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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON

8 In Re:

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10 REMOTE COURT PROCEEDINGS FOR  
11 PETTY OFFENSE AND  
12 MISDEMEANOR HEARINGS UNDER  
13 THE EXIGENT CIRCUMSTANCES  
14 CREATED BY COVID-19 AND  
15 RELATED CORONAVIRUS

16 GENERAL ORDER NO. 12-20

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18 This General Order is being issued in response to the ongoing spread of Coronavirus  
19 Disease 2019 (COVID-19) and in conjunction with the Court's other General Orders relating to  
20 the pandemic: e.g., General Order 02-20, 03-20, 08-20, 11-20. The Court hereby incorporates  
21 into this General Order, its previously issued General Orders' findings regarding COVID-19 and  
22 the current state of emergency declarations and guidelines as set forth in its COVID-19 General  
23 Orders.

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25 This General Order provides guidance on how the Court will conduct petty offense and  
26 misdemeanor criminal proceedings via video conferencing or telephone conferencing in a  
27 manner that protects the safety and health of all those involved in the proceedings while  
28 preserving the legal rights of the accused pro se defendants and defendants who are represented  
by counsel; and facilitating public access to the remote hearings.

The Court recognizes that the COVID-19 pandemic situation is still evolving.

1 Effective immediately, the Court ORDERS, that necessary petty offense and  
2 misdemeanor criminal proceedings, including, but not limited to, initial appearances,  
3 arraignments, new arrest hearings, guilty plea hearings, pretrial motion hearings, and sentencing  
4 hearings, will be conducted in the following manner, as deemed appropriate by the presiding  
5 District Court Judge or Magistrate Judge, or as further directed by the undersigned; except that a  
6 jury trial will be conducted by video conference and not by telephone conference:  
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9 (1) To limit exposure to COVID-19 and protect the health and safety of everyone  
10 involved in the proceeding, the Court hereby orders that physically applied signatures  
11 on documents in petty offense or misdemeanor criminal proceedings conducted  
12 remotely will not be required. Instead, the Court will make a record that the document  
13 has been reviewed and authorized by the signatory and is fully binding. Such  
14 documents include, but are not limited to the following: Consent to proceed in  
15 absentia, consent to proceed before a Magistrate Judge in a misdemeanor case,  
16 consent to proceed by telephone or video conference, financial affidavits, Pretrial and  
17 Probation reports, appearance bonds/orders for release, plea agreements, and  
18 judgments.  
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21 (2) As a substitute for physically-applied hand written signatures, confirmation that the  
22 defendant is understanding, agreeing to be bound, acknowledging, etc., shall be  
23 performed electronically -- with an electronic signature, or the [s/name] format, or  
24 by consent given verbally on the electronic record during the video or telephone  
25 hearing. For a defendant who is represented by counsel, the defense counsel may sign  
26 the attorney's signature, or the [s/name] format, or give verbal consent on behalf of  
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1 the defendant on the record, after receiving the defendant's consent and authorization  
2 from the defendant that the attorney may act on the defendant's behalf. Upon such  
3 authorization, the defense attorney shall communicate the defendant's decision to  
4 consent, and the attorney must file the document by electronic means or give the  
5 verbal consent on the record by phone or video conference.  
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7 (3) The Court will conduct all proceedings, including any new arrest hearing, for petty  
8 offense and misdemeanor criminal cases in an entirely remote proceeding, with the  
9 defendant's consent, wherein the participants will appear remotely. The participants  
10 will be given the option to appear via videoconferencing using the Court's connection  
11 or via telephone using the Court's connection. At the presiding Judge's discretion, a  
12 participant may join the video conference by telephone instead of by video. If the  
13 defendant does not consent, the case may be rescheduled, as determined at the  
14 discretion of the presiding Judge. If the defendant is appearing pro se, or the defendant  
15 has not consented or authorized their attorney to represent them in absentia, and the  
16 defendant is unable to connect to the Court's video or phone conference, the Court  
17 may reschedule the hearing or take other appropriate action in the discretion of the  
18 presiding Judge.  
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21 (4) If video teleconferencing is not available, the Court will conduct a telephonic  
22 proceeding remotely. All participants will appear by telephone on the Court's  
23 connection; except that in jury trials the proceeding will be rescheduled until video  
24 conference is available. Jury trials will not be conducted by telephone.  
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1 (5) The Court will assist the participants, when necessary, in maintaining a separate  
2 phone connection, or a separate virtual meeting space, for confidential  
3 communications.

4 (6) The public will be provided remote access to attend the hearing using the Court's  
5 video or phone connection, as available. An announcement regarding the public's  
6 right of access and instructions for connecting to the hearing will be posted on the  
7 Court's website. Members of the public and media who attend a hearing remotely are  
8 required to mute their phones.  
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10 (7) All participants, or public or press attendees, are strictly prohibited from recording or  
11 broadcasting any of the Court's remote hearings, in whole or in part, in any fashion.  
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13 (8) All hearings conducted pursuant this Order will be recorded by reliable means by the  
14 Court. This recording will constitute the official record of the Court's remote  
15 proceedings.  
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17 (9) Statutes and Federal Rules of Criminal Procedure allow the Court to conduct remote  
18 video and phone hearings, and conduct proceedings in absentia, in petty offense and  
19 misdemeanor cases with the defendant's consent. See 18 U.S.C. §§ 19, 3571,  
20 3581(b)(6)-(9); 28 U.S.C. § 636 (a), (b); Fed. R. Crim. P. 5(e),(f), 5.1(a), 43(b)(2),(3),  
21 58(a)(1),(2), 58.  
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2 The Court may extend, vacate, or amend this General Order as the public health crisis, resulting  
3 from COVID-19 and related Coronavirus, evolves.

4 Dated this 1<sup>st</sup> day of September, 2020.  
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9 RICARDO S. MARTINEZ  
10 CHIEF UNITED STATES DISTRICT JUDGE  
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