

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE: EXPANDED USE OF ELECTRONIC SIGNATURES DUE TO EXIGENT CIRCUMSTANCES CREATED BY COVID-19)) Misc. No. 2:20-mc-501-MRH))

ADMINISTRATIVE ORDER

WHEREAS, on March 13, 2020, a national emergency was declared under the National Emergency Act, 50 U.S.C. § 1601, *et. seq.*, in light of the COVID-19 pandemic;

WHEREAS, on March 13, 2020, the Court issued the Administrative Order at Miscellaneous Case Number 2:20-mc-394-MRH postponing all civil and criminal jury trials, but noting that the Court remained open for judicial business and permitting judicial officers to hold hearings, conferences, changes of plea hearings, and bench trials in their sound discretion;

WHEREAS, on March 27, 2020, the President signed the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”), P.L. 116-136, authorizing the use of video and telephone conferencing, under certain circumstances and with the consent of the defendant, for various criminal case events during the course of the COVID-19 emergency (The CARES Act, pursuant to certain findings by the Judicial Conference of the United States);

WHEREAS, on March 29, 2020, the Judicial Conference found that emergency conditions, consistent with the national emergency declared with respect to COVID-19, will materially affect the functioning of the Federal courts;

WHEREAS, on March 30, 2020, I, as Chief Judge, pursuant to Section 15002(b)(1) of the CARES Act, based on a finding that criminal proceedings cannot be conducted in person without seriously jeopardizing public health and safety, entered the *Findings of the Chief Judge and Administrative Order Regarding the use of Video and Teleconferencing Technology in Certain Criminal Proceedings* docketed at Miscellaneous Case Number 2:20-mc-466-MRH providing that in lieu of personal appearance, and with the consent of the defendant after consultation with counsel, it is appropriate to use video conferencing, or telephone conferencing if video conferencing is not reasonable, for all events listed in Section 15002(b) of the CARES Act; and

WHEREAS, certain Federal Rules of Criminal Procedure, such as Rules 10(b)(2), 15(c)(1)(A), 20(a)(1), 23(a)(1), 32(e), 43(b)(2), allow for consent or waiver of certain rights by a defendant, but require that such consent or waiver be in writing. More broadly, various documents, including but not limited to financial affidavits and appearance bonds/orders for release, call for the signatures of defendants, counsel, and/or judges. The current circumstances, and the increased usage of video and telephone conferencing, likely make it impracticable, if not impossible, to obtain actual signatures in a timely and safe manner.

For these reasons, IT IS ORDERED THAT, where a judge finds that obtaining an actual signature is impracticable or imprudent in light of the public health situation relating to COVID-19, any document may be signed electronically.

IT IS FURTHER ORDERED that, where a defendant's signature is required, either defense counsel or the presiding judge may sign on the defendant's behalf if the defendant, after an opportunity to consult with counsel, consents.

IT IS FURTHER ORDERED THAT, where consent or waiver is not explicitly required to be in writing by the Federal Rules of Criminal Procedure or other applicable law, such consent or waiver may be obtained in whatever form is most practicable under the circumstances, so the defendant's consent or waiver is clearly reflected in the record.

April 3, 2020

s/ Mark R. Hornak
Mark R. Hornak
Chief United States District Judge