

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

AMGEN INC.,

Plaintiff,

v.

SANDOZ INC., ET AL.,

Defendants.

Civil Action No. 18-11026 (MAS)(DEA)  
(consolidated)

Hon. Michael A. Shipp, U.S.D.J.  
Hon. Douglas E. Arpert, U.S.M.J.

(Filed Electronically)

**REMOTE TRIAL PROTOCOL ORDER**

The Court has ordered that trial in this action will proceed entirely remotely starting on June 14, 2021. The parties have met and conferred on procedures to govern remote testimony and agree to the following:

Witnesses and Exhibits

1. While providing testimony, no witness shall access any form of communication other than the agreed-upon official video or audio feed of the trial vendor. The parties agree that during his or her testimony, the witness and his/her own counsel cannot communicate with each other, either visually, audibly, or through electronic or written means, except through the video link provided to the Court and all counsel.
2. Expert witnesses may only have their demonstratives, witness binders, and paper copies of their expert reports and deposition transcript in front of them when they testify.
3. Fact witnesses may only have a witness binder of exhibits and demonstratives (if any) to be used during their direct testimony.
4. Each party will be responsible for printing its own copies of exhibits for direct examination for use by counsel and the witness.
5. Any party may provide witness(es) and opposing counsel with hard copies of exhibits or demonstratives for cross-examination in the form of a witness binder, should it choose to do so prior to commencing the witness's cross-examination. The witness and opposing counsel will not open the package containing the binders before commencement of the cross-examination. A party must make the cross-examination exhibits available no later than the conclusion of the direct examination so that the binder contents may be downloaded by opposing counsel and the witness either in the alternative to providing a binder or in addition to providing a binder.

## Technology

6. With the approval of the Court, the parties will use FTI, Inc. (“FTI”) as the neutral hosting platform for the trial. All costs associated with FTI’s services will be shared evenly by the parties.

7. FTI will work with the Court to provide any equipment requested by the Court or court staff and set up the equipment to facilitate the trial presentation as requested by the Court.

8. Each party’s trial support team will control the physical presentation of exhibits during direct, or cross, or redirect examination.

9. All parties will make every effort to reasonably limit the number of participants of the video session to those who have a need to attend. The participants seen on the screen and not muted during the examination of a witness will be limited to: (1) the Court; (2) the witness; (3) the attorney conducting the direct examination; (4) the attorney conducting the cross-examination; and (5) optionally, the court reporter and courtroom deputy.

10. A party may not share the video login information for the video session with anyone who is not (a) an attorney, summer associate or staff of a firm of record listed in Section XVII of the Pretrial Order; (b) a witness listed in Sections VI–VIII of the Pretrial Order; or (c) an employee of the Court or a party to this consolidated action.

11. Notwithstanding item 10, for the testimony of any third-party fact witness who is an employee of Bristol Myers Squibb (BMS), the video login information may be shared with up to three in-house or outside counsel for BMS.

12. The public will be granted access to the proceedings by means of an audio-only line that will not be unmuted or otherwise permitted to participate in the proceedings.

13. In the event that there is a discussion of material that would require sealing the courtroom in an in-person proceeding, upon oral order of the Court that the remote courtroom is sealed, the public audio-only line will be sequestered and unable to listen to the sealed portion of the proceeding. In the event that there is any other person participating in the video session who may not participate in the sealed portion of the proceeding, that person has an affirmative duty to advise the person controlling the neutral hosting platform that they need to be sequestered as well. Upon conclusion of the sealed portion of the proceedings and oral order of the Court that the remote courtroom is unsealed, the public audio-only line and all other participants in the video session will be rejoined to the proceedings.

14. A back-up recording will be made of the proceedings for purposes of evaluating and checking the transcript.

15. The parties will have real time access to livenote, and will be able to download a copy of the livenote transcript generated each day. To the extent feasible, the Court Reporter will provide a final transcript within seven (7) days of each days’ proceedings. The parties will exchange proposed errata by 7:00 p.m. ET two (2) days after receiving each day’s final transcript. The parties will provide responses to each errata (accepted or objected to, along with a proposed

correction) by 8:00 p.m. ET three (3) days after receiving each day's final transcript, and will thereafter meet and confer to resolve any disputes at 9:00 p.m. ET four (4) days after receiving each day's final transcript, with a final proposed errata to be sent to the Court Reporter the following day (i.e., five (5) days after receiving each day's final transcript). To the extent a final transcript is unavailable before submission of any post-trial submissions, the parties will submit corrected submissions with updated transcript citations within five (5) business days of receiving the final completed transcript.

**So Ordered this 10th day of June, 2021.**

  
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**Honorable Michael A. Shipp, U.S.D.J.**