

# Memorandum

**To:** Criminal Defense Attorneys Practicing in the Fourth Judicial District  
**CC:** Hon. Abigail Aragon, Hon. Flora Gallegos, Hon. Melanie Rivera, Hon. Christian Montano, Hon. Christopher Baca, Robert Duran, Darlene Baca, Cynthia Garza, Carol Muniz  
**From:** Gerald E. Baca, Chief District Court Judge, Fourth Judicial District  
**Date:** 3/24/2020  
**Re:** Supreme Court Order 20-8500-006

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As you all may know by now, the Supreme Court has issued an updated order concerning court operations during the current public health emergency. A copy of the order (with my highlights) is attached to this memo for your review. It is my intention that the courts within the Fourth Judicial District strictly adhere to this order as well as to any other orders issued by the New Mexico Supreme Court.

Consequently, **effective immediately**, there shall be **NO** in-person hearings held in any of the courts within the Fourth Judicial District unless it is an emergency and it has been authorized by me. All hearings shall be held via telephone conference or audio-visual link (Google Meet is the preferred platform for audio-visual conferences). This means that no attorney, witness, victim, press or any other person shall appear in person at the court holding the hearing.

The prosecution and defense shall arrange with the defendant, the victim, their respective witnesses, and any other person to attend the hearing via telephone conference or audio-visual conference. These people can be physically located at the prosecutor's office, the defense attorney's office or some other location as long as they have the ability to attend the hearing via the medium used to hold the hearing. This includes evidentiary hearings where physical evidence/exhibits will be introduced into the record.

In the event of an evidentiary hearing, the attorneys who intend to introduce exhibits/evidence into the record shall, not later than 24 hours prior to the hearing, provide the court and all counsel of record with copies of the exhibits that they intend to use at the hearing. The copies of the exhibits can be provided, via email, to the TCAA for the district judge presiding over the hearing or the Court Manager (via the attorney email address recently created for this purpose) for the magistrate who is presiding over the hearing.

*March 24, 2020*

The exhibits shall be pre-marked. The prosecution shall use numbers and the defense shall use letters to identify their respective exhibits. The exhibit, if a document, shall be legible; and if a photograph, shall be such that the thing being depicted is easily and readily visible. Counsel shall use their best discretion and professional judgment to limit the number of exhibits submitted to those that are necessary to establish their point. Duplicative exhibits shall not be allowed.

A telephone conference should suffice for most hearings and will be the preferred method by which hearings shall be held. However, where the judge is called upon to make credibility determinations, a video conference shall be required. Video conferences shall be the preferred medium in plea hearings, but a plea hearing may be held, in the discretion of the presiding judge, via tele-conference. However, ALL sentencing hearings shall be conducted via video conference.

For hearings that are held via telephone conference, the party that requested the hearing shall be responsible for setting up the conference call. For hearings requiring a video conference, the court shall set up the video conference via Google Meet. Thus, all attorneys practicing in the Fourth Judicial District should “load” the Google Meet platform on their cell phone or computer so that they are able to attend hearings held by the court using this platform.

Thank you for your continued cooperation in these trying times. Keep yourselves safe and well.

1                   **IN THE SUPREME COURT OF THE STATE OF NEW MEXICO**

2   **March 23, 2020**

3                   **NO. 20-8500-006**

4                   **IN THE MATTER OF**  
5                   **ADDITIONAL PRECAUTIONARY MEASURES**  
6                   **FOR COURT OPERATIONS IN THE**  
7                   **NEW MEXICO JUDICIARY DURING THE**  
8                   **COVID-19 PUBLIC HEALTH EMERGENCY**

9  
10   **ORDER**

11  
12                   WHEREAS, the New Mexico Judiciary performs a vital function in our  
13 community for the public's safety and to uphold the rule of law and provide  
14 essential justice services to the public guaranteed by the Constitution and laws of  
15 the United States and State of New Mexico, which must be provided at all times  
16 and especially during times of crisis;

17                   WHEREAS, the need for protective health measures in New Mexico  
18 courthouses remains a top priority for the New Mexico Judiciary to ensure that  
19 courts can remain open to provide essential public safety services and maintain the  
20 rule of law in a safe environment for all New Mexicans; and

21                   WHEREAS, in light of the evolving public health emergency, and the Court  
22 wishing to provide additional guidance and direction to the New Mexico Judiciary  
23 for limiting in-person appearances and gatherings of individuals in courthouse and  
24 being sufficiently advised, Chief Justice Judith K. Nakamura, Justice Barbara J.

1 Vigil, Justice Michael E. Vigil, Justice C. Shannon Bacon, and Justice David K.  
2 Thomson concurring:

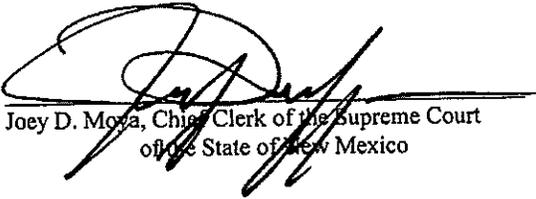
3 NOW, THEREFORE, IT IS ORDERED that this Court's March 17, 2020,  
4 Order No. 20-8500-002, at page 4, lines 16 through 23, which granted judges  
5 expanded discretion to authorize telephonic and audio-visual attendance for court  
6 appearances is AMENDED, effective immediately, as set forth in this order to  
7 authorize court appearances by remote methods to fullest extent possible. All  
8 judges are now required to use telephonic or audio-visual attendance for court  
9 appearances by attorneys, litigants, witnesses, and the press, unless there is an  
10 emergency need for an in-person appearance. The parties may, by motion, request  
11 in-person appearances where necessary. If a judge identifies a need for an in-  
12 person appearance on the judge's own initiative, prior to proceeding with the in-  
13 person appearance, the judge shall confer with the parties and the chief judge of  
14 the district. Judges may continue to take other protective measures, including the  
15 granting of continuances upon motion of any party or the judge's own motion, in  
16 appropriate cases when remote appearances are not feasible under the  
17 circumstances. Any criminal procedure rules requiring the presence of the  
18 defendant may continue to be accomplished through remote, audio-visual  
19 appearance, provided that confidential communication between the defendant and  
20 defense counsel is made available;

1 IT IS FURTHER ORDERED that Order No. 20-8500-002, at page 4, lines 8  
2 through 14, which limited the gathering of individuals in locations within the  
3 courthouse to no more that twenty-five (25) people is AMENDED, effective  
4 immediately, as set forth in this order to further restrict the size of gatherings in  
5 courthouses. All gatherings of individuals in a single, connected location within a  
6 courthouse or other building are now further limited to no more than fifteen (15)  
7 people - which includes judges, court personnel, jurors, attorneys, litigants, the  
8 general public, and the press - to facilitate appropriate social distancing as  
9 recommended by public health authorities. The chief judge of the district may  
10 extend a gathering of individuals in a courthouse to a maximum of twenty-five  
11 (25) if there is an emergency need to do so; and

12 IT IS FURTHER ODRDERED that this order shall remain in effect until  
13 amended or withdrawn by future order of the Court.



WITNESS, the Honorable Judith K. Nakamura, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 23rd day of March, 2020.

  
Joey D. Moya, Chief Clerk of the Supreme Court  
of the State of New Mexico

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