

# Memorandum

**To:** Anna M. Aragon, Esq., Michael Aragon, Esq., Tomas Benavidez, Esq., Arthur L. Bustos, Esq., Herman Chico Gallegos, Esq., Marc Grano, Esq., Eugenio S. Mathis, Esq., Ben Mondragon, Esq., Brett Phelps, Esq., David Silva, Esq.

**CC:** Hon. Abigail Aragon, Hon. Flora Gallegos, Hon. Christopher Baca, Hon. Christian Montano, Hon. Melanie Rivera, Fourth Judicial District Attorney's office

**From:** Gerald E. Baca, Chief District Court Judge, Fourth Judicial District

**Date:** 3/27/2020

**Re:** Defendant's appearance for hearings and signature on pleadings

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The ongoing public health emergency has resulted in a shelter in place order being issued by Governor Lujan Grisham. This has led to a couple of unexpected issues, namely: defendants are not as readily available for the signing of pleadings and for appearances at hearings as they were prior to this pandemic. Accordingly, the Court, being mindful of these unanticipated challenges, is implementing the following procedures that all courts within the Fourth Judicial District will utilize concerning these issues.

**A. SIGNATURE OF DEFENDANT ON PLEADINGS:** Effective immediately and for the foreseeable future, in all criminal cases in the District and Magistrate Courts within the Fourth Judicial District:

1. Defendants shall sign, in person or electronically, any and all pleadings requiring their signature (e. g., Waivers of Appearance, Waivers of Arraignment, Orders Setting Conditions of Release);
2. However, if after good faith efforts have been made to obtain the defendant's original signature on the pleading and because of the current public health emergency the defendant's signature cannot be obtained, the attorney for the defendant may sign for and on behalf of the defendant; provided, however, that the attorney includes a certification on the pleading which states that the attorney signed the pleading for the defendant because the attorney, after reasonable efforts, could not obtain the original or electronic signature of the defendant on the pleading; that the attorney has reviewed with the defendant the contents, meaning and consequences of the pleading; and that the attorney is satisfied that the defendant understands the contents, meaning, and consequences of the pleading.

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3. The signing of pleadings by the attorney for and on behalf of the defendant shall be limited to waivers of appearance for non-critical hearings and waivers of arraignment, but not for any plea agreements or any pleading whereby a defendant is waiving any substantive rights.

**B. APPEARANCE OF DEFENDANTS FOR HEARINGS:** Effective immediately and for the foreseeable future, in all criminal cases in the District and Magistrate Courts within the Fourth Judicial District:

1. Defendants shall appear for all hearings unless the appearance of the defendant for the hearing has been waived with the **prior** approval of the court;
2. The appearance shall be by an audio-visual platform such as Google Meet unless the judge presiding over the hearing has specifically pre-authorized the appearance of the defendant by telephone;
3. The defendant shall appear via this platform from the office of his attorney or from some other location, provided that the location at which the defendant is present for the hearing has a strong enough cellular signal or Wi-Fi connection to support the audio-visual appearance without interruption, delay or other technical issues that may hinder the ability of the court to proceed with the hearing.

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