

**VIRTUAL CIVIL BENCH TRIAL
HANDBOOK FOR ATTORNEYS**

**United States District Court
Eastern District of Washington**

Rev. March 16, 2021

Introduction

The Eastern District of Washington developed this handbook to guide attorneys through the use of the ZoomGov.com platform for conducting virtual trials. This handbook has been created using content from the handbook created by the Western District of Washington.¹ The entire trial will take place using the ZoomGov.com platform. The parties, counsel, and witnesses will not be physically present in the courtroom.

The ZoomGov.com platform is a secure system that is separate from the commercial or free version of ZoomGov and is not prone to some of the security issues those platforms have experienced.

¹ *Virtual Trials Bench & Jury A Handbook for Attorneys*, (rev. 1/25/2021)
<https://www.wawd.uscourts.gov/sites/wawd/files/VirtualTrialHandbookforAttorneys.pdf>

Professionalism and Conduct

All participants shall treat video and telephonic hearings as though they were in a courtroom. Remember the basics: one speaker at a time and stop for objections. The court reporter is creating the court record and needs to hear parties clearly. There is an inherent delay when communicating via video or telephonic conference platforms and, to assist the court reporter in making an accurate record, counsel should exercise extra care to avoid talking over another participant. Consistent use of the mute/unmute function can assist in this regard.

All participants are expected to adhere to Eastern District of Washington Local Civil Rule 83.1, Courtroom Practice and Civility.

Counsel shall inform all witnesses about testimony expectations. Witnesses, counsel, and parties should be in locations that are suitable for trial. It is strongly recommended that you test the ZoomGov connection with your witness or witnesses prior to any hearing. *See* Technology Check section.

Video or audio recording of the trial proceedings is prohibited. The parties shall instruct all witnesses of this prohibition.

The area used for participating in a ZoomGov session should be:

- Quiet (limited background noise as much as possible)
- Isolated from others and with some level of privacy
- Free from distractions, such as visible items or persons in the background
- Sitting, rather than standing, is recommended
- The desk or table should be relatively empty
- The participant's face should be clearly visible in the video
- Consider backgrounds carefully as they can be a major distraction
- Avoid backlighting

Participants should take the following steps:

- Identify themselves in ZoomGov with their actual name and role, rather than a pseudonym, username, or email address.
- Mute their microphones when not actively speaking / unmute as necessary

- Use a PC, laptop, or large tablet for the video portion of the hearing
- Consider use of dual monitors and a good quality web camera
- Consider audio quality (better results are generally achieved by using a headset equipped with a microphone rather than relying on built-in computer speakers and microphone)
- Close all other programs to avoid popups or notifications
- Silence cell phones and use them only as backup to the ZoomGov connection

Further, witnesses shall be instructed:

- They may not use any other devices during their testimony;
- They may not use any hardcopy or electronic set of exhibits provided to the witnesses unless directed to do so.

Counsel should confer regarding the following issues and advise the Court of any agreements or issues to be resolved:

- The equities for witness and counsel participation in the ZoomGov trial, including whether:
 - Party or parties may be in the same physical space as counsel;
 - Witnesses may be in the same physical space as counsel for one of the parties;
- Time zone considerations
- Interpretation/translation considerations

Technological Requirements

You will need a computer (highly recommended) or tablet (not recommended) with either speakers and a microphone or a headset with a microphone, and a camera. If using a computer, you might be prompted to download and run ZoomGov (highly recommended). If using a tablet, you should download the free ZoomGov app in advance of connecting to the ZoomGov meeting.

You will have the opportunity to check your audio upon joining a meeting. Using headphones with a microphone is preferred to reduce other noise and feedback. Also consider using a web camera for better video quality.

You will receive notice for a video conference from court staff. The notification will include a link to “Join ZoomGov Meeting” as well as a Meeting ID and Passcode. You can join the ZoomGov session by clicking on the link or by inputting the Meeting ID and Passcode into the Zoom Application.

Internet Connectivity Speeds: minimum upload speed is 800kbps and minimum download speed is 1.0Mbps. For gallery view and/or 720p HD video you need 1.5Mbps upload and 1.5Mbps download.

www.speedtest.net is a free internet connectivity speed test. It is critical to test connectivity in real world conditions such as internet use by multiple users and higher traffic during business hours.

You can find the technical support details at:
<https://support.ZoomGov.us/hc/en-us/articles/201362023-Systemrequirements-for-Windows-macOS-and-Linux>.

Technology Check

The Court will ordinarily require the attorneys to participate in a technology check with court staff.

During that session, you are strongly encouraged to practice the following skills:

- Calling and examining a witness
- Examining a witness about an exhibit as to which admissibility is stipulated. The exhibit can be “published” by using the “Share Screen” in ZoomGov.com
- Laying a foundation for an exhibit as to which admissibility is disputed. The exhibit will be available to the witness, counsel, and Presiding Judge outside the ZoomGov.com platform (e.g., in hard copy form, on another electronic device, or in another screen on the same computer being used to participate in the ZoomGov.com session); if admitted, the exhibit can be published using the “Share Screen” function in ZoomGov.com
- Using the ZoomGov.com annotation tools, enlarging and highlighting an exhibit while examining a witness about it
- Using the ZoomGov.com whiteboard feature, asking a witness to draw a diagram and offering the drawing as a demonstrative exhibit
- Sharing a video recording
- Impeaching a witness with prior deposition testimony
- Posing objections

Training Videos

The Western District of Washington has added several training videos to its YouTube channel. These videos cover skills and knowledge which all participating attorneys must have:

<https://www.youtube.com/playlist?list=PLQQODreSvdKHWF4JsOIQp8zMJMt9ulM-2>

- Excerpt Conducting Remote Bench Trials in King County Superior Court CLE
- Joining & Configuring Audio & Video (In Zoom)
- (Zoom) Virtual Backgrounds
- (Zoom) Meeting Controls
- (Zoom) Sharing Your Screen
- (Zoom) Video Breakout Rooms

Troubleshooting ZoomGov Issues

What to do when things go wrong

- Resist the urge to panic. We all know things will not be perfect. We are in this together.
- Preparation is key. Review ZoomGov's FAQ and troubleshooting pages.
- Discuss in advance with counsel and witnesses how to address issues during the hearing.
- Audio issues? Be ready to pause until the source of the issue is identified.
- Video issues? Be prepared to shift to a telephonic (audio only) appearance (if appropriate) or to recess for an in-person appearance (if permitted by and in accordance with public health requirements (e.g., masks)).
- Be patient with yourself, the participants, and the Court.

The Zoom platform has several pages available with troubleshooting tips.

General FAQ for using ZoomGov can be found at:

<https://support.ZoomGov.us/hc/en-us/articles/206175806-Top-Questions>

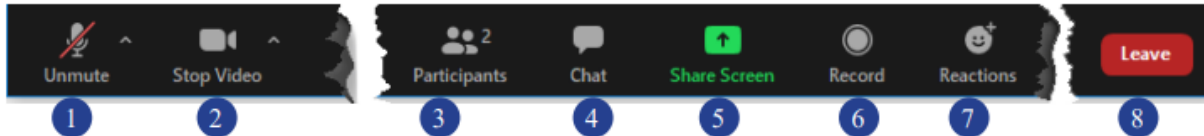
Video/Camera issues: Varies depending on OS and device:

<https://support.ZoomGov.us/hc/en-us/articles/202952568-My-Video-Camera-Isn-t-Working>

Audio issues: Only use one audio source per location. Echoes can be caused by a participant connecting to audio on multiple devices or multiple participants in one room or area using multiple audio devices: <https://support.ZoomGov.us/hc/en-us/articles/202050538-Audio-Echo-In-AMeeting>

Basic ZoomGov Controls

On a computer, a menu bar containing participant tools may appear and disappear as you move the mouse over the ZoomGov meeting, typically at the bottom of the screen. Mobile app interfaces will appear differently but contain most of the same functionality.



1. **Mute/Unmute your microphone:** Click the up arrow next to the microphone icon to open audio settings. Here you change your speaker and microphone settings.
2. **Start/Stop your video feed (Turn on/off camera):** Click the up arrow next to the camera icon to open video settings. Here you can change your camera settings.
3. **Participants:** Click to open a pop-out screen that shows a list of participants in the meeting. From this panel, the host can mute/unmute all participants and more. Includes a “Raise Hand” button that you may use to raise a virtual hand.
4. **Chat:** Click to open the Chat panel where you can start or respond to a chat.
5. **Share your screen:** Click to start sharing your desktop display or any window/application on your computer with others in the meeting. Click the up arrow to reveal sharing options. This option be used ONLY as authorized by the Court.
6. **Record:** Not available.
7. **Reactions:** This feature is disabled.
8. **Leave Meeting:** Leaving the meeting will disconnect you.

On your ZoomGov screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” shows the active speaker. “Gallery view” tiles all of the meeting participants.

ZoomGov Settings

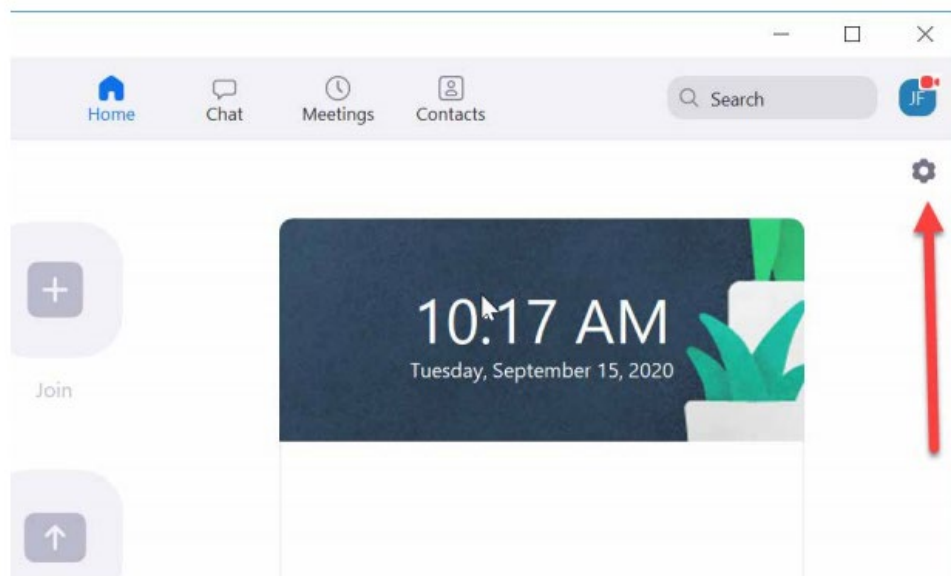
There are some basic ZoomGov settings that you might want to adjust prior to your trial.

Turn off non-video participants

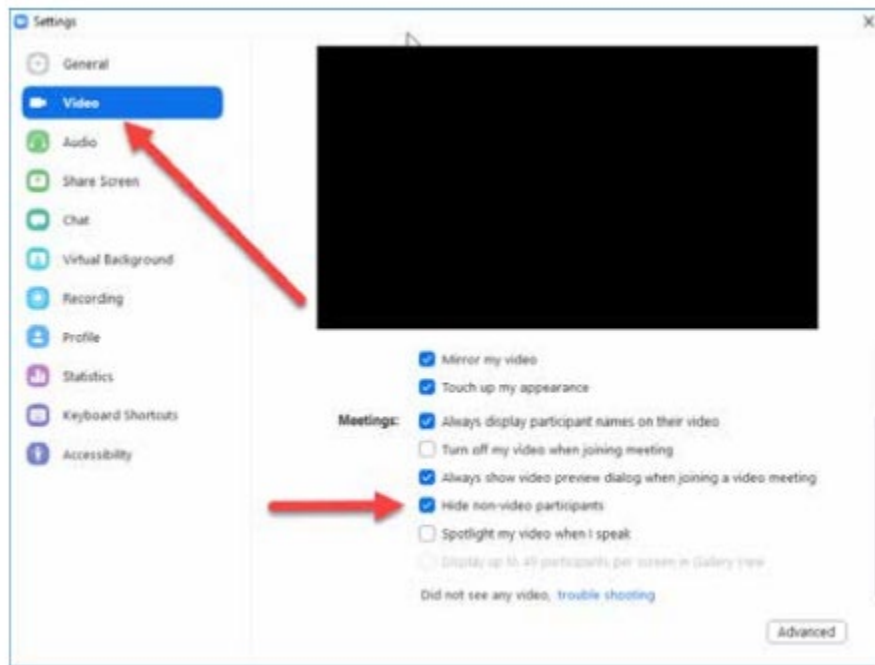
ZoomGov can display only a certain number of video participants at a time. If you are using an iPad, this number is smaller than what is available on a computer. It is important for you to be able to see and observe all the key participants during the trial. Participants who have video turned off consume space on your ZoomGov screen even though you cannot see them. For non-video participants, ZoomGov will show you boxes with the participants' names. To maximize the number of video participants you can view, you can have ZoomGov display only participants who are using video. You can do this for ALL ZoomGov meetings or for just a specific ZoomGov trial.

Turn off non-video participants for all ZoomGov meetings:

1. Launch the ZoomGov app on your computer and click on the sprocket to access ZoomGov settings.

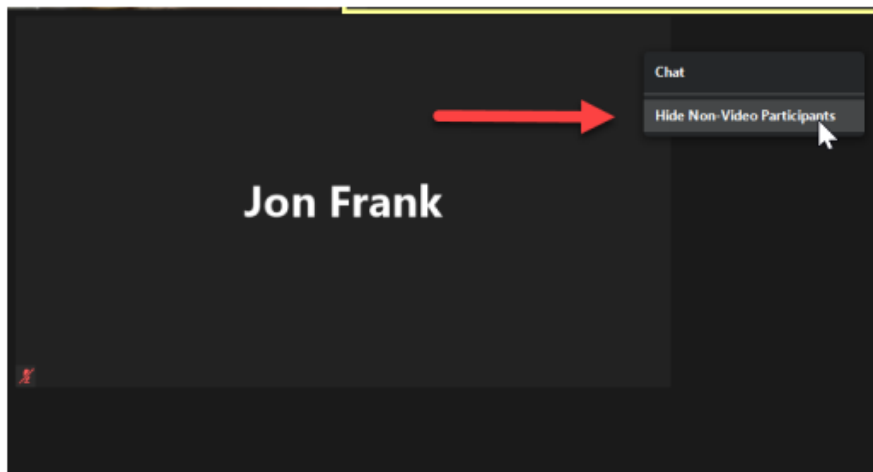


2. In the ZoomGov settings, click on Video and you'll see a checkbox for Hide non-video participants.



Turn off non-video participants for a specific ZoomGov trial:

Once you have joined your trial you will see all of the participants who have also joined. If there are participants who have joined with their video off, you will see a box with just their name. Hover your mouse over this box and you will see an ellipses button [...]. Click this button and you can select Hide Non-Video Participants.



Waiting Rooms & Breakout Rooms

The Court has enabled a virtual waiting room in the ZoomGov platform. This means that when you join the ZoomGov meeting you are automatically placed in a virtual waiting room until court staff admit you into the virtual courtroom. This approach ensures the security of the trial and allows for witnesses, for example, to log into the ZoomGov session for the trial but not join the virtual courtroom until it is time for them to testify.

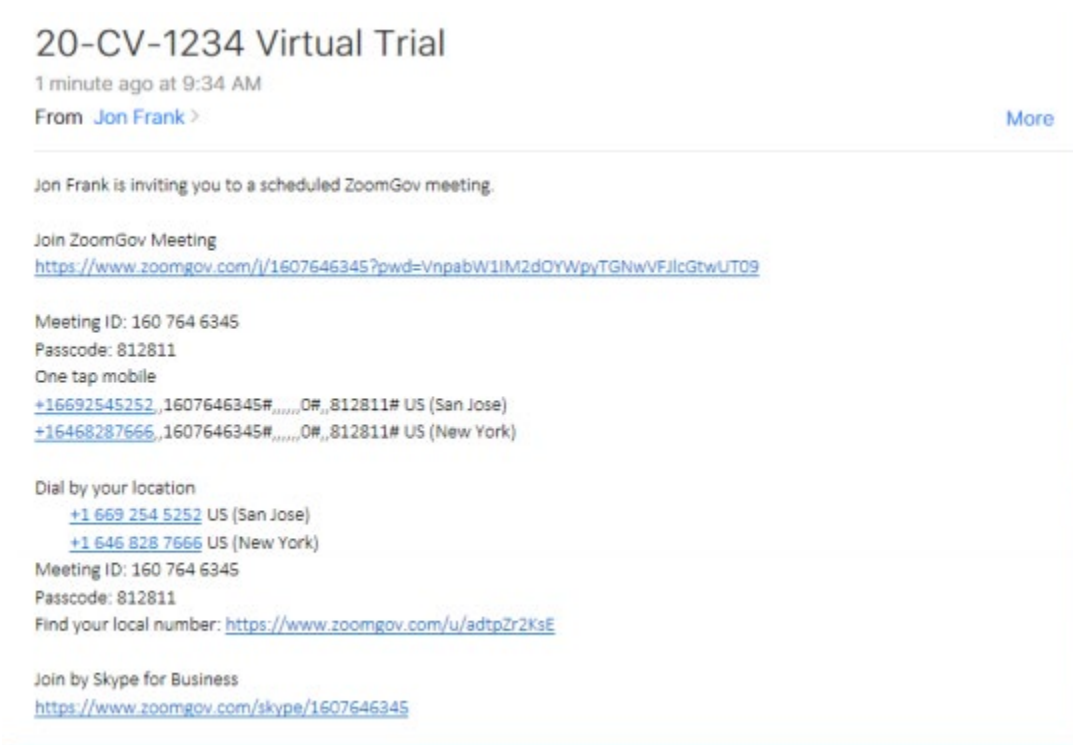
Breakout rooms can also be used if counsel wish to confer with their client privately. If you need to confer with your client and have so indicated to court staff, court staff will change your designation in ZoomGov to co-host. This will allow you to leave the breakout room at any time and return to the virtual courtroom. After you return, your co-host designation will be revoked.

If you need help from court staff, are done, or have a question, use the “Ask for help” button, indicated by a question mark symbol. This feature will invite the Host for the trial to the breakout room. Court staff will then join your breakout room, where you can get help or indicate that you have finished and can now rejoin the trial.

Trial Invitation

The courtroom deputy or trial coordinator for your trial judge will send a ZoomGov meeting request for your trial date. This request will include instructions and a link to join the ZoomGov meeting at the appropriate time. Once you have clicked the link to join you will then have the opportunity to test your audio by clicking on “test Computer Audio.” Once you are satisfied that your audio is working correctly, click on “Join audio by computer.”

Below is an example of how a trial invitation email might appear:



20-CV-1234 Virtual Trial
1 minute ago at 9:34 AM
From Jon Frank > More

Jon Frank is inviting you to a scheduled ZoomGov meeting.

Join ZoomGov Meeting
<https://www.zoomgov.com/j/1607646345?pwd=VnpabW1lM2dOYWpyTGhWVFJlcGtwUT09>

Meeting ID: 160 764 6345
Passcode: 812811
One tap mobile
[+16692545252](tel:+16692545252),1607646345#,,,,,0#,,812811# US (San Jose)
[+16468287666](tel:+16468287666),1607646345#,,,,,0#,,812811# US (New York)

Dial by your location
[+1 669 254 5252](tel:+16692545252) US (San Jose)
[+1 646 828 7666](tel:+16468287666) US (New York)

Meeting ID: 160 764 6345
Passcode: 812811
Find your local number: <https://www.zoomgov.com/u/adtpZr2KsE>

Join by Skype for Business
<https://www.zoomgov.com/skype/1607646345>

Trial Exhibits

Counsel should confer regarding:

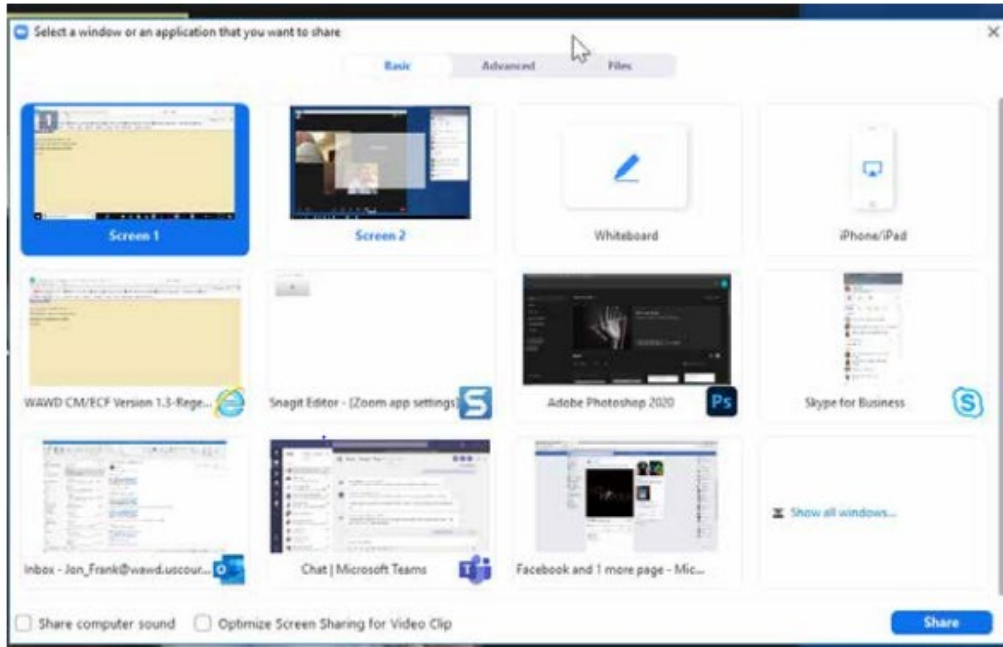
- process of providing exhibits to witnesses for their testimony, including whether by hard copy or electronically;
- use of demonstrative exhibits;
- use of physical exhibits; and
- process for witness annotation of exhibits during testimony and preserving any such annotations.

Displaying Exhibits During Trial

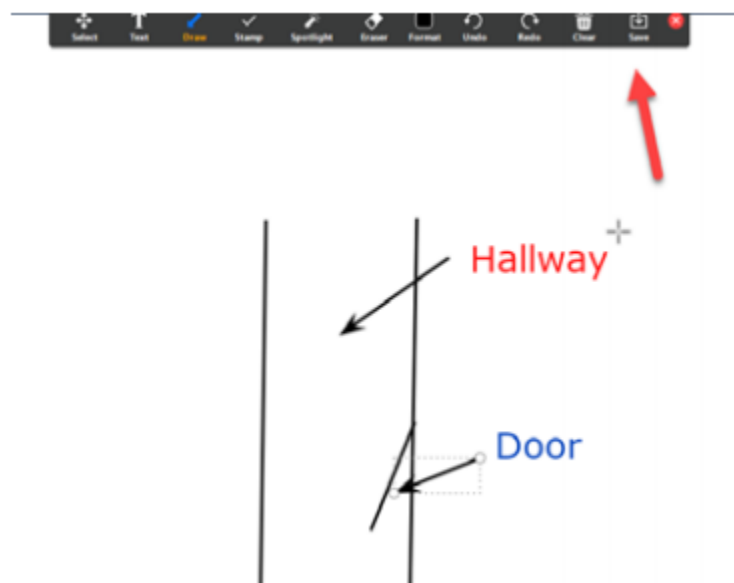
Exhibits can be “published” to the Court using the “Share Screen” feature on ZoomGov controls. If exhibits are “published” via your computer, the Court expects that those exhibits will be identical to the exhibit that was submitted to the Court previously. The Judge might require you to certify this fact prior to the trial.

To “publish” exhibits during trial, you will open the exhibit on your computer, and then use the “Share Screen” function in ZoomGov to share your “desktop” or an open window. You will need to make sure you have your system set to display the exhibits in one window to prevent needless delays.

Click “Share Screen” on ZoomGov controls.



ZoomGov will give you the option of screen(s), application, or whiteboard to share. If you are displaying video, you will want to check the boxes for “Share computer sound” and “Optimize Screen Sharing for Video Clip.” If you use the Whiteboard option, and want the final drawing to be admitted as an exhibit, you will need to save it when you have finished. Clicking the Save button in the annotation control bar will save the file to your computer. This file will be in your Documents folder > Zoom > date/time/Zoom meeting name.



The ZoomGov.com platform allows remote participants to “annotate” what is displayed via the “Share Screen” feature. If counsel moves to admit an annotated version of an exhibit, counsel shall move to mark the annotated version of the exhibit, and then move to admit the annotated exhibit into evidence. For example, if “Plaintiff’s Exhibit 100” is before the Court, the annotated exhibit will be marked as “Plaintiff’s Exhibit 100A.” The Courtroom Deputy will then “capture” the annotated exhibit. Once the exhibit is “captured,” counsel may “clear all drawings” to remove the annotations from the displayed screen before displaying the next exhibit.

If the other party is displaying a screen, you will want to make sure your view settings are set so that you can still see participants. At the top of your ZoomGov window, you will see a menu bar indicating screen sharing. Click on the dropdown for View Options and make sure it is set to “Side by Side” mode. Doing so will maximize your view of participants by displaying them to the side of the shared screen.

