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Telephonic Court Appearances

NEWS RELEASE

Telephonic Court Appearances: Reduce Litigation Costs the Easy Way

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Each day throughout the United States, thousands of lawyers travel to state, bankruptcy and federal district courts to make brief appearances that may not actually require their physical presence in the courtroom. There are countless case-management, status and trial-setting conferences, show-cause hearings and motions that easily fall into this category. The travel costs associated with such appearances are staggering, even if the lawyer is only a few miles from the courthouse. At today's high hourly rates, even 30 minutes of lawyer travel time that can be avoided means substantial savings to cost-conscious clients.

Many judges and court administrators have recognized that permitting telephonic court appearances in appropriate circumstances offers an easy, efficient way save thousands of hours and millions of dollars in litigation costs. While the concept of appearing telephonically has been around for decades, it has only been in the last 10 years that organized methods for conducting telephonic appearances have been widely implemented to make the process uniform and the quality of the calls sufficiently consistent so as to permit judges to conduct their business without disruption. This process has been greatly aided by the creation of public/private partnerships that call for "turn-key" systems to be installed and operated by private enterprise, thus allowing cash-strapped courts to utilize state-of-the-art equipment and proven scheduling methods at no cost to the court. In a classic "win-win" scenario, lawyers save time and personal wear and tear, clients save substantial fees for unnecessary travel time, and courts efficiently help to reduce not only the cost of litigation, but also vehicles on the road and the resulting air pollution. There are several keys to establishing an effective telephonic court-appearance program, including making certain that no judge is required to substantially modify the method by which he or she conducts business, and utilizing a uniform approach throughout a jurisdiction so that lawyers can easily learn and follow the approach.

Seven Tips for a Successful Telephonic Court Appearance Program

1. Install and Utilize Appropriate Technology. One of the reasons that prior attempts at telephonic-appearance programs failed is that courts did not utilize appropriate technology. Using the wrong speakerphone equipment usually results in "voice clipping," which is a major irritant to judges who are trying to work through a busy calendar. Also, attempting to merge a variety of different conferencing technologies usually results in inconsistent call quality, another major impediment to judicial satisfaction. Successful programs require the following technology:

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- appropriate, full-duplex speakerphone equipment properly placed in the courtroom and/or chambers;
- electronically amplified audio conferencing with substantial port capacity to permit multiple callers and multiple cases to be simultaneously routed through one central electronic phone "pipe."

These requirements are particularly important in courts that have calendar calls with multiple cases scheduled for the same time. Ad hoc methods of telephonic appearance cannot work in this situation because only one call at a time can get through on the court's telephone line. Using appropriate electronically amplified commercial audio conferencing not only insures the consistent quality of the call, but also offers the benefit of one central electronic "pipe" in which all callers on all cases can be brought together (just as they are brought together in the courtroom), and then individual case business can be handled while others wait for their cases to be called. For matters requiring privacy, subconferencing is available off of the main electronic "pipe." Top-quality, full-duplex speakerphone equipment is readily available and solves the problem of voice clipping. Generally the equipment is hooked up to a stand-alone phone line so it does not tie up any of the court's existing phone lines. In the public/private partnerships mentioned above, the private enterprise supplies all required teleconferencing, speakerphone equipment and phone lines at no cost to the court, and charges and collects a reasonable fee from the lawyers who use the service. In addition, the private enterprise does all the scheduling for the telephonic court appearances using methods pre-approved by the court.

2. Allow Each Judge to Determine the Types of Proceedings for which a Telephonic Appearance Will Be Permitted. An essential element of success is to make certain that each judge maintains full authority over which types of proceedings can and will be suitable for telephonic appearance. Each judge is a little different and runs his/her courtroom in accordance with individual preferences. A properly established and administered program can be tailored to the needs of each judge. Appropriate interviewing of the judge and courtroom staff at the front end makes this possible.

3. Telephonic Court Appearances Should Be Made a Part of Each Judge's Regular Calendar. In order for a telephonic court appearance program to flourish, it must be voluntary and permit attorneys to have full discretion as to when to use it (assuming that the proceeding type is one for which the judge has pre-approved telephonic appearance). If lawyers must be concerned about a special time for telephonic appearances, the needed flexibility is lost. When telephonic appearances are made a part of the regular calendar and are heard just as in-person appearances, it permits the lawyers to more easily make their decision. From the judge's perspective, the calendar call is the calendar call, and so long as the equipment and conferencing techniques are appropriate, it should make no difference if the attorney is on the phone or in person.

4. Scheduling and Billing Matters Must Be Handled by Someone Other than Busy Courtroom Staff. Courtroom clerks and assistants are already busy enough. Accordingly, the job of scheduling the attorneys for their telephonic court appearances and charging and collecting fees from them should not be assigned to courtroom staff. In the public/private partnerships, all of those tasks are handled by the private enterprise, with pre-arranged methods for timely delivering to court staff appropriate lists of those attorneys who will be appearing telephonically. If done internally by the court, it must be done by someone other than the courtroom staff.

5. A Telephonic Court Appearance Is More than a Conference Call with the Court. While many telephone systems allow for limited conferencing, they do not allow for the type of wide-scale participation that is often required by courts. Similarly, while any teleconference service can connect a "conference call," most generally lack the procedures and background necessary to recognize that there is a world of difference between a generic "conference call" and a court appearance conducted by telephone. Likewise, a court's reliance upon internal or generic conferencing is usually of limited success. Coordination is the key, and coordination is something cash-strapped and understaffed courts often prefer to avoid.

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6. If the Majority of Attorneys Still Appear in Person, Your Court-Run Telephonic Appearance Can Be Improved. Busy judges, administrators and clerks often believe that since they periodically allow telephonic appearances when requested, they have a fully functional telephonic appearance program and there is nothing more to do. Nothing could be further from the truth. The cost and time saving benefits that are the goal of the court are only maximized when the greatest number of attorneys who can reasonably appear telephonically do so. An underutilized program does nothing to help the court reduce the cost of litigation. The goal should be to have as many attorneys as possible appear telephonically on the types of proceedings the court deems appropriate.

7. Do Not Delay for Fear of Installation Cost or Headache. Unlike many technology-related initiatives, telephonic court-appearance programs can be operational in a few weeks or even days. There is no reliance upon the court's facilities unless the court prefers to use existing court lines. The phones plug into standard power and an analog phone line provided by the private enterprise. Months of planning, analysis and review simply are not required. The benefits of a fully functional telephonic appearance program can be attained before the average technology initiative can even be outlined, let alone implemented.

Conclusion

Implementing a successful telephonic court appearance program can be as simple as one phone call to a private company that specializes in such programs. In that manner, no court time or money is spent "reinventing a wheel" that has already been proven to be successful. Converting short court appearances from "in-person" to "telephonic" is a great way to dramatically reduce the cost of litigation in your jurisdiction.