

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

**NEXSTAR BROADCASTING, INC.  
d/b/a KOIN-TV**

**and**

**NATIONAL ASSOCIATION OF BROADCAST  
EMPLOYEES & TECHNICIANS, THE  
BROADCASTING AND CABLE TELEVISION  
WORKERS SECTOR OF THE COMMUNICATIONS  
WORKERS OF AMERICA, LOCAL 51, AFL-CIO**

**Cases 19-CA-248735  
19-CA-255180  
19-CA-259398  
19-CA-262203**

**ORDER FOR ZOOM HEARING  
AND  
ZOOM HEARING INVITATION WITH INSTRUCTIONS AND PROTOCOLS**

On September 24, 2020, the Regional Director for NLRB Region 19 scheduled the hearing in the above-captioned matter to open on November 12, 2020 via Zoom videoconference due to the circumstances and status of the COVID-19 pandemic.<sup>1</sup> During the October 7, 2020 prehearing conference the undersigned held in the above-captioned matter, the parties agreed to conduct this hearing via videoconference. Accordingly, upon agreement of the parties, and for good cause shown,

**IT IS HEREBY ORDERED** that the hearing in this matter will open via videoconference, using the Zoom software platform, on November 12, 2020, at 9:00 a.m. PST, and consecutive days thereafter. The Zoom invitation, instructions, and protocols are set forth below (*Read and follow them carefully*).

**I. Participants**

**A. Zoom Access Links and Numbers**

You may join the Zoom hearing with a computer or laptop by clicking on the “Join ZoomGov Meeting” link below. Alternatively, if you are using a mobile smart phone or tablet, you can click “Join a Meeting” in your Zoom app and enter the meeting ID and password.

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<sup>1</sup> On October 22, 2020, the Regional Director for Region 19 severed case 19-CB-244300 from the above-captioned matter in order to process an informal Board settlement.

## Join ZoomGov Meeting

<https://www.zoomgov.com/j/1615104912?pwd=dnVaK01wTm5RR2Vic01OUXNKcCtPQT09>

Meeting ID: 161 510 4912

Passcode: 490852

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 hearing 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 the Zoom waiting room until admitted to the hearing.

If you are unable to join the hearing online or wish to use your phone for audio you may join the hearing by calling the appropriate phone number below and entering the meeting ID and password when prompted.

### 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: 161 331 8036

Passcode: 509952

This will allow you to communicate with the judge and other participants and obtain assistance if needed to join the hearing via the internet.

*If you cannot join the hearing by any of these methods, immediately contact one of the other participants directly by email or phone for assistance or the courtroom deputy in this case, Daniel Schiff at 202-273-1718 or at [Daniel.Schiff@nlrb.gov](mailto:Daniel.Schiff@nlrb.gov), one of the other participants directly by email or phone for assistance, or the Legal Technician Vanise Lee at 628-221-8826. Mr. Schiff has been screened from working on this case if it comes before the Board.*

## **B. Instructions and Protocols for the Zoom Hearing**

Audio/Video equipment required. You must have access to a computer, laptop or other device that can transmit and receive audio and video. Both a primary and a secondary device is recommended.

*Primary device:* A computer or laptop is strongly recommended as your primary device. It will provide more functionality and is best for sending and receiving documents.

*Secondary device:* A mobile smart phone or tablet is recommended as a secondary or backup device to maintain communication if technical problems occur during the

hearing. For example, if there are audio problems with your computer, you could use it solely for video (by clicking “Leave computer audio” in the Zoom audio settings) and call in with your phone for audio.

Zoom account required. If you do not have a Zoom account, you must create one; it is free. If using a computer or laptop to join the hearing, go to Zoom’s website at [www.zoom.us](http://www.zoom.us), place your cursor over the “Resources” tab in the upper right of the home screen, and select “Download Zoom Client” from the drop-down box. If using a smart phone or tablet, go to the App Store and download the free Zoom app.

Internet connection required. You must have access to a strong and stable internet connection—either wired/ethernet cable (recommended) or wireless/WiFi.

Preparing for the hearing. Take the following steps at least 30 minutes before joining the Zoom hearing:

- 1) *Location.* Set up your computer, laptop, or other primary device in a quiet room or space where you will not be distracted or interrupted.
- 2) *Background.* Make sure there are no uncovered windows or distracting images or messages directly behind you. Virtual backgrounds should also be free of distracting images or messages. Witnesses may not use virtual backgrounds.
- 3) *Power source.* Connect your primary and secondary devices to electrical outlets or portable power sources to ensure they will not run out of battery.
- 4) *Internet.* Test your internet connection. Close any unnecessary applications on your primary device other than Zoom. If using wifi, disconnect other devices, including your secondary device (unless or until needed), from the same wifi network.
- 5) *Camera.* Position the web camera so that it is facing you at or slightly above eye level.
- 6) *Microphone and speaker.* Make sure the microphone is close enough to pick up your voice. And raise the speaker volume so it is loud enough for you to hear others. If you will be using separate devices for video and audio (e.g., a computer for video and a phone for audio), be sure that the microphone and the speaker on the video device are off to prevent audio feedback.
- 7) *Mobile phone notifications.* Set your mobile phone notifications on vibrate only.

Joining the hearing. Join the Zoom hearing at least 5 minutes before the scheduled time using the access link or numbers listed above. Wait in the Zoom waiting room until you are admitted to the hearing by the judge or the courtroom deputy. Be patient, it may take a few minutes. If there is an unexpected delay, the judge or deputy will send a message to the waiting room, which will appear on the waiting room screen.

Participating in the hearing. An unfair labor practice hearing is an official Government legal proceeding. As such, you are expected to abide by the following protocols:

*Decorum and conduct.* Observe rules of decorum, civility, and ethics and show respect for the dignity of the legal proceeding by your conduct, language, and attire.

*Cooperation and compliance.* Cooperate with each other and the court reporter and comply with the judge's and deputy's reasonable instructions (e.g., to adjust your position, lighting, or web camera, or to mute or unmute your microphone).

*No videotaping or recording.* No videotaping or audio recording is permitted during any part of the Zoom proceeding, except by the court reporter who is responsible for preparing the official record.

*If you fail to abide by these protocols, you may be removed from the Zoom hearing and/or sanctioned under Sec. 102.177 of the NLRB's Rules and Regulations.*

Party representatives and assistants.

*Forwarding this invitation.* This invitation has been emailed to the parties' counsel or representatives of record only. It is your responsibility to forward it to additional party representatives and assistants who will participate in the hearing and ensure that they understand and follow all the Zoom hearing instructions and protocols.

*Informing the judge or deputy.* You must inform the judge or the courtroom deputy of the identity of any additional party representatives and assistants as soon as possible so that they will be admitted from the Zoom waiting room in a timely manner.

*Communicating privately during the hearing.* If you need to speak privately with other counsel or your party representatives and assistants during the hearing, you may request the judge or deputy to create a private Zoom "breakout room" for this purpose.

Court reporter and interpreter. The NLRB Regional Office is responsible for scheduling a court reporter and forwarding this invitation to him/her. If an interpreter is needed for a witness, the party calling that witness is responsible for scheduling the interpreter, either through the NLRB Regional Office or directly, and forwarding this invitation to him/her. The identity of the court reporter and the interpreter should be emailed to the judge or the deputy before the hearing so that they will be admitted from the Zoom waiting room in a timely manner.

Witnesses. If you will be calling witnesses, you are responsible for the following:

*Invitation.* Providing your witnesses with this invitation.

*Instructions and protocols.* Ensuring that your witnesses understand and follow all the Zoom hearing instructions and protocols set forth in the invitation.

*When to join hearing.* Informing your witnesses when they should join the Zoom hearing and enter the waiting room.

*Witness contact information.* Obtaining a phone number and/or email address to contact the witness in the event communication is interrupted by internet or other technical problems during the hearing.

*Notification to the judge.* Informing the judge or the deputy of the identity of your witnesses so they will be admitted from the Zoom waiting room in a timely manner.

*Sequestration.* Informing your witnesses of their obligations under any sequestration order issued by the judge and bringing any violations of the order to the judge's attention.

### Exhibits.

*Formatting exhibits.* Exhibits must be in the following formats:

- PDF for documents
- JPG for photographs/images
- MP4 for videos

*Marking exhibits.* Exhibits must be pre-marked before they are shared and offered at the hearing (e.g., GC Exh. 1, CP Exh. 1, R. Exh. 1). There is no requirement that they be offered at the hearing in the same numerical order (for example, R. Exh. 3 can be offered into evidence before R. Exh. 2).

*Paginating exhibits.* Exhibits longer than one page must include page or Bates numbers.

*Sharing exhibits.* With certain exceptions (e.g., Jencks statements and exhibits used to refresh recollection or impeach), the parties are encouraged to distribute as many exhibits as possible to the other parties, the judge, and the witnesses either before the hearing or before each witness testifies. Options for electronically distributing or sharing exhibits before and during the hearing include:

*Email (before and during hearing).* This is a good way to distribute exhibits, provided they are not too large to send by email. However, be aware that it may take several minutes for everyone to receive the email.

*NLRB SharePoint webpage (before and during hearing).* This is an option for uploading exhibits that are too large to send by email, such as lengthy audio and video recordings, so that they can be accessed by the participants.

Instructions: Notify the judge or deputy at least 5 business days before the hearing that an NLRB SharePoint webpage should be created for this purpose and provide the email addresses of those who will need access.

Once created, the judge or deputy will email the SharePoint link and instructions to all parties and the court reporter.

*Zoom share-screen function (during hearing).* This may be used to share an exhibit, including a videotape, with a witness and other participants during the hearing.

*Identifying and bookmarking electronically shared exhibits.* Exhibits that are emailed or uploaded to SharePoint should be identified in the same way they are pre-marked. If combined in a single PDF file, exhibits should be bookmarked in the same manner using the PDF bookmarking function or tool.

Bookmarking instructions: Open a PDF document; left-click on “Tools”; left-click on “Combine files”; and follow the instructions, adding each pre-marked exhibit in numerical order. When all the exhibits have been added, right-click on the open PDF document; left-click “Add Bookmark” in the popup window; place the cursor at beginning of the first exhibit; left-click the new bookmark icon in the shaded left-side column (the ribbon with a plus sign); and type the exhibit number in the shaded box. Then move the cursor to the beginning of the next exhibit and repeat. When finished, save the bookmarked PDF document.

As indicated above, if sharing exhibits by email, attachment size restrictions may limit the number or type of exhibits that may be combined into a single PDF file. In that event, combine and bookmark as many exhibits as possible in each PDF file and email each PDF file separately to the participants.

*Providing exhibits to court reporter.* You are responsible for ensuring that your exhibits are provided to the court reporter for inclusion in the official record. The exhibits should be provided by email or uploaded to the NLRB SharePoint webpage for retrieval no later than the end of the same day they are offered and admitted or the beginning of the next hearing day.

*Redacting sensitive personal identifying information (SPII).* Redact any SPII, including social security numbers, driver’s license numbers, and credit card and financial account numbers, from exhibits.

Technical problems. Technical problems (internet, audio, or video delays or interruptions) may occur during the hearing. They usually cause only short delays provided the proper steps are taken.

*Follow the instructions and protocols.* Follow the instructions and protocols above by using a strong and reliable internet connection, having a secondary or backup device to access or communicate with the Zoom hearing or participants if necessary, and emailing your alternative contact information to the judge, deputy, and/or other participants prior to the hearing. (This information should not be shared orally during the Zoom hearing if it is considered private.)

*Mute your microphone if not speaking or actively participating.* This will help to prevent others from hearing your audio feedback or background noise on their devices.

*Notify the judge or deputy.* Immediately notify the judge or deputy if your audio and/or video feed is delayed or otherwise not working properly. You may do so either orally or by signaling with your hands that you are having a problem. The judge or deputy will try to communicate with and assist you by using the Zoom chat function or by contacting you on your secondary or backup device.

*Reboot your computer.* Often technical problems can be fixed by rebooting your computer or laptop and then re-accessing the Zoom hearing with the same link and numbers. If possible, advise the judge, deputy, and/or other participants that you will be doing this before leaving the hearing, or as soon as possible thereafter by phone or email if you have already been disconnected from the hearing. You will be re-admitted to the hearing when the judge or deputy sees that you have re-entered the Zoom waiting room.

## **II. OBSERVERS**

### **A. Zoom Hearing Access by Observers**

Obtaining the Zoom hearing access information. Nonparticipating employees, members, associates, or agents of a party or counsel of record may request a copy of this invitation from any of the parties or counsel or the NLRB Regional Office.

The general public and the media must request the invitation from the NLRB Regional Office. The Regional Office's contact information may be found on the NLRB's website at: [www.nlr.gov/about-nlr/who-we-are/regional-offices](http://www.nlr.gov/about-nlr/who-we-are/regional-offices).

Providing identifying information. For security reasons, every observer must provide his/her identifying information—including full name (which must match the Zoom name), email address, and telephone number—to the party, counsel, or NLRB Regional Office that is requested to forward the invitation.

Forwarding the invitation. Unless there is reason to doubt the accuracy of the identifying information provided by the observer, or he/she is a known security risk, the party, counsel, or NLRB Regional Office receiving the request should forward the invitation to the observer's email address.

Notifying the judge or deputy. Any party, counsel, or NLRB Regional Office that forwarded the invitation to one or more observers should email a list of those observers with their identifying information to the judge or the deputy at least 24 hours before the hearing.

*No one will be admitted to the Zoom hearing from the waiting room unless his/her identifying information has been provided to the judge or the deputy by a party, counsel, or the NLRB Regional Office.*

## **B. Instructions and Protocols for Observing the Zoom hearing**

Joining the hearing. Observers may join the Zoom hearing in the same manner and with the same access link or numbers as participants. Like the participants, they will be placed in the Zoom waiting room until they are admitted to the hearing by the judge or deputy. It may take 15–20 minutes or more, depending on the number of participants (who will be admitted first) and observers, and any technical or other preliminary issues that need to be addressed. If there will be an extended delay, the judge or deputy will send a message to the waiting room, which will appear on the waiting room screen.

Video and audio output. Observers must always have their video and audio output off, both when they join and are admitted from the waiting room and thereafter throughout the hearing. They may not turn on their video or audio output at any time or share messages or images of any kind.

*Violators may be removed and reported to Zoom and appropriate federal authorities for further sanctions.*

Dated at San Francisco, California, this 23rd day of October 2020.



Amita B. Tracy  
Administrative Law Judge

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

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