



## **FOURTH JUDICIAL DISTRICT**

### **SECOND AMENDED AND RESTATED NOTICE TO ATTORNEYS APPEARING IN DISTRICT COURT AND MAGISTRATE COURTS**

The New Mexico Supreme Court has ordered the courts to remain open during the COVID-19 public health emergency, but also to take precautions to protect the community and minimize public health risks. To that end, the Fourth Judicial District announces the following directives and guidance for attorneys appearing in district and magistrate courts, effective immediately:

1. The courts of the Fourth Judicial District will remain open Monday through Friday, 8:00 a.m. to 4:00 p.m.

2. Please review the current version of the New Mexico Judicial Branch COVID-19 Court Facility Screening Questions for the Public, available for download and review at <https://www.nmcourts.gov/covid-19.aspx>, before coming to our courthouses. If you believe that you could not pass the screening, contact the judge's chambers by telephone and wait to speak to the judge's assistant for instructions. The same applies if you believe that persons who will accompany you to court, such as clients or witnesses, cannot pass the screening. It is your obligation to attempt to determine whether they can pass before attempting to gain entry to a courthouse.

3. Almost all hearings and bench trials will be conducted via remote means, either through Google Meet or telephonically. If you believe that your hearing or bench trial should be conducted in person, you should file a motion well in advance of the schedule setting and you must demonstrate a "compelling need" supported by facts that are specific to the particular circumstances in your case. This standard originates from New Mexico Supreme Court Order No. 20-8500-25, issued on July 6, 2020.

4. Due to social distancing requirements, the courts are limiting the number of people allowed in courtrooms. This includes attorneys, parties, witnesses, jurors, observers, and court employees. In San Miguel County District Court, the capacities in the Division I, II, and III courtrooms are 21, 21, and 24. In San Miguel Magistrate Court, the capacities in the Division I and II courtrooms are 20 and 21. In Guadalupe County District Court, the capacity of the courtroom is 30. In Guadalupe County Magistrate Court, the capacity of the courtroom is 12. In Mora County Magistrate Court, the capacity is 17.

5. In order to limit in-person contact between attorneys and detainees, the San Miguel County Detention Center will now facilitate telephonic conferences between attorneys and

detainees. Transport of detainees to courthouses for hearings will be minimized. You are instructed to arrange in advance of hearings for detainees to appear at hearings through audiovisual means.

6. Respondents in commitment cases will appear at hearings telephonically. Attorneys for the parties have the option to appear by telephone and the court will be conducting the hearings via telephone conference.

7. Jury trials will be conducted in-person. However, they will not be conducted in the same manner as prior to the public health emergency. The changes are explained in detail in memoranda prepared by me.

8. Where interpreters are necessary, in general, courts will have them appear remotely wherever possible. However, interpreters will be required to appear in-person for jury trials.

9. We encourage you to confer in good faith with opposing counsel to attempt to resolve uncontested matters that would otherwise require hearings.

10. We encourage you to meet with your clients and with opposing counsel well in advance of scheduled hearings so that hearings can start and finish on time. This will help to minimize the number of people congregating in the courthouse waiting to be heard.

11. We encourage defense attorneys to speak to their clients about waiving appearances at arraignments to avoid the necessity of transport from the detention center to the courthouses. Waiver requires a document signed by both counsel and the defendant. For other hearings in criminal cases, we encourage appearances by telephone or video, and waivers of appearances will not be effective unless all parties and the court approve the waiver in advance.

12. If you would like to postpone a scheduled hearing for any reason, please file a motion and submit a proposed order in the event that you are unable to reach agreement with the other parties or attorneys. Requests for continuances will be considered without a hearing on the motion.

13. This is an unprecedented public health emergency. Circumstances may change, and this may result in changes to court operations in the future.

  
Gerald E. Baca, Chief District Judge  
Fourth Judicial District Court

Date: 7-30-2020