) counsel may not "chat" with a witness at any time while the witness is "on the stand" for any  
22 purpose unless authorized by the Court. Messages relayed through the "chat" feature will not become a  
23 part of the Court record unless ordered by the Court. Documents transmitted through the chat feature,  
24 such as a document to be used for impeachment purposes, will be made part of the Court record but the  
25 text of the message transmitting them will not unless read into the record. If counsel transmits a  
26 document through the chat feature, counsel must so state on the record and must identify the document  
27 for the record and ensure that the court reporter, the clerk, and the Court has a copy of it.

1           **C. Addressing Technological Difficulties.** In the event a participant is disconnected from the  
2 videoconference or experiences some other technical failure, the participant shall use best efforts to  
3 promptly re-establish the connection and shall take no action which threatens the integrity of the  
4 proceeding (e.g., inappropriate communications with a third party related to anything other than  
5 resolving the technical issue). If the Court deems it unfair to any Party to continue the Zoom hearing  
6 because of a technical failure, the Court may postpone or terminate the videoconference at any time and  
7 take such other steps as may be necessary to ensure the fairness and integrity of the proceedings.

8  
9 Dated: December 2, 2020

  
Jeffrey S. Ross  
Judge of the Superior Court

11           **APPENDIX A: BEST PRACTICES FOR PARTICIPANTS IN REMOTE HEARINGS**

12           **The “Dos”**

13           **Technology**

- 14            Use hardwired, rather than wireless, internet.  
15            Know the device password in case of lock-out.  
16            Keep the device plugged in and/or have extra batteries on hand.  
17            Use multiple monitors if you anticipate having to present or view exhibits.  
18            Ensure that all required programs (e.g., Adobe HTML5) are enabled.  
19            Disable notifications (e.g., Skype, email, etc.).  
20            Disconnect from VPN.  
21            Use gallery view in Zoom to prevent the program from shifting the screen back and forth

22 to the speaker.

23           **Presentation**

- 24            Dress as if you are in Court because you are. Solid clothing works best on Zoom.  
25            Position the webcam at your eye level and look directly into it when speaking.  
26            If counsel uses notes, place them in a way that minimizes loss of eye contact with the

27 camera.

- 1            Keep yourself muted unless you are speaking.
- 2            Use a headset to maximize audio quality.
- 3            Adopt good posture (i.e., don't slouch, put your feet on the desk, sit in a bed, etc.).
- 4            Choose a backdrop that will minimize distractions (i.e., no beds, only neutral artwork, do
- 5 not sit in front of a window, close all open doors that are visible, etc.).

- 6            Avoid making quick movements that could cause the video to lag.
- 7            Raise your hand when objecting in case there is lag time in audio.

#### 8       Documents

- 9            Use an appropriate standard file naming convention that takes into account ease of quick
- 10 navigation and does not reveal work-product or other sensitive information.
- 11            Determine procedure for handling non-conforming documents (e.g., emailing large excel
- 12 spreadsheets that do not pdf well; dealing with files that are excessively large in size such as video files).
- 13            Identify page numbers and/or set up pdf bookmarks ahead of time for ease of navigation in
- 14 pdfs.
- 15            Pre-designate the individual responsible for controlling the exhibits (e.g., selecting it,
- 16 displaying it, marking it up, navigating through pages, etc.).
- 17            Provide electronic/paper copies of all exhibits to court reporter well in advance of trial.

#### 18       The "Don'ts"

- 19            Don't log in to Zoom with a cell phone if you are a case participant.
- 20            Don't identify yourself on Zoom using a phone number if you are a case participant.
- 21            Don't access the hearing from an unsecured or public Wi-Fi.
- 22            Don't work on other tasks during the hearing.
- 23            Don't talk over each other.




**CERTIFICATE OF ELECTRONIC SERVICE**  
(CCP 1010.6(6) & CRC 2.260(g))

I, JEAN BERTELSEN, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On December 2, 2020, I electronically served THE ATTACHED DOCUMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated: December 2, 2020

T. Michael Yuen, Clerk

By:   
\_\_\_\_\_  
JEAN BERTELSEN, Deputy Clerk