



## FOURTH JUDICIAL DISTRICT

### AMENDED NOTICE TO ATTORNEYS, LITIGANTS, AND WITNESSES APPEARING IN DISTRICT COURT AND MAGISTRATE COURTS

The New Mexico Supreme Court has ordered the courts to allow more hearings in person but also to continue 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, litigants, and witnesses appearing in district and magistrate courts, effective immediately:

1. Beginning July 19, 2021, the district and magistrate courts of the Fourth Judicial District will be holding more hearings in person.

2. As before, all criminal and civil jury trials will proceed in person. Civil bench trials may be held in person at the discretion of the chief judge.

3. In criminal cases, the presumption is that (1) bench trials, (2) competency hearings, (3) plea hearings, (4) preliminary hearings, (5) pretrial detention hearings, (6) probation revocation hearings for out-of-custody defendants when jail time is sought, and (7) sentencing hearings will be held in person unless the presiding judge, in consultation with the chief judge, orders otherwise.

4. However, for cases involving defendants in custody, local conditions at pretrial detention facilities and ongoing Covid-19 precautions override the presumption in favor of proceeding in-person with respect to competency hearings, plea hearings, preliminary hearings, pretrial detention hearings, and sentencing hearings for defendants in custody. The aforementioned hearings will be held by remote means in the district and magistrate courts of the Fourth Judicial District until further notice.

5. In civil cases, the presumption is that (1) kinship guardianship hearings, (2) order of protection hearings, (3) hearings in cases with a PQ case number designation in the Judiciary's case management system, (4) hearings in cases with a Sequestered case number designation in the Judiciary's case management system, and (5) termination of parental rights hearings will be held in person unless the presiding judge, in consultation with the chief judge, orders otherwise.

6. Attorneys, litigants, or witnesses who wish to appear remotely in a hearing that is subject to the presumption that it will be conducted in person should file a motion, setting forth

reasons that are specific to the particular circumstances in the individual case, at least five (5) business days before the date of the hearing.

7. The presumption is that all other court proceedings shall be conducted remotely through telephonic or audio-video connection for court appearances by all attorneys, litigants, and witnesses, unless the judge presiding over the proceeding, in consultation with the chief judge, orders otherwise.

8. Attorneys, litigants, or witnesses who wish to appear in person in a hearing that is subject to the presumption that it will be conducted remotely should file a motion to do so, setting forth reasons that are specific to the particular circumstances in the individual case, at least five (5) business days before the date of the hearing.

9. 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 court before your hearing. The same applies if you believe that persons who will accompany you to court, such as litigants 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.

10. 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.

11. As always, we encourage attorneys and litigants to confer in good faith to attempt to resolve uncontested matters that would otherwise require hearings.

12. We encourage attorneys to meet with 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.

13. 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.

14. 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.



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Flora Gallegos, Chief District Judge  
Fourth Judicial District Court

Date: 07/14/2021