

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

2 **March 31, 2023**

3 **NO. 23-8500-013**

4 **IN THE MATTER OF THE REMOTE**
5 **AND IN-PERSON COMMITTEE**
6 **RECOMMENDATIONS**

7
8 **ORDER**

9 WHEREAS, the COVID-19 Pandemic prompted New Mexico courts to
10 rapidly adopt technology to permit remote appearances for all types of court hearings
11 and proceedings;

12 WHEREAS, the New Mexico Judiciary promptly adopted policies allowing
13 parties, attorneys, and witnesses to appear in court proceedings by various video and
14 telephonic platforms;

15 WHEREAS, the rapid adoption of remote technology increased access to
16 justice, and conserved time and resources;

17 WHEREAS, the continued incorporation of remote proceedings and
18 appearances for some witnesses and parties, as well as certain requirements for
19 traffic cases, press and public access to hearings, exhibits, and criminal defendant
20 identification will further improve and increase judicial efficiency;

21 WHEREAS, the Supreme Court established a Remote v. In-Person Ad Hoc
22 Committee (“Committee”) to develop recommendations for all New Mexico trial

1 courts regarding what proceedings lend themselves to being held remotely, in-
2 person, or in a hybrid setting;

3 WHEREAS, to make the courts more accessible and predictable for the court
4 users, including attorneys, parties, and witnesses, the Committee recommends that
5 each judicial district adopt a plan for remote hearings based on the Committee's
6 guidance contained in its January 4, 2023, Committee Report, and that the district-
7 wide plans be submitted to the Supreme Court for review and approval; and

8 WHEREAS, in light of the foregoing, and the Court being sufficiently
9 advised, Chief Justice C. Shannon Bacon, Justice Michael E. Vigil, Justice David K.
10 Thomson, Justice Julie J. Vargas, and Justice Briana H. Zamora, concurring;

11 NOW, THEREFORE, IT IS ORDERED that the presumption is that all
12 criminal traffic hearings, including traffic bench trials, shall be conducted remotely
13 unless the presiding judge, in consultation with the chief judge of the judicial district
14 orders otherwise, on a case by case basis;

15 IT IS FURTHER ORDERED that unless the hearing is sequestered or
16 otherwise closed to the public, audio-video or telephonic hearings shall be held in a
17 manner that allows the press and members of the public to observe the proceedings;

18 IT IS FURTHER ORDERED that no later than forty-eight (48) hours before
19 the start of any hearing held by audio-video or telephonic connection at which a

1 party plans to offer documentary exhibits for admission, unless otherwise directed
2 by the court, the offering party shall submit the following to the court with a copy to
3 the opposing parties:

4 (a) the proffered documents, including images, in *.pdf* or *.tiff* format;

5 (b) video and audio recordings; and

6 (c) an exhibit list that indicates whether the parties stipulate or object to the
7 admission of each proffered exhibit and, if opposed, the grounds for
8 any objections;

9 IT IS FURTHER ORDERED that if it appears that one or more proffered
10 exhibits will be opposed, the presiding judge may hold an evidentiary hearing prior
11 to the hearing at which the exhibits are sought to be admitted in order to resolve
12 objections to the admission of exhibits;

13 IT IS FURTHER ORDERED that the admission of exhibits opposed on
14 foundational or authentication grounds may be conditionally admitted pending
15 witness testimony, but purely legal objections to the admission of an exhibit may be
16 resolved before the hearing for which the exhibits are sought to be admitted;

17 IT IS FURTHER ORDERED that if a party anticipates challenging the
18 identification of a defendant at a hearing to be held by audio-video or telephonic
19 connection, that party shall notify the court and opposing counsel at least forty-eight

1 (48) hours before the hearing so that the court and opposing counsel have adequate
2 time to prepare and make arrangements for conducting the hearing in a manner
3 conducive to addressing and resolving a challenge to the identity of the defendant;
4 and


5 IT IS FURTHER ORDERED that each judicial district, the New Mexico
6 Municipal League, Bernalillo County Metropolitan Court, the New Mexico Court of
7 Appeals, and the Supreme Court shall adopt a plan based on the Committee's
8 guidance and that the district-wide plans be submitted to the Supreme Court for
9 review by **July 31, 2023**;

10 IT IS FURTHER ORDERED that a court shall comply with the Format of
11 Court Proceedings in Supreme Court Order No. 22-8500-037's Emergency Court
12 Protocol No. 2, B. (1-12) until the Supreme Court approves the court's associated
13 plan.

14 IT IS SO ORDERED.



15 WITNESS, the Honorable C. Shannon Bacon, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 31st day of March 2023.


Elizabeth A. Garcia, Chief Clerk of the Supreme Court
of the State of New Mexico