

UNITED STATES BANKRUPTCY COURT
for the
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES COURTHOUSE AND FEDERAL BUILDING
280 SOUTH FIRST STREET, ROOM 3035
SAN JOSE, CALIFORNIA 95113-3099

MARILYN MORGAN
UNITED STATES BANKRUPTCY JUDGE

TELEPHONE (408) 535-5100

TELEPHONIC APPEARANCE POLICY

WHERE AUTHORIZED

- Adversary Proceedings:
1. Case Management Conferences: Appearances are expected to be by telephone. Every attorney or party will be given the option of appearing by telephone. Instructions for the telephonic conference are attached to the order setting the Case Management Conference. The instructions set forth on the reverse are different and do not apply to Case Management Conferences.
 2. Pre-Trial Motions: Every attorney or party may appear by telephone at his or her option.
 3. Pre-Trial Conferences: No telephonic appearances are authorized absent specific approval from the court.
 4. Trial Calendar: No telephonic appearances are authorized except to put a stipulation settling the case on the record.
- Chapter 11 Calendar: Every attorney (but not a party representing himself or herself) may appear by telephone at his or her option except: (1) that counsel for a plan proponent going forward with a disclosure statement or confirmation hearing must be personally present with a competent witness as required by B.L.R. 3017-1(c) and 3018-1(d); and (2) a personal appearance must be made for a Ch. 11 Status Conference.
- Chapter 13 Calendar: Every attorney (but not a party representing himself or herself) may appear by telephone at his or her option where the necessary telephone equipment is in place.
- Relief From Stay Calendar: On an experimental basis all appearances on the Chapter 13 Relief from Stay calendar will be telephonic. A separate Order is provided for this calendar. Otherwise, no telephonic appearances are authorized in Ch. 7 or 11 cases except: (1) to put a stipulation on the record; (2) where the attorney for the moving party has personally spoken with the attorney for the debtor and the Trustee and received a clear representation from each that the motion is unopposed; (3) where the attorney for the debtor or the creditor maintains his or her office in Monterey or San Benito Counties or the debtor lives in Monterey or San Benito Counties.

TELEPHONIC APPEARANCE POLICY

Page 2

General Motion Calendar: Every attorney or party may appear by telephone at his or her option.

Fee Applications &
Final Accounts: Applicants and Trustees may appear by telephone only if he or she has not received an indication, in any fashion, that there is an objection to the application or account.

INSTRUCTIONS FOR TELEPHONIC APPEARANCES

1. Procedures To Be Followed

Telephonic appearances are arranged through Court Conference (phone 1-866-582-6878), a service of Gentner Communications, Inc./ClearOne. Court Conference is an independent conference call company that arranges conference calls on a national and international basis for business. The cost of appearing telephonically is \$40.00 plus \$.53 per minute for each minute over 30 minutes. If you do not have an account established with Court Conference, you must provide a credit card number at the time of making your reservation. Reservations can be made by telephoning or faxing your request to Court Conference. The requirements are set forth on the attached request form.

Shortly before the court is ready to call your matter, the Court Conference operator will contact the participant as prearranged. **All participants MUST be available when called.** If the participant is not available when called, you will be billed for the call and the hearing may proceed in the participant's absence. The court may impose sanctions as set forth below.

Telephonic appearances are connected directly with the courtroom's public address system and electronic recording equipment so that a normal record is produced. To ensure a quality record, the use of car phones, cellular phones, public telephone booths, or phones in other public places is prohibited except in the most extreme emergencies. Participants should be able to hear all parties without difficulty or echo.

At the time of the hearing you may initially be in the listening mode in which case you will be able to hear the case before yours just as if you were in the courtroom. After your call is connected to the courtroom, the Courtroom Deputy will call the case. The Judge will ask for appearances and direct the manner in which the hearing proceeds. Each time a participant speaks, he or she must identify himself or herself for the record. The court's teleconferencing system allows more than one speaker to be heard so that the Judge can interrupt a speaker to ask a question or redirect the discussion. When the Judge informs the participants that the hearing is completed, the participants may disconnect and the next case will be called.

2. Sanctions

Telephonic appearances by multiple participants are only possible where there is compliance with every procedural requirement. Sanctions may be imposed when there is any deviation from the required procedures or where the court determines that a person's conduct makes telephonic appearances inappropriate. Sanctions may include dropping the matter from the calendar, continuing the hearing, proceeding in the absence of an unavailable participant, a monetary sanction of **\$100** or more, or a permanent prohibition against a person appearing telephonically.