

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**TECO Guatemala Holdings, LLC**  
(Claimant)

**v.**

**Republic of Guatemala**  
(Applicant)

**(ICSID Case No. ARB/10/23)**  
**Third Annulment Proceeding**

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**PROCEDURAL ORDER NO. 7**  
**Organization of the Hearing**

*Members of the Committee*

Ms. Deva Villanúa, President of the *ad hoc* Committee  
Prof. Lawrence Boo, Member of the *ad hoc* Committee  
Prof. Doug Jones AO, Member of the *ad hoc* Committee

*Secretary of the ad hoc Committee*

Ms. Mercedes Cordido-Freytes de Kurowski

*Assistant to the ad hoc Committee*

Mr. Felipe Aragón Barrero

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14 July 2022

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**WHEREAS**

1. On 17 May 2021, the Committee issued Procedural Order [“**PO**”] No. 1, setting jointly with the Parties the hearing dates for this annulment proceeding for 27 and 28 July 2022 (with a third day, on 29 July, held in reserve) [the “**Hearing**”].
2. On 31 March 2022, pursuant to para. 20.2 of PO No. 1 and after consulting with the Parties, the Committee decided to hold the Hearing in-person in London, with the arrangement for certain passive participants to join remotely.
3. On 5 July 2022, pursuant to para 19 of PO No. 1, the Parties and the Committee held a pre-Hearing videoconference for the preparation of the Hearing.
4. This Procedural Order establishes, in accordance with para 19.2 of Procedural Order No. 1, the organizational details of the Hearing.

**1. DATE AND FORMAT OF THE HEARING**

5. The Hearing shall take place in-person from 27 and 28 July 2022 (with a third day, on 29 July, held in reserve) at the facilities of the International Dispute Resolution Centre [“**IDRC**”] in London, 1 Paternoster Lane, St. Paul’s, London EC4M 7BQ.
6. The participants that will attend the Hearing in-person acknowledge the Covid-19 safety measures implemented by the IDRC. While masks are not currently compulsory in the premises of the IDRC, their use is advisable where social distancing may not be possible, for example in some common areas, lifts and toilets<sup>1</sup>.
7. The maximum number of persons in the hearing room shall be 30 including Committee Members, the Secretary of the Committee, the Assistant to the Committee, Court Reporters, electronic bundle operator and Counsel and Party Representatives. London attendees unable to be accommodated in the hearing room

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<sup>1</sup> <https://www.idrc.co.uk/faqs/>

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will be allowed to view the proceedings via the Zoom videoconference link from their respective party break out room.

8. Participants shall self-administer RAD COVID tests daily before the hearing and if testing positive (including Committee Members) shall attend the proceeding virtually.
9. The IDRC will arrange for virtual access to the Hearing for passive participants, via Zoom videoconferencing.
10. Access to the videoconference shall be restricted to those passive participants included in the list of participants confirmed pursuant to Section 17 *infra*. Should any non-listed participant attempt to connect to the videoconference, the technical operator hosting the meeting will alert the Secretary of the Committee, and the Committee will promptly address the matter with the Parties. All Hearing participants bear an ongoing duty to warn of the presence of any other person on the videoconference.

**2. ORDER OF PROCEEDINGS AND SCHEDULE**

11. The following schedule shall apply subject to the Committee’s discretion to adjust it as needed to accomplish the prescribed agenda and to accommodate any logistical disruptions:

<b>Day 1: 27 July 2022</b>		
<b><i>Hour</i></b>	<b><i>Duration</i></b>	<b>PROCEDURAL STEP</b>
<b>00:00 AM/PM (LONDON)</b>	<b>(# hours/min.)</b>	
12:00 PM	15 mins	<b>Housekeeping</b>
12:15 PM	1.25 hrs	<b>Guatemala’s Opening Statement</b>
1:30 PM	15 mins	<b>Short Break</b>
1:45 PM	1.25 hrs	<b>Guatemala’s Opening Statement</b>
3:00 PM	1 hr	<b>Long Break</b>
4:00 PM	1.25 hrs	<b>TECO’s Opening Statement</b>
5:15 PM	15 mins	<b>Short Break</b>
5:30 PM	1.25 hrs	<b>TECO’s Opening Statement</b>
6:45 PM	15 mins	<b>Housekeeping</b>
7:00 PM		<b>End</b>
<b>TOTAL</b>	<b>7 hours</b>	

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<b>Day 2: 28 July 2022</b>		
<i>Hour</i>	<i>Duration</i>	<b>PROCEDURAL STEP</b>
<b>00:00 AM/PM (LONDON)</b>	<b>(# hours/min.)</b>	
12:00 PM	15 mins	<b>Housekeeping</b>
12:15 PM	1 hr	<b>Guatemala’s Closing Statement</b>
1:15 PM	15 mins	<b>Short Break</b>
1:30 PM	1 hr	<b>Guatemala’s Closing Statement</b>
2:30 PM	1.5 hr	<b>Long Break</b>
4:00 PM	1 hr	<b>TECO’s Closing Statement</b>
5:00 PM	15 mins	<b>Short Break</b>
5:15 PM	1 hr	<b>TECO’s Closing Statement</b>
6:15 PM	15 mins	<b>Housekeeping</b>
6:30 PM		<b>End</b>
<b>TOTAL</b>	<b>6.5 hours</b>	

<b>Day 3: 29 July 2022</b>		
<i>Hour</i>	<i>Duration</i>	<b>PROCEDURAL STEP</b>
<b>00:00 AM/PM (LONDON)</b>	<b>(# hours/min.)</b>	
10:00 AM	15 mins	<b>Housekeeping</b>
10:15 AM	1.5 hrs	<b>Committee’s Questions</b>
11:45 AM	30 mins	<b>Break</b>
12:15 AM	1.5 hrs	<b>Committee’s Questions</b>
1:45 PM	15 mins	<b>Housekeeping + discussion of next steps</b>
2:00 PM		<b>End</b>
<b>TOTAL</b>	<b>4 hours</b>	

**3. TIME ALLOCATION**

12. The Hearing will proceed on the principle that the Parties should have equal time to present their case within the time allocation agreed upon.
  
13. Considering the total number of Hearing days (3 days), the projected time gives a total of 17.5 hours, less 5.5 hours for breaks, lunch break and housekeeping, resulting in 12 hours of sitting time. The time distribution is as follows:

- Committee: 3 hours;

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- Respondent: 4.5 hours;
  - Claimant: 4.5 hours.
14. The time used by the Committee for its own questions during the Parties' presentations and the answers to those questions, and time spent dealing with objections from a Party, shall not be counted against any Party's time, subject to a reasonable adjustment at the discretion of the Committee in the event of unusually protracted answers.
  15. The time used for housekeeping matters or to resolve technical difficulties shall be counted against the Committee's time if needed.
  16. Time shall be kept using chess-clock method. The Secretary of the Committee shall keep a chess clock account of time and advise the Parties of the total daily time used at the end of each Hearing day.

**4. PARTICIPANTS**

17. Each Party shall provide its respective list of Hearing participants, by 11 July 2022, using the format provided in Annex A. Each Party shall designate those participants that will be physically present in London, those who will be in the hearing room, those who will watch the proceedings remotely in London, and those who will join the proceedings remotely from other locations.
18. The List of Participants shall: (i) include their name, e-mail and/or telephone number; that each participant will use in the videoconference; (ii) for participants joining remotely through videoconference, they shall designate the "**Active Participants**" for each party, and identify the others as "**Passive Participants**"; (iii) indicate the location from which each of their participants (including counsel and party representatives) will join the videoconference; and (iv) indicate if several participants will use one and the same camera/connection.
19. Participants joining by videoconference shall identify themselves in the following format: [C] [first name and last name] (for participants on behalf of Claimant) and [R] [first name and last name] (for participants on behalf of Respondent). As regards

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participants joining collectively from a conference room, the connection of the relevant room shall be identified as “[C] / [R] – Room [Name],” as applicable.

20. Participants shall join the videoconference 30 minutes in advance of the start of the relevant Hearing day, to facilitate their identification and deal with any technical contingencies.
21. Each party shall identify its representatives at the beginning of the first day of the Hearing.
22. Participants will join the videoconference through a “*waiting room*” managed by IDRC. After having been identified, participants will be assigned to the appropriate “*breakout room*” until the Hearing commences.
23. The virtual platform will offer participants a dial-in telephone audio option, which shall be used as a default connection mechanism in the event that any participant experiences difficulties with computer connection.

**5. DOCUMENTS FOR USE AT THE HEARING**

**A. Electronic Hearing Bundle**

24. There shall be a single Electronic Hearing Bundle (PC and Mac compatible), to be prepared jointly by the Parties.
25. The Parties shall provide on 15 July 2022, the Electronic Hearing Bundle containing all pleadings, expert reports, exhibits, legal authorities and Committee’s orders or decisions on file to date, with a consolidated hyperlinked index. It shall not contain any document not previously filed or relied upon in this proceeding and shall be organized as follows:

**Electronic Hearing Bundle:**

**01. Pleadings (including from the underlying proceedings)**

- A. TECO
- B. Guatemala

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**02. Witness Statements from the underlying proceedings**

- A. TECO
- B. Guatemala

**03. Expert Reports from the underlying proceedings**

- A. TECO
- B. Guatemala

**04. Awards and Decisions from the underlying proceedings**

**05. Transcripts And Hearing Presentations from the underlying proceedings**

**06. Factual Exhibits**

- A. TECO
- B. Guatemala

**07. Legal Authorities**

- A. TECO
- B. Guatemala

**08. Procedural Correspondence Relied Upon By The Parties**

**09. Committee's Rulings**

26. The Electronic Hearing Bundle shall be uploaded by the Parties to a designated sub-folder in the BOX filesharing platform. To ensure operation of the hyperlinked index, the entire Electronic Hearing Bundle shall be housed within one folder and then uploaded to BOX as a single zip file. Should the size of the zip file make the upload to BOX impossible, the Parties shall upload the organized Electronic Hearing Bundle to a designated sub-folder on to the BOX filesharing platform, in a sub-folder using the structure indicated at paragraph 25 *supra*, including a consolidated (non-hyperlinked) index.

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27. Prior to the Hearing, the Members of the Committee, the Secretary of the Committee, the Assistant to the Committee and the Parties shall download the Electronic Hearing Bundle from the BOX Case Folder into their own devices to have access to it offline during the Hearing. The court reporters and the interpreters will also be provided a copy of the Electronic Hearing Bundle via the ICSID Secretariat.
28. A hard copy of the following documents of the file shall be made available to Prof. Doug Jones:
- the Parties' pleading of the annulment proceeding in English, without exhibits or legal authorities;
  - the consolidated indices of factual exhibits and legal authorities, in English.
  - The bundle shall be printed in A5 format, double sided and wire bound.
29. Documents that do not form part of the record or have not been relied upon by a Party in its written submissions in this proceeding may not be presented at the Hearing.

**B. Power Point presentations and demonstrative exhibits**

30. The Parties may use at the Hearing to assist their oral arguments, provided they contain no new evidence:
- Power Point presentations; and
  - Demonstrative exhibits (slides, charts, tabulations, etc.) derived from documents that form part of the record or have been relied upon by a Party in its written submissions. Pursuant to para. 16.10 of PO No. 1, the Parties shall indicate on each demonstrative exhibit the number or provide a reference of the documents(s) from which it is derived.
31. The Power Point presentations and demonstrative exhibits shall contain no new evidence. Each Party shall number its Power Point presentations and demonstrative

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exhibits consecutively, designating each with the corresponding CH-\_\_ or RH-\_\_ number.

32. The Parties shall provide the Power Point presentations and demonstrative exhibits in electronic (text-searchable PDF format) and hard copy to the other Party, the Committee Members, the Secretary, the Assistant, the court reporter(s) and interpreter(s), as follows:

- On Day 1 – for Opening Statements – the Power Point presentations shall be submitted five minutes before the presentation; and the demonstrative exhibits shall be submitted 30 minutes before the presentation.
- On Day 2 – for Closing Statements – the Power Point presentations and demonstrative exhibits shall be submitted five minutes before the presentation.

33. In addition, promptly after the conclusion of the Hearing day in which the corresponding Power Point presentation or demonstrative exhibit is used, the Parties shall upload such exhibits to the case folder in the BOX filesharing platform.

**6. LANGUAGE AND INTERPRETATION**

34. The Parties' counsel may use either procedural language at the Hearings and simultaneous interpretation will be available at all times. Transcripts shall be prepared in both procedural languages.

35. The costs of the interpreter(s) will be paid from the advance payments made by Respondent, without prejudice to the decision of the Committee as to which Party shall ultimately bear those costs.

**7. RECORDS OF THE HEARING**

**A. Sound and video recording**

36. Sound and video recording shall be made of the Hearing, which shall be provided to the Parties and the Committee.

**B. Transcription**

37. *Verbatim* transcripts in both procedural languages shall be made of the Hearing.

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38. The *verbatim* transcripts shall be available in real-time using LiveNote or similar software and electronic transcripts shall be provided to the Parties and the Committee on a same-day basis.
39. Transcription services in English will be provided by Mr. Trevor McGowan, and in Spanish by DR-Steno. The Court Reporters may seek to clarify the record from time to time during the course of the Hearing.
40. The Parties shall agree on any corrections to the transcripts within 20 days of the later of the dates of the receipt of the video recordings and transcripts. The agreed corrections may be entered by the Parties in the transcripts (“revised transcripts”). The Committee shall decide upon any disagreement between the Parties and any correction adopted by the Committee shall be entered by the Court Reporter in the revised transcripts.

**8. POST-HEARING SUBMISSIONS**

41. On the last day of the Hearing the Committee will consult with the Parties and issue directions with respect to Post-Hearing Briefs and Statement of Costs.

**9. PUBLIC ACCESS TO THE HEARING**

42. Pursuant to Section 20.6 of PO No. 1 and DR-CAFTA Article 10.21.2, the Committee shall conduct the Hearing open to the public. In order to comply with this requirement, the Hearing will be recorded and within 30 days posted on ICSID’s website for public access and will be available for viewing for 30 days.
43. Prior to its publication the Parties shall designate any content deemed protected information, pursuant to DR-CAFTA Article 10.21.4, that will be redacted from the published recordings.
44. The availability of the Hearing recordings will be announced publicly via the ICSID website in English and Spanish.

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**10. GENERAL PROVISIONS**

**A. Reservation of immunities**

45. Nothing in this Order shall constitute or be considered to be a limitation upon or a waiver of the privileges and immunities provided in Section 6 of the ICSID Convention, which privileges and immunities are specifically reserved.

**B. Data Privacy**

46. The List of Participants for the Hearing will contain personal data provided to ICSID in the context of the remote Hearing, including names and contact information, such as business email addresses and telephone numbers. This data is processed for the purpose of the legitimate interests of the Parties in resolving efficiently their dispute and, in particular, to ensure that procedural documents and Hearing arrangements are properly communicated to the Parties, their legal representatives, the Members of the Committee and other participants providing services for the Hearing.

[signed]

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Ms. Deva Villanúa  
President of the Committee  
Date: 14 July 2022

**ANNEX A – LIST OF PARTICIPANTS**

**HEARING ON ANNULMENT  
27 and 28 July 2022 (with a third day, on 29 July, held in reserve)  
LIST OF PARTICIPANTS<sup>2</sup>**

<b>COMMITTEE/TRIBUNAL</b>					
<b>Room</b>	<b>Name</b>	<b>Role</b>	<b>Affiliation to Case</b>	<b>Attendance</b>	<b>Personal Contact</b>
T	[T] – Ms. Deva Villanúa	A	President	In-Person	dvg@jfarmesto.com Phone: +34 650 12 81 74
T	[T] – Prof. Doug Jones AO	A	Co-member	In-Person	dougjones@dougjones.info Phone:
T	[T] – Prof. Lawrence Boo	A	Co-member	In-Person	lawboo@arbiter.com.sg Phone:

<b>SECRETARY OF THE COMMITTEE</b>					
<b>Room</b>	<b>Name</b>	<b>Role</b>	<b>Affiliation to Case</b>	<b>Attendance</b>	<b>Personal Contact</b>
T	[T] – Mercedes Kurowski		Secretary of the Committee	In-Person	mkurowski@worldbank.org Phone:

<b>ASSISTANT TO THE COMMITTEE</b>					
<b>Room</b>	<b>Name</b>	<b>Role</b>	<b>Affiliation to Case</b>	<b>Attendance</b>	<b>Personal Contact</b>
T	[T] Mr. Felipe Aragón		Assistant to the Committee	In-Person	fab@jfarmesto.com Phone: +34 655 94 50 72

<sup>2</sup> Use “A” (Active Participants) / “P” (Passive Participants).

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<b>ICSID</b>					
<b>Room</b>	<b>Name</b>	<b>Role</b>	<b>Affiliation to Case</b>	<b>Attendance / Location of Connection</b>	<b>Personal Contact</b>
	[ICSID] – Ms. Ivania Fernández	P	Paralegal	Remotely/ Washington, D.C	ifernandez1@worldbank.org Phone:
	[ICSID]- Dimitrios Georgios Kontogiannis	P	Intern	Remotely/ Grece	dkontogiannis@worldbank.org Phone:

<b>CLAIMANT-TECO</b>					
<b>Room</b>	<b>Name</b>	<b>Role</b>	<b>Affiliation to Case</b>	<b>Attendance/ If remotely, Location of Connection</b>	<b>Personal Contact</b>
	<b><i>Counsel:</i></b>				
C	[C] – Ms. Andrea J. Menaker	A	Counsel for TECO	In-Person	amenaker@whitecase.com Phone: +44 7825935700
C	[C] – Mr. Petr Polášek	A	Counsel for TECO	In-Person	ppolasek@whitecase.com Phone: +1 202 460 1308
C	[C] – Ms. Kristen M. Young	A	Counsel for TECO	In-Person	kyoung@whitecase.com Phone: +1 202 294 3609
C	[C] – Ms. Poorvi Satija	P	Counsel for TECO	In-Person	poorvi.satija@whitecase.com Phone: +44 7917616610
C	[C] – Mr. Kit Chong Ng	P	Counsel for TECO	In-Person	kit.ng@whitecase.com Phone: +44 7704544720
	<b><i>Party Representatives:</i></b>				
C	[C] – Mr. David Nicholson	P	TECO Energy, Inc., Vice President Legal, General Counsel and Chief Ethics and Compliance Officer	In-Person	dmnicholson@tecoenergy.com Phone: + 1 813 228 1556
C	[C] – Mr. Javier Cuebas	P	TECO Energy, Inc., Senior Corporate Counsel	In-Person	JCuebas@tecoenergy.com Phone: + 1 813 228 4137
	<b><i>Legal Assistant and Trainee:</i></b>				
C	[C] – Ms. Brooke Wilson	P	Legal Assistant, White & Case LLP	Remotely / [C Room in IDRC]	brooke.wilson@whitecase.com Phone: +44 7961905697
C	[C] – Mr. Sebastian Modos	P	Trainee Solicitor, White & Case LLP	Remotely / [C Room in IDRC]	sebastian.modos@whitecase.com Phone: +44 7551373046

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<b>RESPONDENT/APPLICANT- REPUBLIC OF GUATEMALA</b>					
<b>Room</b>	<b>Name</b>	<b>Role</b>	<b>Affiliation to Case</b>	<b>Attendance/ If remotely, Location of Connection</b>	
	<b><i>Counsel:</i></b>				
R	[R] - Ignacio Torterola	A	Counsel for the Republic of Guatemala	In person	ingacio.torterola@gstllp.com
R	[R] - Diego Gosis	A	Counsel for the Republic of Guatemala	In person	diego.gosis@gstllp.com
R	[R] - Quinn Smith	A	Counsel for the Republic of Guatemala	In person	quinn.smith@gstllp.com
R	[R] - Pablo Mori	A	Counsel for the Republic of Guatemala	In person	pablo.mori@gstllp.com
R	[R] - Carmine Pascuzzo	P	Counsel for the Republic of Guatemala	In person / [C Room in IDRC]	carmine.pascuzzo@gstll.com
R	[R] - Farhod Sharipov	P	Counsel for the Republic of Guatemala	In person / [C Room in IDRC]	farhod.sharipov@gstllp.com
R	[R] - Fabiola Madrigal	P	Counsel for the Republic of Guatemala	In person / [C Room in IDRC]	Fabiola.madrigal@gstllp.com
R	[R] - Nicolas González	P	Counsel for the Republic of Guatemala	In person	nicolas.gonzalez@gstllp.com
R	[R] - Katherine Sanoja	P	Counsel for the Republic of Guatemala	Remotely, Miami	katherine.sanoja@gstllp.com
R	[R] - José Angelo David	P	Counsel for the Republic of Guatemala	Remotely, Washington D.C.	joseangelo.david@gstllp.com
R	[R] - Bethel Kassa	P	Counsel for the Republic of Guatemala	Remotely, Washington D.C.	bethel.kassa@gstllp.com
	<b><i>Party Representatives:</i></b>				
R	[R] – Wuelmer Gómez	A	Attorney General of the Republic of Guatemala	In person	wuelmer.gomezg@pgn.gob.gt
R	[R] – Rita Castejón	P	Advisor to the Superior Office of the Attorney General's Office	Remotely, Guatemala	rita.castejon@pgn.gob.gt
R	[R] – Cristián Rodríguez	P	Advisor to the Superior Office of the Attorney General's Office	Remotely, Guatemala	cristian.rodriguez@pgn.gob.gt
R	[R] – Lilian Nájera	P	Head of the International	In person	lilian.najerar@pgn.gob.gt

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			Affairs Unit of the Attorney General's Office		
R	[R] – Julio Santiz	P	Legal Professional of the Attorney General's Office	In person [C Room in IDRC]	julio.santizg@pgn.gob.gt
R	[R] – Mario Mérida	P	Legal Professional of the Attorney General's Office	Remotely, Guatemala	mario.meridap@pgn.gob.gt
R	[R] – Andres Puente	P	Legal Assistant of the Attorney General's Office	Remotely, Guatemala	andres.puentepe@pgn.gob.gt
R	[R] – Diego de León	P	Legal Assistant of the Attorney General's Office	Remotely, Guatemala	diego.deleont@pgn.gob.gt
R	[R] – Janio Rosales	A	Minister of Economy	Remotely, Guatemala	jrosales@mineco.gob.gt
R	[R] – Maria Luisa Flores	A	Vice Minister of Integration and Foreign Trade	Remotely, Guatemala	mfloresvillagran@mineco.gob.gt
R	[R] – Victoria Meza	P	Director of Foreign Trade	Remotely, Guatemala	vmeza@mineco.gob.gt
R	[R] – Karla Liquez	P	Legal Advisor, Foreign Trade	In person	keliqeza@mineco.gob.gt
R	[R] – Ivannia Ponce	P	Legal Advisor, Foreign Trade	Remotely, Guatemala	iyponcez@mineco.gob.gt
R	[R] – Tania Guzmán	P	Legal Advisor, Foreign Trade	Remotely, Guatemala	tdguzmanl@mineco.gob.gt

**INTERPRETERS**

Room	Name	Affiliation to Case	Attendance
	Mr. Daniel Giglio	English-Spanish Interpreter	In-Person
	Ms. Silvia Colla	English-Spanish Interpreter	In-Person
	Ms. Anna Sophia Chapman	English-Spanish Interpreter	In-Person

**COURT REPORTER**

Room	Name	Affiliation to Case	Attendance
	Mr. Trevor McGowan	English Court-Reporter	In-Person
	D-R Esteno	Spanish Court-Reporter [DR-Steno]	In-Person