

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES/SAN FRANCISCO BRANCH**

**VANGUARD PROPERTIES, INC.**

**and**

**Case 20-CA-254600**

**MELISSA RAMOS, an Individual**

**ORDER REQUIRING THE AUGUST 31, 2020 HEARING IN THIS MATTER TO BE  
CONDUCTED BY VIDEOCONFERENCE**

The hearing in this matter is currently scheduled to begin at 10:00 a.m., on August 31, 2020, and consecutive days thereafter, at the Natalie P. Allen Memorial Courtroom, 901 Market Street, Suite 400, San Francisco, California or in a manner including via video conference technology or at a location otherwise ordered by the Administrative Law Judge. On August 3, 2020, I held a status conference call with counsel in this case and informed them that due to the current compelling circumstances in the San Francisco Bay Area, the hearing in this matter shall be conducted via video conference using the Zoom for Government platform.

In accordance with Section 102.35(c) of the Board's Rules and Regulations and the Board's recent guidance regarding the conduct of hearings in *Morrison Healthcare*, 369 NLRB No. 76 (May 11, 2020), due to the "compelling circumstances" created by the current Coronavirus Disease (COVID-19) pandemic, the hearing in this case shall be conducted remotely via video conference using Zoom for Government technology and under appropriate safeguards, is scheduled at 10:00 a.m. Pacific Time on August 31, 2020, and on consecutive days thereafter.

The Prehearing Order below informs the parties and counsel on how to access Zoom technology and instructions and guidelines regarding the Zoom Hearing.

**Prehearing Order: Access, Instructions, and Guidelines Regarding Zoom Hearing**

The following order addresses how identified participants and non-participant observers may access the scheduled Zoom unfair labor practice hearing on Monday, August 31, 2020, at 10:00 a.m. Pacific time (PT). It also includes additional instructions and guidelines regarding the conduct of the Zoom hearing.

**I. Participants**

If you are an identified participant (counsel, representative, witness, interpreter, or court reporter), you may join the meeting online with a computer or laptop with a camera and

microphone for transmitting both video and audio. (A computer or laptop with audio/video capability is highly recommended. It is possible to join the meeting online using a smart phone or tablet, but this will limit your ability to perform certain functions during the hearing, including sharing and viewing documents through Zoom.)

A Zoom account is required. If you do not already have an account, visit [zoom.us](https://zoom.us) and create one. You must sign up using your real name. Download and install the **free** Zoom client on your computer or laptop by hovering over the Resources tab in the upper right of the screen and selecting “Download Zoom Client.” If you are using a smart phone, install Zoom from the App Store.

Join the Zoom meeting a few minutes before the scheduled time. You may do so by clicking on the “Join Zoom” link below. Alternatively, you can click on “Join a Meeting” in your Zoom app and enter the meeting code. If you are asked whether to open with the Zoom app or in the web browser, always choose to open with the Zoom app as this will allow you to participate more fully in the meeting than the browser.

When you enter, select “Join by Computer Audio” (even if you are connecting via a smart phone). You will be automatically placed in an online waiting room until admitted to the meeting. Please be patient, it may take several minutes. Avoid running unnecessary applications besides Zoom to conserve processing power and networking.

As we also discussed yesterday, I am also inviting you to a scheduled ZoomGov meeting follow-up pre-hearing status conference call on Monday, August 17 at 10:00 a.m. PT with the immediately following code and passcode:<sup>1</sup>

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1618436698?pwd=VkloTTB4UWh4Z29RQVQxRWZBSEhiQT09>

Meeting ID: 161 843 6698

Passcode: 168044

One tap mobile

+16692545252,,1618436698#,,,,,0#,,168044# US (San Jose)

+16468287666,,1618436698#,,,,,0#,,168044# US (New York)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

833 568 8864 US Toll-free

Meeting ID: 161 843 6698

Passcode: 168044

Find your local number: <https://www.zoomgov.com/u/abyiYx5bB>

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<sup>1</sup> A new and separate ZoomGov e-vite for the August 31, 2020 hearing will be issued and served after the August 17, 2020 Zoom status conference.

Join by SIP  
[1618436698@sip.zoomgov.com](mailto:1618436698@sip.zoomgov.com)

Join by H.323  
161.199.138.10 (US West)  
161.199.136.10 (US East)  
Meeting ID: 161 843 6698  
Passcode: 168044

Join by Skype for Business  
<https://www.zoomgov.com/skype/1618436698>

If you are unable to join the meeting either online or by phone, contact one of the other participants in the hearing or call courtroom deputy Mark Eskenazi, at 202-273-1080 for assistance. Mr. Eskenazi is an attorney in the Office of the Executive Secretary at the National Labor Relations Board. As we also discussed yesterday, Mr. Eskenazi or his designee Courtroom Deputy have been screened from working on this case if it comes before the Board. They will be serving as Courtroom Deputy to assist me with Zoom technical issues throughout the hearing. If you cannot reach Mr. Eskenazi or his designee, please call Vanise Lee of the San Francisco Branch of the Judges Division at 628-221-8826 for assistance.

II. *List of individuals who may join the meeting, including Non-participant Observers (public access)*

**No later than 9:00 a.m., PT on Wednesday, August 26, 2020**, counsel must email the Judge, Courtroom Deputy, and court reporter a list of all hearing participants to which counsel has sent the access information. This list is for procedural use only and will not be part of the record. The list must include the individual's name, email address, telephone number and role in the proceeding. This list is necessary for the Judge or Courtroom Deputy to allow the appropriate access to the proceedings and to correctly assign individuals to breakout rooms or the waiting room. However, parties will not be precluded from calling witnesses who are not on this list if necessary for the presentation of their case.

The parties must provide the identity and email addresses of any nonparticipant observers to the Regional Office also **no later than 9:00 a.m., PT on Tuesday, August 25, 2020**. It is the responsibility of the Regional Office to advise nonparticipant observers the manner in which they will be able to access the hearing. Identified nonparticipant observers may join the meeting with any of the above-mentioned devices in any of the above described ways. However, they must remain muted with their video output off throughout the hearing. They may not disrupt the hearing in any way. If they disrupt the hearing, or violate the judge's instructions, they may be subject to removal and other sanctions.

### III. Additional Instructions and Guidelines

#### A. No videotaping or recording

**DO NOT VIDEOTAPE, BROADCAST, TELEVISION, AUDIO RECORD, OR PHOTOGRAPH, INCLUDING TAKING SCREENSHOTS OR OTHER COPYING. RECORDING IS ONLY PERMITTED BY THE OFFICIAL COURT REPORTER.**

Violation of this rule or causing disruptions may result in removal and other sanctions.

#### B. Providing all potential exhibits to the Judge, Courtroom Deputy, your witnesses and opposing parties in advance of hearing

It would greatly facilitate the conduct of the hearing if the parties emailed all of their potential exhibits to the Judge, Courtroom Deputy, their own witnesses and opposing counsel **no later than 9:00 a.m. PST on Thursday, August 27, 2020**. While parties may not wish to reveal the identity of all potential witnesses in advance, it should be obvious that certain individuals, such as persons named in the complaint may be witnesses. Therefore, the parties are requested to provide any exhibits they plan to use with such witnesses to the opposing counsel in advance with the exception of *Jencks* materials.

In lieu of email, a party can provide exhibits to the Judge, Courtroom Deputy, other parties by uploading them to the NLRB's SharePoint page for this case. The parties will be emailed a link to this page by the assigned Courtroom Deputy for this case prior to the August 17 pre-trial Zoom status conference. If a party cannot locate the email, they should check their Spam and other folders or contact Mr. Eskenazi or his designee. It is requested that a party that may potentially introduce an audio or video exhibit, or another very large file, inform the Judge, Courtroom Deputy, and opposing counsel **no later than 9:00 am PST on Thursday, August 27, 2020**. Such files may not be transmittable over email and may need to be uploaded to the SharePoint page.<sup>2</sup>

All exhibits shall be pre-marked, paginated and converted into one bookmarked PDF file per party.

All confidential personal identifying information such as Social Security Numbers, Birth Dates, etc. should be redacted from the exhibits.

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<sup>2</sup> The parties can contact Nabeel Bhatti, Sr. SharePoint Developer at [nbhatti@nlrb.gov](mailto:nbhatti@nlrb.gov) to gain access to the SharePoint document library for this case or the assigned Courtroom Deputy.

C. Calling witnesses and forwarding the electronic meeting invitation (“e-vite”)

Counsel must forward the trial e-vite that will be issued *after* the August 17 Zoom status conference to their witnesses or provide to the Courtroom Deputy and the Judge before August 17, 2020, the witnesses’ email addresses so that the Courtroom Deputy or Judge can send an e-vite to them. When counsel forwards the e-vite, counsel should take care not to also forward the email address of the Judge or the Courtroom Deputy.

Counsel must also ensure that their witnesses have the necessary equipment and internet connection to join and testify at the Zoom hearing.

Witnesses may not use a virtual background. Opposing counsel must be able to see who, if anyone, is in the room with them when they testify.

The Courtroom Deputy or the Judge will admit witnesses into the hearing from the waiting room.

D. Conferring via the Zoom breakout room function

If counsel want to consult each other or speak with clients (other than when the client is on the witness stand), they may ask to be placed in a private breakout room.

The Judge or the Courtroom Deputy will close the breakout room and return those in it to the main hearing when requested or, with adequate notice, when it is appropriate to do so. Conversations inside the breakout room cannot be heard by persons outside of it.

E. Jencks Statements

Jencks statements such as affidavits given to the General Counsel will be provided to opposing counsel via email or the Zoom chatroom function, after a witness has testified on direct examination. After cross-examination opposing counsel **MUST** delete all Jencks statements from their computer and represent to the court and the General Counsel that it has done so.

F. Exhibits

The parties are strongly encouraged to distribute exhibits before hearing or each witness. Options:

- 1) Mail/hard copy (before hearing only, best for witnesses)
- 2) Email, preferably in a single bookmarked PDF file (before or during hearing)<sup>3</sup>

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<sup>3</sup> *Bookmarking instructions are included in the attached Sample Zoom Hearing Invitation and Instructions.*

- 3) Sharepoint (same, especially for large docs/videos that cannot be emailed)<sup>4</sup>
  - 4) Zoom Screen share (during hearing, to show witness and parties an exhibit)
- [Chat function will be disabled]

If sent as an attachment via email or SharePoint, everyone may download and view the document on their own. Ensure exhibits are properly marked, paginated, and bookmarked before the hearing or before being offered into the record as an exhibit.

The Judge may ask, upon the request of a party, witnesses to move the camera to show their surroundings.

#### G. Offering exhibits into the record

Counsel may email or use SharePoint to send an exhibit to other counsel, the Judge, and the reporter if they have not already done so; they can then download it to their computer as an admitted exhibit. Email and SharePoint are the recommended methods for sharing exhibits.

Counsel are encouraged to share this Order/Guideline with the party it represents, witnesses and persons who request to observe the hearing through counsel or the party it represents.

**So Ordered.**

Dated at San Francisco, California, this 4<sup>th</sup> day of August 2020.



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Gerald M. Etchingham  
Administrative Law Judge.

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<sup>4</sup> If you wish to use Sharepoint at hearing for large pdf files or video/audio exhibits, please email the Courtroom Deputy and they will arrange to create a case page and the parties and the trial judge a link.

***Served by email upon the following:***

***For the NLRB Region 20:***

Mr. Matt Peterson, Esq. Email: matt.peterson@nlrb.gov

***For the Charging Party:***

Ms. Sharon Vinick, Esq., Email: sharon@levyvinick.com

***For the Respondent:***

Mr. John L. Fitzgerald, Esq., Email: jfitzgerald@fmglaw.com

Ms. Julie A. Marquis , Esq., Email: jmarquis@fmglaw.com

Ms. Chelsea Whelan, Esq., Email: cwhelan@fmglaw.com

***For the Courtroom Deputy:***

Mr. Mark Eskenazi, Esq., Email: mark.eskenazi@nlrb.gov

**From:** Lee, Vanise J.  
**Sent:** Tuesday, August 4, 2020 2:18 PM  
**To:** Julie A. Marquis <jmarquis@fmglaw.com>; Chelsea Whelan <cwhelan@fmglaw.com>; Peterson, Matt <Matt.Peterson@nlrb.gov>; Sharon Vinick <sharon@levyvinick.com>; : John L. Fitzgerald <jfitzgerald@fmglaw.com>  
**Cc:** Gomez, Doreen E. <Doreen.Gomez@nlrb.gov>; Lee, Vanise J. <Vanise.Lee@nlrb.gov>; Louie, Susie <Susie.Louie@nlrb.gov>  
**Subject:** VanguardProperties-RamosNoticeZoomHrgandGuide\_08-04-20 - Judge's Order in Vanguard Properties, Case 20-CA-254600.  
**Importance:** High

Good afternoon.

Attached please find an Order from Administrative Law Judge Gerald M. Etchingham regarding the Zoom hearing on August 31, 2020 in the above matter.

Regards,

*Vanise J. Lee, Legal Tech.*

*NLRB Division of Judges San Francisco Branch*

*Main – 415.356.5255*

*Direct – 628.221.8826*

*Fax – 415.356.5254*

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**From:** postmaster@levyvinick.com <postmaster@levyvinick.com>  
**Sent:** Tuesday, August 4, 2020 2:18 PM  
**To:** Lee, Vanise J.  
**Subject:** Delivered: VanguardProperties-RamosNoticeZoomHrgandGuide\_08-04-20 - Judge's Order in Vanguard Properties, Case 20-CA-254600.

**Your message has been delivered to the following recipients:**

[Sharon Vinick](#)

Subject: VanguardProperties-RamosNoticeZoomHrgandGuide\_08-04-20 - Judge's Order in Vanguard Properties, Case 20-CA-254600.

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**From:** Microsoft Outlook  
<MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@nlrb.onmicrosoft.com>  
**Sent:** Tuesday, August 4, 2020 2:18 PM  
**To:** Lee, Vanise J.  
**Subject:** Delivered: VanguardProperties-RamosNoticeZoomHrgandGuide\_08-04-20 - Judge's Order in Vanguard Properties, Case 20-CA-254600.

**Your message has been delivered to the following recipients:**

[Peterson, Matt \(Matt.Peterson@nlrb.gov\)](#)

Subject: VanguardProperties-RamosNoticeZoomHrgandGuide\_08-04-20 - Judge's Order in Vanguard Properties, Case 20-CA-254600.