

United States District Court



District of Maine

**Notice Re: Instructions**

**for**

**Attending Court Hearings**

**Conducted by Video Teleconference During COVID-19 Pandemic**

The Court has developed instructions for attending court proceedings held by video teleconference. The instructions are available [here](#).

**A. Criminal Proceedings**

Pursuant to this Court's General Order 2020-4 dated March 31, 2020, the Court has authorized the use of video teleconferencing, or telephone conferencing if video teleconferencing is not reasonably available, provided that the defendant consents to the same after consultation with counsel, for the following proceedings<sup>1</sup>:

1. Felony changes of plea under Rule 11 of the Federal Rules of Criminal Procedure<sup>2</sup>;
2. Felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure<sup>3</sup>;
3. Juvenile Changes of Plea and Sentencings under chapter 403 of Title 18, United States Code (commonly known as the "Federal Juvenile Delinquency Act");
4. Detention hearings under 18 U.S.C. § 3142 (2020);
5. Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure;

---

<sup>1</sup> Under Section 15002(b)(4) of the CARES Act, the defendant must consent to proceeding by video teleconference or telephone conference after consultation with counsel.

<sup>2</sup> With respect to felony changes of plea and felony sentencings, counsel must persuade the presiding Judge in the particular case to find for specific reasons that the change of plea or sentencing in that case cannot be further delayed without serious harm to the interests of justice.

<sup>3</sup> *Id.*

6. Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure;
7. Waivers of indictment under Rule 7(b) of the Federal Rules of Criminal Procedure;
8. Arraignments under Rule 10 of the Federal Rules of Criminal Procedure;
9. Probation and supervised release revocation proceedings under Rule 32.1 of the Federal Rules of Criminal Procedure;
10. Pretrial release revocation proceedings under 18 U.S.C. § 3148 (2020);
11. Appearances under Rule 40 of the Federal Rules of Criminal Procedure;
12. Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure; and
13. Proceedings under chapter 403 of Title 18, United States Code (commonly known as the “Federal Juvenile Delinquency Act”), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

### **B. Other Proceedings**

In accordance with Section F of the Court’s General Order 2020-5 dated April 29, 2020, individual judges may consider and hold conferences, hearings, and civil bench trials by video teleconference as they deem necessary and appropriate.

### **C. Access to Video Proceedings**

1. Proceedings conducted by video teleconference and telephone conference will be open to victims, as provided in 18 U.S.C. § 3771 (2020), and the media. They will also be open to members of the public if determined to be reasonably possible.
2. With the exception of Juvenile Delinquency Act cases, a member of the media or the public wishing to access a hearing may contact the Clerk’s Office in advance of the hearing to obtain access information by phone (207) 780 - 3356.

### **D. Prohibition on Broadcasting, Record and Rebroadcasting Video Proceedings**

Judicial Conference policy generally prohibits the broadcasting of proceedings in federal trial courts. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court

proceedings pursuant to Judicial Conference policy (JCUS-SEP 94, pp. 46-47). This prohibition applies to counsel, the parties, the media and any member of the public.

Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.

5/08/20

TELEPHONIC AND VIDEO HEARINGS COLLOQUY

United States v. Defendant, #\_:\_-\_\_

This [-----] hearing is being conducted by video conferencing as a result of the findings and authorization set out in the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), [H.R. 748](#), P.L. 116-136 (Mar. 27, 2020); the Administrative Office’s Update on CARES Act Provisions for Criminal Proceedings; and District of Maine General Orders 2020-1 (superseded), 2020-2 (superseded in part), 2020-3 (superseded) and 2020-4. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings. Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.

**QUESTIONS FOR DEFENDANT’S COUNSEL**

[Defense counsel], have you discussed with Defendant his/her decision to waive the right to be physically present for this [-----] hearing?

Based on your discussions with Defendant, is it your understanding that Defendant intends to waive the right to be physically present? Do you believe that any such waiver by Defendant will be a knowing and voluntarily waiver of the right to be physically present?

### **QUESTIONS FOR DEFENDANT**

Defendant, if at any time during this hearing you would like to speak with your lawyer, please let me know and I will give you the opportunity to have a private conversation with your lawyer. Do you understand?

Do you understand that you are not required to be [-----] by video conferencing but could insist on your right to be physically present?

Do you understand that if you decide today that you've changed your mind about being physically present for [-----], you could still assert your right to be physically present?

Do you understand that if you chose to appear in person, I would continue, meaning postpone, today's proceeding to be conducted on a future date?

If that happened, I would not be able to tell you today when the proceeding would be scheduled. The court would have to evaluate when it would be reasonable, given the coronavirus pandemic, to conduct open court proceedings. Do you understand?

Have you discussed with your lawyer your decision to appear by video conferencing for your [-----] as opposed to being physically present?

Did you have enough time to do that?

Did your lawyer describe to you your right to be physically present? Did your lawyer answer all your questions to your satisfaction?

I understand from your lawyer that you've decided to waive, meaning to give up, your right to be physically present. Is that true?

Has any promise been made to you in order to get you to give up your right to be physically present?

Has anyone threatened you or pressured you in order to get you to give up your right to be physically present?

Do you understand that your family members and other supporters have the right to attend this proceeding and that arrangements have been made for them to dial in to this proceeding?

Do you understand that the fact that this proceeding will be conducted by video conference does not diminish the legal significance of this proceeding?

Do you understand that you will be bound by what happens during this proceeding?

You are currently appearing by videoconference, and I cannot see everything and everyone that is in the room with you. Is there anyone or anything currently exerting any influence over you to waive your right to be physically present in the courthouse for this proceeding?

Considering all that I've just explained to you, do you still wish to give up your right to be physically present for your [-----] hearing? Do you wish to proceed with your [-----] hearing today, participating by video conference?

### **OPPORTUNITY FOR COUNSEL TO TAKE POSITION**

[Government Counsel] – What is the position of the government on proceeding with today's hearing by video conference , as opposed to continuing this hearing until after the COVID-19 pandemic has subsided?

[Defense Counsel] – What is the position of defense counsel on proceeding with today's hearing by video conference, as opposed to continuing this hearing until after the COVID-19 pandemic has subsided?

## **IF THE ANSWERS ARE SATISFACTORY**

I conclude that the defendant has voluntarily and knowingly waived the right to be physically present for today's proceedings because, under Section 15002(b)(4) of the CARES Act, the defendant has consented to proceeding by video conference after consultation with counsel.

I further find that it is appropriate, in this case, to proceed in this manner, without the defendant being physically present in the courtroom, to avoid the unprecedented and unacceptable health risk to the defendant, the attorneys and all court staff caused by the COVID-19 pandemic.

I also find that proceeding in this manner serves the end of justice because the defendant is reasonably requesting [-----] and, under the circumstances, the proceeding cannot be further delayed without serious harm to the interests of justice. In light of the most fundamental notions of due process and under these extraordinary circumstances there is no just reason for Defendant's [-----] hearing to be delayed.



Accordingly, the court authorizes Defendant to appear and participate by video conference as a remedy narrowly tailored to protect a compelling state interest in health and safety and to serve the ends of justice.

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE



MEMORANDUM

**DATE: May 6, 2020**

**RE: Protocol for Sidebar Conferences During Video Teleconference Proceedings**

In accordance with General Orders 2020-4 and 2020-5, which this Court entered in response to the recent outbreak of Coronavirus Disease 2019 (COVID-19), many proceedings that would typically happen in-person are being held by video teleconference. The Court has ensured that vital elements of in-person proceedings can still take place in this remote work environment. One of these elements is sidebar conversations between the Judge and counsel. To better prepare parties and court observers for these sidebars, the Court provides an example below of how it will handle sidebars during a video teleconference hearing:

**Judge:** For purposes of the sidebar conference, the Clerk of Court will now place all observers and participants, with the exception of the Prosecutor, the Defense Lawyer, the Defendant, the Probation Officer [subject to change depending on circumstances], and the court reporter, into the waiting room. For those of you observing today's proceedings, you will be placed in the waiting room, which is the same virtual environment you experienced while you waited to be admitted to the hearing this morning. You will not be able to hear or see my sidebar conversation with counsel. When we have completed the sidebar conference, the clerk will admit you back into the hearing. You do not need to take any action to rejoin the hearing – it will happen automatically.



District of Maine

**Instructions for Attending Court Proceedings  
Conducted by Video During COVID-19 Pandemic  
Rev. 5/08/2020**

**A. BEFORE A VIDEO HEARING OR CONFERENCE**

1. To prepare for a court proceeding that will be conducted using ZOOM, please ensure that the ZOOM application has been downloaded to your device in advance of the hearing. You can find the appropriate download at the following website: <https://zoom.us/download>.
2. If using a tablet or smartphone, you should download the free ZOOM app from the mobile app store well before the video conference.
3. Participants who need assistance using ZOOM should contact the Court's IT Department **at least 48 hours prior to the court proceeding** by email at [HelpDesk@med.uscourts.gov](mailto:HelpDesk@med.uscourts.gov) or by phone at 207-274-5117.
4. You will need a computer, tablet, or smartphone with microphone, speaker or headphones and internet access. Using headphones with a microphone is preferred to reduce other noise and feedback.
5. If using a computer, you may be prompted to download and run ZOOM.

**B. JOIN A VIDEOCONFERENCE**

1. You will receive notice for a videoconference from the court. The invitation will include a link to "Join ZOOM Meeting" as well as a Meeting ID and Password. **You should join the ZOOM proceeding at least 10 minutes prior to your scheduled hearing time to test your system.**

**Sample Zoom Invitation**

U.S. District Judge Lance Walker's Chambers is inviting you to a scheduled ZOOMGov meeting.

Topic: 1:21-cr-99-LEW USA v. John Doe - Sentencing before the Honorable Lance E. Walker

Time: Apr 27, 2020 11:00 AM Eastern Time (US and Canada)

United States District Court



District of Maine

**Instructions for Attending Court Proceedings  
Conducted by Video During COVID-19 Pandemic**  
Rev. 5/08/2020

Join ZOOMGov Meeting

 <https://www.ZOOMgov.com/j/1606982376?pwd=Example>

Meeting ID: 160 698 2376

Password: 388705

One tap mobile

+16692545252,,1606982376#,,1#,388705# US (San Jose)

+16468287666,,1606982376#,,1#,388705# US (New York)

Dial by your location

+1 669 254 5252 US (San Jose)

+1 646 828 7666 US (New York)

+1 833 568 8864 US Toll-free

**Meeting ID: 160 698 2376**

**Password: 388705**

Find your local number: <https://www.ZOOMgov.com/u/absJ3pII45>

Join by SIP

1606982376@sip.ZOOMgov.com

Join by H.323

161.199.138.10 (US West)

161.199.136.10 (US East)

Meeting ID: 160 698 2376

Password: 388705

2. Click the link in your invitation to join at the appropriate time. You may also join a meeting without clicking on the invitation link by going to [join.ZOOM.us](https://join.zoom.us) on any browser or to the ZOOM app on a tablet or smartphone and entering the Meeting ID provided by the court. If you have not already downloaded the ZOOM app and your device requires it, you may be instructed to download it at this time.



District of Maine

**Instructions for Attending Court Proceedings  
Conducted by Video During COVID-19 Pandemic  
Rev. 5/08/2020**

3. You will have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”
4. The Host will place you in the “waiting room” until the hearing begins.
5. If you are having trouble hearing the meeting, you can join via telephone while remaining on the video conference:
  1. On your phone, dial the teleconferencing number provided in your invitation.
  2. Enter the Meeting ID number (also provided in your invitation) when prompted using your touch-tone (DTMF) keypad.
  3. If you have already joined the meeting via computer, you will have the option to enter your 2-digit participant ID to be associated with your computer.

**C. QUICK TIPS FOR USING ZOOM**

1. If you are using an external camera and/or microphone, plug them in before opening the ZOOM application. A headset is recommended.
2. Only 1 microphone and speaker system should be active per physical location to avoid a loud screeching sound.
3. Be sure to mute yourself when you are not speaking.

**D. PARTICIPANT CONTROLS IN THE ZOOM SCREEN**

On a computer, a menu bar containing participant tools may appear and disappear as you mouse over the ZOOM meeting, typically at the bottom of the screen. Mobile app interfaces will appear differently but contain most of the same functionality.



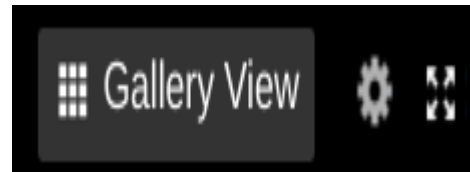


District of Maine

**Instructions for Attending Court Proceedings  
Conducted by Video During COVID-19 Pandemic  
Rev. 5/08/2020**

1. Mute/Unmute your microphone – Click the up arrow next to the microphone icon to open audio settings. Here you change your speaker and microphone settings.
2. Start/Stop your video feed (Turn on/off camera) – Click the up arrow next to the camera icon to open video settings. Here you can change your camera settings.
3. Manage Participants – Click to open a pop-out screen that shows a list of participants in the meeting. From this panel, the host can mute/unmute all participants and more. Includes a “Raise Hand” icon that you may use to raise a virtual hand.
4. Reactions – This feature is disabled.
5. End or Leave Meeting – Ending the meeting will disconnect all participants. Leaving the meeting will allow participants to remain in the meeting room.

Somewhere on your ZOOM screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” shows the active speaker. “Gallery view” tiles all of the meeting participants.



For more information and instructional videos see the ZOOM Help Center

<https://support.ZOOM.us/hc/en-us>

## E. NOTICE

Judicial Conference policy generally prohibits the broadcasting of proceedings in federal trial courts. Persons granted remote access to proceedings are reminded of the general prohibition against photographing, recording, and rebroadcasting of court proceedings pursuant to Judicial Conference policy (JCUS-SEP 94, pp. 46-47). This prohibition applies to counsel, the parties, the media and any member of the public.

Violation of these prohibitions may result in sanctions, including removal of court issued media credentials, restricted entry to future hearings, denial of entry to future hearings, or any other sanctions deemed necessary by the court.