

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re	Chapter 11
Lordstown Motors Corp., <i>et al.</i> , ¹	Case No. 23-10831 (MFW)
Debtors.	(Jointly Administered)
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Lordstown Motors Corp., <i>et al.</i> ,	Adv. Pro. No. 23-50428 (MFW)
Plaintiffs,	
v.	
ATRI AMIN and BENJAMIN HEBERT, on behalf of themselves and similarly situated stockholders of Lordstown Motors Corp. (f/k/a DiamondPeak Holdings Corp.),	
Defendants.	

**CERTIFICATE OF COUNSEL REGARDING ORDER APPROVING STIPULATION
GOVERNING PROCEDURES FOR REMOTE DEPOSITIONS**

The undersigned hereby certifies as follows:

1. The parties in the above-captioned adversary proceeding have agreed to the terms of the *Stipulation Governing Procedures for Remote Depositions*, attached as Exhibit 1 to the proposed order approving same attached hereto as **Exhibit A** (the “Order”). The parties request the Court enter the Order at the convenience of the Court without further notice or hearing.

¹ The Debtors and the last four digits of their respective taxpayer identification numbers are: Lordstown Motors Corp. (3239); Lordstown EV Corporation (2250); and Lordstown EV Sales LLC (9101). The Debtors’ service address is 27000 Hills Tech Ct., Farmington Hills, MI 48331.



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Dated: July 28, 2023
Wilmington, Delaware

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EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

Lordstown Motors Corp., *et al.*,¹

Debtors.

Chapter 11

Case No. 23-10831 (MFW)

(Jointly Administered)

Lordstown Motors Corp., *et al.*,

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ATRI AMIN and BENJAMIN HEBERT, on
behalf of themselves and similarly situated
stockholders of Lordstown Motors Corp.
(f/k/a DiamondPeak Holdings Corp.),

Defendants.

Adv. Pro. No. 23-50428 (MFW)

**ORDER APPROVING STIPULATION GOVERNING
PROCEDURES FOR REMOTE DEPOSITIONS**

Pursuant to the certificate of counsel (the “CoC”) of the defendants in the above-captioned adversary proceeding (the “Defendants”) pending in the cases of the above-captioned debtors and debtors in possession (each, the “Debtor” or collectively the “Debtors”) for entry of this order (the “Order”) approving the *Stipulation Governing Procedures for Remote Depositions*, dated as of July 28, 2023 (the “Stipulation”),² attached hereto as **Exhibit 1**, by and among the Defendants and Debtors (the “Parties,” and each a “Party”); and the Court having jurisdiction to consider the CoC

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² Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Stipulation.

and the Stipulation pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware dated February 29, 2012; and consideration of the CoC and the Stipulation being a core proceeding pursuant to 28 U.S.C. § 157(b) in which the Court may enter a final order; and venue being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and after due deliberation and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Stipulation is APPROVED as set forth herein.
2. The Parties are hereby authorized and empowered to take any and all steps necessary and appropriate to effectuate the terms of this Order.
3. The terms of the Stipulation shall be binding upon all Parties to the Stipulation and their successors and assigns.
4. This Court shall retain jurisdiction with respect to any matters, claims, rights or disputes arising from or relating to the implementation, interpretation or enforcement of this Order.

Exhibit 1

**IN THE UNITED STATES BANKRUPTCY COURT
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In re	Chapter 11
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Debtors.	(Jointly Administered)
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Lordstown Motors Corp., <i>et al.</i> ,	Adv. Pro. No. 23-50428 (MFW)
Plaintiffs,	
v.	
ATRI AMIN and BENJAMIN HEBERT, on behalf of themselves and similarly situated stockholders of Lordstown Motors Corp. (f/k/a DiamondPeak Holdings Corp.),	
Defendants.	

**STIPULATION GOVERNING
PROCEDURES FOR REMOTE DEPOSITIONS**

WHEREAS, the parties hereto (the “Parties,” and each a “Party”) will notice and schedule depositions in the above-captioned action (the “Action”);

WHEREAS, the Parties desire to enter into a stipulation pursuant to Federal Rule of Civil Procedure Rule 30(b)(4) to set forth procedures for remote depositions;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the Parties, through their undersigned counsel, and subject to the approval of the Court, that:

1. Depositions in this Action may be taken remotely if the Party noticing the deposition and the deponent agree that the deposition shall be taken by remote means. Any notice

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for a deposition to be taken remotely shall reflect that agreement. Any deposition taken remotely will use videoconference technology.

2. All remote deposition(s) shall be video recorded. Each person physically attending a remote deposition shall be visible to all other participants, their statements shall be audible to all participants, and they should strive to ensure their environment is free from noise and distractions. However, individuals other than the deponent, the counsel undertaking the examination of the deponent, and the counsel defending the deposition may disable or mute their audio and video feeds, provided that each person in the same room as the deponent during the remote deposition shall be visible to all other participants and clearly audible.

3. The Parties agree that the Rules of this Court govern remote deposition(s), including the conduct of counsel and the deponent. In the event of a remote deposition, the Parties agree that the court reporter is an “officer” as defined by Federal Rule of Civil Procedure 28 and shall be permitted to administer and accept oaths via video conference. The Parties shall not challenge the validity of any oath administered by the court reporter on the basis that the court reporter is not a notary public in the jurisdiction where the deponent is located.

4. The Party that noticed the deposition shall be responsible for engaging a service provider to provide court reporting, videoconference, and remote deposition services (“Court Reporting Service Provider”). The Parties shall bear their own costs in obtaining a transcript, real-time transcription and/or video recording of the remote deposition, subject to any final allocation of costs that may be awarded by the Court.

5. No fewer than twenty-four (24) hours prior to each remote deposition, the Party that noticed the deposition, or the Court Reporting Service Provider hired by the Party, will provide the deponent, the deponent’s counsel, and counsel to all other Parties with access credentials to an

electronic remote deposition platform that will allow all participants in the deposition to hear and be heard, and to see and be seen, by all other participants.

6. The noticing parties will provide a copy of this Stipulation and Order to counsel to each non-party witness at a reasonable time before the date of the non-party deposition (except that if a subpoena has already been served on a non-party, then as soon as reasonably possible after entry of this Stipulation and Order by the Court). All Parties shall use their reasonable efforts to obtain the non-party's consent to obtain such non-party witness's agreement to be bound by the terms of this Stipulation and Order as if that witness were a party and their acknowledgment to the terms thereto.

7. In the event of a remote deposition, the deponent, court reporter, counsel for the Parties, counsel for the deponent, and any client representative(s) may each participate in the deposition remotely and separately. Notwithstanding anything in this Stipulation and Order, in the event that a deponent wishes to have their counsel present in person during any remote deposition, defending counsel shall be permitted to attend the deposition in person, provided that they provide notice, on or before the later of (a) 14 calendar days before the Remote Deposition or (b) two calendar days after the date of the deposition notice, to the Party that noticed the deposition that they intend to physically attend the deposition in the same room as the witness. In such case, the Party noticing the deposition shall also be entitled to have its counsel participate in person.

8. Any person present in the room where the deponent is located during a remote deposition shall state their appearance for the record and be visible and clearly audible to those participating in the deposition remotely at all times that the deposition is on the record. However, employees from the court reporting, video conference, and remote deposition service providers may disable or mute their audio and video feeds.

9. Employees from the Court Reporting Service Provider may attend each remote deposition to video record the deposition and troubleshoot any technological issues that may arise.

10. Remote depositions shall be transcribed by stenographic means consistent with the requirements of Federal Rule of Civil Procedure Rule 30(f)(3), and the court reporter's transcript shall constitute the official record. A videographer will simultaneously video record the deposition and preserve the video recording. The court reporter may be given a copy of the video recording and may review the video recording to improve the accuracy of any written transcript. Counsel for the Party noticing the deposition shall ensure that counsel for all Parties (and, for non-party depositions, counsel for the deponent) has the ability to access a live feed of the real-time stenographic record. The deponent shall not be permitted to access the real-time stenographic record, and counsel shall not provide the deponent such access.

11. Remote depositions may be used at a hearing or trial to the same extent as in-person depositions may be used at a hearing or trial, and the Parties shall not object to the use of the video recording and/or transcript on the basis that the deposition was taken remotely. The Parties reserve all other objections to the use of any deposition testimony at a hearing or trial.

12. No counsel shall initiate a private conference—including through telephone call, text message, electronic mail, chat feature in the videoconferencing system, or any other means of communication—with any deponent while a question is pending, except for the purpose of determining whether any privilege or immunity should be asserted. Notwithstanding the foregoing, nothing in this paragraph 12 shall in any way alter the provisions of Federal Rule of Civil Procedure Rule 30(c)(2) pertaining to objections of counsel at depositions. While off the record, the Parties and deponent may, but are not required to, use any breakout room feature provided by the Court Reporting Service Provider that simulates a live breakout room through

videoconference. Conversations in the breakout room shall not be recorded. The breakout rooms shall be established by the Court Reporting Service Provider before the deposition and controlled by the Court Reporting Service Provider.

13. While on the record, each deponent shall close all documents, emails, browsers, programs, and applications other than the Court Reporting Service Provider's platform on their computer. While on the record, each deponent shall move any cell phone or other electronic communication device out of reach and sight.

14. The Parties shall work collaboratively and in good faith (which may include consultations with the Court Reporting Service Provider) to assess each deponent's technological abilities and troubleshoot any issues at least twenty-four (24) hours in advance of the deposition so any necessary adjustments can be made. The Parties shall use reasonable efforts to ensure the use of appropriate technology by the deponent during the deposition. The Parties shall also work collaboratively to address and troubleshoot technological issues that arise during a deposition.

15. Every deponent shall endeavor to have technology sufficient to appear audibly and visually for a remote deposition (*e.g.*, a webcam and computer or telephone audio), receive or view electronic exhibits, and bandwidth sufficient to sustain the remote deposition. Counsel for each deponent shall consult with the deponent prior to the deposition to ensure the deponent has the required technology. If the deponent does not have the required technology, counsel for the deponent shall endeavor to supply the required technology to the deponent prior to the deposition.

16. To the extent technological problems interfere with the completion of a deposition, the deposition shall be completed the next day on which the witness and counsel for the Parties are reasonably available, and the Parties shall jointly request that the Court extend any deadlines to allow for the completion of any deposition(s) delayed due to technological problems or issues.

17. No provision herein shall be interpreted to compel any Party to proceed with a deposition where the deponent cannot hear or understand the other participants or where the participants cannot hear or understand the deponent. This Stipulation and Order applies to remote depositions of Parties and non-parties under Federal Rule of Civil Procedure Rule 45, and the Parties shall work collaboratively to schedule remote depositions of non-parties.

18. Counsel noticing the remote deposition may share exhibits as they are introduced at the deposition by upload via the videoconferencing system or the chat feature in the videoconferencing platform, provided that such feature permits the deponent and counsel for the deponent to independently select, scroll, and view the entirety of the exhibit, and further provided that counsel noticing the deposition provides a complete and identical copy of each exhibit to the deponent, the deponent's counsel, the other Parties' counsel, and the court reporter through the videoconferencing system. Upon completion of the deposition, the deponent shall delete all exhibits from the deponent's computer.

19. The Parties agree that one or more of the following additional methods for administering exhibits may be employed in connection with a remote deposition:

a. Counsel noticing the deposition may share exhibits as they are introduced at the deposition by using screen-sharing technology.

b. Counsel noticing the deposition may choose to send a compressed .zip file of the documents that may be used during the deposition via electronic mail to the deponent, the deponent's counsel, the other Parties' counsel, and the court reporter. The .zip file shall be sent by 6:00 p.m. the business day before the deposition. Deponent's counsel and the court reporter shall confirm receipt of the .zip file by electronic mail to counsel noticing the deposition. The .zip file shall be password protected, and counsel taking the deposition shall supply the password via

electronic mail immediately prior to the commencement of the deposition. Every recipient of a .zip file shall not open the .zip file or any document contained therein until so directed by the counsel taking the deposition after the deposition begins. Upon completion of the deposition, every recipient of the .zip file shall delete the documents from their computer and electronic mail.

c. Counsel noticing the deposition may choose to mail physical copies of documents that may be used as exhibits during the deposition to the deponent and the deponent's counsel, with electronic copies of the documents provided to the other Parties' counsel and the court reporter pursuant to subparagraphs (b) and (c). Noticing counsel shall so inform the deponent's counsel prior to mailing the documents and provide package tracking information. Such documents shall be mailed so as to be delivered by 2:00 p.m. on the business day before the deposition. The deponent and the deponent's counsel shall confirm receipt of the package by electronic mail to counsel noticing the deposition. If physical copies are mailed, the person mailing such package shall clearly label the outside of the package to indicate such package should not be opened until the deposition begins and when directed to do so. Every recipient of a mailed package shall keep the package sealed until the deposition begins and shall only unseal the package on the record, on video, and during the deposition when directed to do so by the counsel taking the deposition.

20. The Parties recognize that there may be certain exhibits which they are not able to send in advance of the deposition pursuant to the methods outlined in Paragraphs 19(a) and 19(b). Questioning about such exhibits may commence after any such exhibit is formally introduced via one of the electronic methods set forth herein.

21. The Parties agree that no one shall read, review, analyze or catalog the potential exhibits at any time unless and until a particular exhibit is formally introduced during the

deposition.

22. Counsel for the Parties may keep any document or exhibit used during the deposition in accordance with the confidentiality order that gets entered in this Action (the “Confidentiality Order”). Counsel for non-party witnesses may keep any document used during the deposition to the extent permitted by the Confidentiality Order.

23. To the extent a non-noticing Parties’ counsel, other than the deponent’s counsel, question the deponent, they shall follow the procedures for administering exhibits set forth in Paragraph 18.

24. Except as otherwise provided in this Stipulation and Order, no one attending a deposition pursuant to this Stipulation and Order shall permit anyone who is not attending that deposition pursuant to this Stipulation and Order to hear or view the deposition by any means while it is being conducted.

25. A remote deposition shall satisfy the Parties’ obligations to make the deponent available for deposition and the deponent’s obligations to appear for a deposition to the same extent as if the deposition had been conducted in person.

26. The Parties may modify the procedures set forth in this Stipulation and Order as appropriate by mutual agreement and reserve their rights to seek reasonable modifications of this Stipulation and Order as appropriate.

Dated: July 28, 2023
Wilmington, Delaware

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