

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

**PROCEDURES GOVERNING OUT-OF-COURT  
VIDEOCONFERENCE AND TELEPHONIC  
HEARINGS NECESSITATED DUE TO  
THE EXIGENT CIRCUMSTANCES CREATED  
BY COVID-19**

**ADM-1  
ORDER 20-7**

ORDER

1. The Standing Order on Court Operations Under the Exigent Circumstances Created by COVID-19 (ADM-1, 20-5) authorizes district court civil hearings and conferences, as well as certain criminal matters with consent, to occur via videoconference or teleconference. This order merely outlines the procedures for any out-of-court videoconference and telephonic hearings scheduled in accordance with ADM-1, 20-5. Unless amended, these hearing procedures will also apply to any future Standing Order that supersedes ADM-1, 20-5.

**Criminal Cases**

2. For any scheduled videoconference or teleconference criminal hearing, the court will presume that the defendant consents to participate by video or telephone. If a defendant elects not to consent, a pre-hearing objection should be filed (a) as soon as possible in magistrate judge hearings, and (b) at least 24 hours prior to a scheduled hearing before a district judge.

3. The presiding judge will confirm the defendant's consent to appear by videoconference or teleconference at the commencement of the hearing.

4. The court will make arrangements to assure that defense counsel and any interpreter can effectively communicate with a defendant during the course of a videoconference or telephonic hearing.

5. The U.S. Probation and Pretrial Services Office will schedule and conduct pre-hearing interviews by telephone conference, with interpreters and counsel participating as necessary.

**All Cases**

6. Counsel shall: (a) notify any necessary witnesses that they will be participating by videoconference or teleconference; (b) provide the witness(es) with instructions for joining the videoconference/teleconference; (c) notify the presiding judge's case manager and opposing

counsel as to any witness(es) that will be participating in the hearing; and (d) notify the presiding judge's case manager of any witness(es) who should be sequestered with the exception of their testimony.

7. Exhibits shall be pre-marked and submitted to the presiding judge's case manager by email with a copy provided to opposing counsel at least 30 minutes prior to the scheduled hearing for magistrate judge hearings, and at least 24 hours prior to the scheduled hearing for a district judge hearing.

8. These hearings, unless sealed, shall remain open to the public. Any member of the public wishing to access the hearing may contact the Clerk's Office (603-225-1423) in advance of the hearing to obtain the access information.

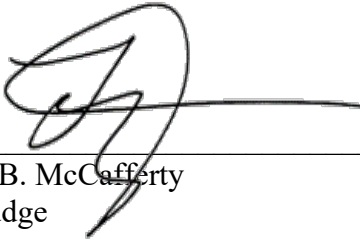
9. To address unique circumstances and other logistical or case management issues, counsel may request a pre-hearing telephonic status conference with the court. Unless prior approval is obtained from the presiding judge, such status conferences shall be limited to counsel.

10. Pursuant to Local Rule 83.8, all persons participating in court proceedings remotely by videoconference or teleconference shall not photograph, broadcast, or televise any of these court proceedings. This prohibition applies to counsel, the parties, the media and any member of the public.

11. The court recognizes that these procedures may impact both the defendant's Sixth Amendment right to a public trial and trial-related proceedings and the public's right to access court proceedings under the First Amendment. The court has considered reasonable alternatives and concluded that these measures are necessary, but no more restrictive than necessary, to protect the substantial interest of maintaining the health of participants in and observers of these hearings, as well as that of the general public, during the present pandemic. Bucci v. United States, 662 F.3d 18, 22 (1st Cir. 2011) (citing Waller v. Georgia, 467 U.S. 39, 46 (1984)).

SO ORDERED.

Date: March 23, 2020

  
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Landya B. McCafferty  
Chief Judge