

COLLOT GUERARD

JOSHUA DOAN

AMANDA GRIER

THOMAS HARRIS

(Each appearing pursuant to DUCivR 83-1.1(d)(1))

600 Pennsylvania Ave., NW, CC-8528

Washington, D.C. 20580

Telephone: (202) 326-3338

cguerard@ftc.gov; jdoan@ftc.gov; agrier@ftc.gov; tharris1@ftc.gov

Attorneys for Plaintiff

FEDERAL TRADE COMMISSION

Thomas M. Melton (4999)

Robert G. Wing (4445)

Joni Ostler (9607)

Kevin McLean (16101)

Assistant Attorneys General

Utah Attorney General's Office

160 East 300 South, Fifth Floor

Salt Lake City, Utah 84114

Tel: (801) 366-0310

tmelton@agutah.gov

rwing@agutah.gov

joniostrler@agutah.gov

kmclean@agutah.gov

Attorneys for Plaintiff

UTAH DIVISION OF CONSUMER PROTECTION

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

---

FEDERAL TRADE COMMISSION and  
UTAH DIVISION OF CONSUMER  
PROTECTION,

Plaintiffs,

v.

ZURIXX, LLC, *et al.*

Defendants.

**PARTIES' STIPULATED MOTION  
FOR TAKING DEPOSITIONS  
BY REMOTE MEANS**

Case No. 2:19-cv-00713-DAK-DAO

District Judge Dale A. Kimball  
Magistrate Judge Daphne A. Oberg

---

Pursuant to Rules 1, 29 and 30(b)(4) of the Federal Rules of Civil Procedure, Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection (collectively “Plaintiffs”) and Defendants Zurixx, LLC, Brand Management Holdings, LLC, CAC Investment Ventures, LLC-Utah, CAC Investment Ventures, LLC-Puerto Rico, Carlson Development Group, LLC-Utah, Carlson Development Group, LLC-Puerto Rico, CJ Seminar Holdings, LLC, Dorado Marketing and Management, LLC, Zurixx Financial, LLC-Utah, Zurixx Financial, LLC-Puerto Rico, Cristopher A Cannon, James M. Carlson, and Jeffrey D. Spangler (“Zurixx Defendants”) and JSS Investment Ventures, LLC, JSS Trust, Gerald D. Spangler, and Relief Defendant Stephenie J. Spangler (“JSS Defendants”) (collectively “Defendants”) (Plaintiffs and Defendants, collectively, “Parties”) have met, conferred, and stipulated to the following deposition protocol for any depositions to take place by remote means of party witnesses in this litigation. In addition, the Parties stipulate that this deposition protocol shall govern the procedures for any non-party depositions taken by remote means in this litigation to the extent the non-party does not object to the provisions herein. The Parties submit that, given the ongoing COVID-19 pandemic, good cause exists for entry of the attached proposed Order.

June 17, 2021

Respectfully submitted,

/s/ Collot Guerard

Collot Guerard

Joshua Doan

Amanda Grier

Thomas Harris

(Each appearing per DUCivR 83-1.1(d)(1))

Federal Trade Commission

600 Pennsylvania Ave. NW, CC-8528

Tel: (202) 326-3187

Email: cguerard@ftc.gov

Email: jdoan@ftc.gov  
Email: agrier@ftc.gov  
Email: tharris1@ftc.gov

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

/s/ Joni Ostler  
(Signed by Filing Attorney with  
Permission of Plaintiff's Attorney)

/s/ Collot Guerard  
Robert G. Wing (4445)  
Thomas M. Melton (4999)  
Joni Ostler (9607)  
Kevin McLean (16101)  
Assistant Attorneys General  
Utah Attorney General's Office  
160 East 300 South, Fifth Floor  
Salt Lake City, Utah 84114  
Tel: (801) 366-0310  
Email: rwing@agutah.gov  
Email: tmelton@agutah.gov  
Email: joniostrler@agutah.gov  
Email: kmclean@agutah.gov

Attorneys for Plaintiff  
UTAH DIVISION OF CONSUMER  
PROTECTION

Z. Ryan Pahnke  
(Signed by Filing Attorney with Permission of  
Defendants' Attorney)  
/s/ Collot Guerard  
RAY QUINNEY & NEBEKER, PC  
36 South State Street, Suite 1400  
PO Box 45385  
Salt Lake City, UT 84145  
Telephone: 801-323-3327  
Email: rpahnke@rqn.com

Eric Benson  
(Signed by Filing Attorney with Permission of  
Defendants' Attorney)  
/s/ Collot Guerard  
POTTER HANDY LLP  
2700 Homestead Rd., Suite 60  
Park City, UT 84908  
Telephone: 858-375-7385  
Email: ericb@potterhandy.com

D. Loren Washburn  
(Signed by Filing Attorney with Permission of  
Defendants' Attorney)  
/s/ Collot Guerard  
ARMSTRONG TEASDALE  
201 South Main St., Suite 2400  
Salt Lake City, UT 84111  
Telephone: 800-243-5070  
Email: lwashburn@atllp.com  
*Attorneys for the Zurixx Defendants*

Brennan Moss  
Michael Gehret  
(Signed by Filing Attorney with Permission of  
Defendants' Attorney)  
/s/ Collot Guerard  
ARMSTRONG TEASDALE  
257 East 200 South, Suite 350  
Salt Lake City, UT 84111  
Telephone: 720-613-7088  
Email: bmoss@atllp.com  
Email: mgehret@atllip.com  
*Attorneys for the JSS Defendants*

**Certificate of Service**

I HEREBY CERTIFY that on June 17, 2021, a true and correct copy of the foregoing, Parties' Stipulated Motion Regarding the Taking of Remote Depositions was served electronically by the Court's ECF System upon:

Z. Ryan Pahnke  
RAY QUINNEY & NEBEKER, PC  
36 South State Street, Suite 1400  
PO Box 45385  
Salt Lake City, UT 84145  
Telephone: 801-323-3327  
Email: ebenson@rqn.com  
Email: rpahnke@rqn.com

Eric Benson  
POTTER HANDY LLP  
2700 Homestead Rd., Suite 60  
Park City, UT 84908  
Telephone: 858-375-7385  
Email: ericb@potterhandy.com

D. Loren Washburn  
ARMSTRONG TEASDALE  
201 South Main St., Suite 2400  
Salt Lake City, UT 84111  
Telephone: 800-243-5070  
Email: lwashburn@atllp.com

*Attorneys for the Zurixx Defendants*

Brennan Moss  
Michael Gehret  
ARMSTRONG TEASDALE  
257 East 200 South, Suite 350  
Salt Lake City, UT 84111  
Telephone: 720-613-7088  
Email: bmoss@atllp.com  
Email: mgehret@atllip.com

*Attorneys for the Additional Spangler Defendants*

/s/ Collot Guerard  
Collot Guerard

---

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

---

FEDERAL TRADE COMMISSION and  
UTAH DIVISION OF CONSUMER  
PROTECTION,

Plaintiffs,

v.

ZURIXX, LLC, *et al.*

Defendants.

**STIPULATED ORDER FOR TAKING  
DEPOSITIONS BY REMOTE MEANS**

Case No. 2:19-cv-00713-DAK-EJF

District Judge Dale A. Kimball  
Magistrate Judge Daphne A. Oberg

---

Pursuant to Rules 1, 29 and 30(b)(4) of the Federal Rules of Civil Procedure, Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection (collectively “Plaintiffs”) and Defendants Zurixx, LLC, Brand Management Holdings, LLC, CAC Investment Ventures, LLC-Utah, CAC Investment Ventures, LLC-Puerto Rico, Carlson Development Group, LLC-Utah, Carlson Development Group, LLC-Puerto Rico, CJ Seminar Holdings, LLC, Dorado Marketing and Management, LLC, Zurixx Financial, LLC-Utah, Zurixx Financial, LLC-Puerto Rico, Cristopher A Cannon, James M. Carlson, and Jeffrey D. Spangler (“Zurixx Defendants”) and JSS Investment Ventures, LLC, JSS Trust, Gerald D. Spangler, and Relief Defendant Stephenie J. Spangler (“JSS Defendants”) (collectively “Defendants”) (Plaintiffs and Defendants, collectively, “Parties”) have met, conferred, and stipulated to the following deposition protocol for any depositions to take place by remote means of party witnesses in this litigation. In addition, the Parties stipulate that this deposition protocol shall govern the procedures for any non-party depositions taken by remote means in this litigation to the extent the non-party does not object to the provisions herein. The Parties submit that, given the ongoing [Proposed] Order for Taking Depositions By Remote Means

COVID-19 pandemic, good cause exists for entry of this Order under the following terms.

Having reviewed the Stipulated Motion, and for good cause appearing, the Court GRANTS the Parties' Stipulated Motion and enters the following Order.

**I. GENERAL PRINCIPLES AND DURATION OF THIS ORDER**

A. This Order is intended to allow the Parties to continue deposition discovery in light of the ongoing COVID-19 pandemic.

B. The Court and counsel recognize that the COVID-19 pandemic requires the Parties to be flexible in undertaking deposition discovery in this litigation. The Parties are encouraged to take steps that will enable deponents, the Parties, their counsel, and other personnel, including court reporters and videographers, to complete depositions in a manner that appropriately accounts for personal health care needs.

C. This Order shall govern all depositions taken by Remote Means of any witnesses of any of the Parties. "Remote Means" shall mean procedures for taking depositions that comply with local, state and federal guidance, regulations, and orders concerning social distancing and public health, including by (a) telephone, or (b) video-conferencing platforms that allow for the deponent, the deponent's counsel, Plaintiffs' counsel, Defendants' counsel, the court reporter, and videographer to participate in the deposition without attending the deposition in-person.

D. In addition, this Order shall be provided to any non-party witness or such non-party witness's counsel concurrently with the service of any subpoena that requests that a non-party deposition be taken by Remote Means to determine whether said non-party agrees to the provisions of this Order. In the case of any non-party witness that has been subpoenaed prior to the entry of this Order, this Order shall be provided to such non-party witness promptly upon the entry of this Order.

E. Unless otherwise stated, this Order is not intended to alter, expand, or limit the applicable Federal Rules of Civil Procedure, Federal Rules of Evidence, and/or court orders.

## II. PROCEDURES FOR TAKING DEPOSITIONS BY REMOTE MEANS

A. Pursuant to Fed. R. Civ. P. 29(a) and Fed. R. Civ. P. 30(b)(4), counsel for the party requesting a deposition in this case (“Deposing Counsel”) may notice the deposition to occur by Remote Means.

B. Pursuant to Fed. R. Civ. P. 30(f)(2), counsel shall be responsible for ensuring that any exhibits that they wish to mark and use at the deposition can be shown to the witness in a manner that enables the witness to review the exhibits during the course of the deposition.

Counsel may choose either of the following means for marking and using deposition exhibits:

(a) emailing or sending via FedEx, U.S. Postal Service, or UPS exhibits to the deponent, the deponent’s counsel, Plaintiffs’ counsel, Defendants’ counsel, and the court reporter in advance of the deposition; or (b) using a platform that enables counsel to display the entirety of any exhibits electronically to the deponent, the deponent’s counsel, Plaintiffs’ counsel, Defendants’ counsel, and the court reporter.

C. As used in Fed. R. Civ. P. 28(a)(1)(A), the “place of examination” is the location of the deponent. A court reporter may administer an oath concerning a deposition via Remote Means.

D. Deposing Counsel and the deponent’s counsel shall meet, confer, and cooperate to ensure that the deponent has technology sufficient to attend the deposition via Remote Means. Any party may object to a deposition occurring by Remote Means if the deponent is unable to secure technology that is sufficient.



E. Deposing Counsel is responsible for ensuring that the Remote Means utilized for a deposition allows for the court reporter to accurately record the deponent's testimony. Either Deposing Counsel or the deponent's counsel may elect to have a technical specialist attend a deposition taken by Remote Means to ensure that technical issues are resolved in a timely manner.

F. Should technical issues materially interfere with the Parties' ability to take any deposition pursuant to this Order on the scheduled date and such technical issues cannot be remedied in a timely manner, the deponent's counsel, Plaintiffs' counsel, and Defendants' counsel shall meet, confer, and reasonably cooperate with one another regarding the rescheduling of the deposition.

G. In addition to recording deposition testimony by stenographic means, the deposing party may record the deposition by video in such manner as would be admissible in court.

H. All objections to the use and admissibility of the transcript or video of a deposition taken pursuant to this Order based on the fact that the deposition was taken by Remote Means are deemed waived except as otherwise provided herein.

I. The Parties agree not to oppose reasonable accommodations to allow conferences during breaks, as well as communications between co-counsel during the deposition.

J. All persons attending depositions taken pursuant to this Order shall ensure that they can do so in a space that is relatively free from distractions that would inhibit the course of the deposition.

K. Notwithstanding the foregoing, nothing in this Order prohibits any witness, party, or non-party, or any counsel for any witness, party or non-party, from objecting to specific

depositions occurring by Remote Means including, but not limited to, on the grounds that having counsel physically separate from the witness would constitute a violation of the witness's, the party's or the non-party's due process rights. Such objections shall be raised promptly after receipt of the deposition notice. In the case of a non-party witness that has been subpoenaed prior to the entry of this Order, such objections shall be raised promptly after receipt of this Order. In the event that one or more such objections are raised, the witness, Parties, or the non-party, through their respective counsel, shall meet and confer in a good faith effort to resolve the objection(s) before seeking relief before this Court, in the case of a party, or, in the case of a non-party, before the court where compliance is required pursuant to Fed. R. Civ. P. 45(d).

**SO ORDERED** this     day of     , 2021.

BY THE COURT:

\_\_\_\_\_  
Daphne A. Oberg  
United States Magistrate Judge

**SO STIPULATED:**

Dated: June 17, 2021

/s/Collot Guerard  
Collot Guerard  
(Appearing pursuant to DUCivR 83-  
1.1(d)(1))  
600 Pennsylvania Ave., NW, CC-8528  
Washington, D.C. 20580  
Telephone: (202) 326-3338  
cguerard@ftc.gov  
Attorney for Plaintiff  
FEDERAL TRADE COMMISSION

/s/ Joni Ostler

(Signed by Filing Attorney with Permission  
of Plaintiff's Attorney)

/s/ Collot Guerard

Joni Ostler (9607)

Assistant Attorneys General

Utah Attorney General's Office

160 East 300 South, Fifth Floor

Salt Lake City, Utah 84114

Tel: (801) 366-0310

Attorney for Plaintiff

UTAH DIVISION OF CONSUMER  
PROTECTION

Z. Ryan Pahnke

(Signed by Filing Attorney with Permission  
of Defendants' Attorney)

/s/ Collot Guerard

RAY QUINNEY & NEBEKER, PC

36 South State Street, Suite 1400

PO Box 45385

Salt Lake City, UT 84145

Telephone: 801-323-3327

Email: rpahnke@rqn.com

Eric Benson

(Signed by Filing Attorney with Permission  
of Defendants' Attorney)

/s/ Collot Guerard

POTTER HANDY LLP

2700 Homestead Rd., Suite 60

Park City, UT 84908

Telephone: 858-375-7385

Email: ericb@potterhandy.com

D. Loren Washburn

(Signed by Filing Attorney with Permission  
of Defendants' Attorney)

/s/ Collot Guerard

ARMSTRONG TEASDALE

201 South Main St., Suite 2400

Salt Lake City, UT 84111

Telephone: 800-243-5070

Email: lwashburn@atllp.com

*Attorneys for the Zurixx Defendants*

Brennan Moss  
Michael Gehret  
(Signed by Filing Attorney with Permission  
of Defendants' Attorney)

/s/ Collot Guerard

ARMSTRONG TEASDALE  
257 East 200 South, Suite 350  
Salt Lake City, UT 84111  
Telephone: 720-613-7088  
Email: [bmoss@atllp.com](mailto:bmoss@atllp.com)  
Email: [mgehret@atllp.com](mailto:mgehret@atllp.com)

*Attorneys for the JSS Defendants*