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Preston L. Morgan

Pacific McGeorge School of Law

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Phoning It In: Chapter 268 Allows Court Appearances by Telephone

Preston L. Morgan

Code Sections Affected

Code of Civil Procedure § 367.5 (new), §§ 575.5, 575.6, 1006.5 (repealed);
Government Code § 68070.1 (repealed).
AB 500 (Lieu); 2007 STAT. Ch. 268.

“Keep up appearances whatever you do.”¹

I. INTRODUCTION

Everyone knows that you cannot be in two places at once. Suppose, as a busy litigator, you have two appearances scheduled within an hour of each other—one in Fresno and one in Santa Monica.² As an attorney, you would like to appear in person; you are aware that even relatively routine proceedings can become important.³ Yet one look at your schedule—as well as a map—reveals that actual appearances at both places are impossible.⁴ A continuance might answer the problem, but since the streamlining of the litigation process several years ago, courts are reluctant to grant continuances because it slows the pace of litigation.⁵ So if appearing physically in person is out of the question, what do you do? If you had an office in one of the two locations, you could have local associate counsel make an appearance on your behalf.⁶ But not all attorneys have such associates that can appear for them.⁷ Another possibility springs to mind: you can look up an old law school friend and ask her to make the appearance—if she is willing to shoulder the risk of a future malpractice suit.⁸ In another county, you

1. CHARLES DICKENS, *MARTIN CHUZZLEWIT* 171 (Oxford Univ. Press 1982) (1843-1844).

2. Adam K. Treiger, *Dangerous Appearances*, L.A. LAW., Feb. 2002, at 20, 20-22 (providing a similar hypothetical in regards to “special appearances” by opposing counsel).

3. *Id.*; see also *Streit v. Covington & Crowe*, 82 Cal. App. 4th 441, 448-50, 98 Cal. Rptr. 2d 193, 198-200 (4th Dist. 2000) (Ward, J., concurring) (describing the ability of any attorney, regardless of specialty, to render an appearance in any court).

4. Treiger, *supra* note 2, at 20-22.

5. Mark B. Canepa, *Caveat Associate Counsel: Guidelines to Consider When Agreeing to Appear as Associate Counsel*, S.F. ATT’Y, Oct./Nov. 2001, at 20, 20.

6. See *id.* (“The need for local associate counsel is particularly great where telephonic appearances are still not allowed.”).

7. See *id.* (noting that small firms or solo practitioners sometimes lack the “bodies” needed to make such an appearance).

8. *Id.*; see, e.g., *Streit*, 82 Cal. App. 4th at 447, 98 Cal. Rptr. 2d at 198 (holding that attorneys who “specially appear” on behalf of a client owe a duty of care to that client, thereby opening the door to attorney malpractice claims).

might have been able to make the appearance by telephone, but suppose this particular county has been slow to adopt the rules on remote appearances.⁹ So, apart from managing your calendar better, the question remains: what do you do?

With the enactment of Chapter 268, relief is at one's fingertip because a perfunctory appearance can be handled by a simple phone call.¹⁰ Moreover, Chapter 268 assures statewide consistency in telephonic appearances for litigators.¹¹

II. BACKGROUND

A. California Judicial Council

The California Constitution empowers the Judicial Council to “adopt rules for court administration,” survey the practices and procedures of the courts, and “make recommendations annually to the Governor and Legislature.”¹² The Judicial Council consists of the Chief Justice of the California State Supreme Court, one California Supreme Court judge, three appellate judges, ten superior court judges, two nonvoting court administrators, four members of the State Bar, and one member from each house of the Legislature.¹³ The Chief Justice appoints the members, except for the members of the Bar and the representatives of the Legislature.¹⁴ The Judicial Council's goal is to “improve the administration of justice,”¹⁵ and the Chief Justice is to “expedite judicial business.”¹⁶

B. Trial Court Delay Reduction Act of 1986¹⁷

Under the burden of ever-increasing dockets, the California Legislature sought to have the Judicial Council improve the speed with which trials were heard.¹⁸ The Trial Court Delay Reduction Act of 1986 (TCDRA) set the stage for

9. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007) (noting that there is no statewide policy regarding telephonic appearances); Canepa, *supra* note 5, at 20.

10. CAL. CIV. PROC. CODE § 367.5 (enacted by Chapter 268).

11. *See id.* § 367.5(a) (enacted by Chapter 268) (“It is the intent of this section to promote uniformity in the procedures and practices relating to telephone appearances in civil cases.”).

12. CAL. CONST. art VI, § 6(d).

13. *Id.* § 6(a).

14. *Id.*

15. *Id.* § 6(d).

16. *Id.* § 6(e); *see also* Greg Moran, *Chief Justice Has Revolutionized California's Judiciary; George Marks 10th Year as Leader of Court System*, SAN DIEGO UNION-TRIB., May 1, 2006, at A1 (noting that Chief Justice George's major influence has been in changing the organization and administration of the state's court system).

17. CAL. GOV'T CODE §§ 68600-68620 (West 1997 & Supp. 2008).

18. EILEEN C. MOORE, JAMES R. LAMBDEN & MICHAEL PAUL THOMAS, CALIFORNIA CIVIL PRACTICE PROCEDURE § 12 (2007); 7 B.E. WITKIN, CALIFORNIA PROCEDURE, *Trial* § 38 (4th ed. 1997 & Supp. 2007).

improvements in the timely disposition of civil and criminal actions.¹⁹ On the heels of the new legislation, California Government Code section 68070.1 enabled counsel to appear by telephone in non-evidentiary law and motion hearings, probate hearings, and conferences.²⁰ The statute provided the Judicial Council with the responsibility of forming a pilot project to implement the teleconferencing program.²¹ While the TCDRA remains in effect, Chapter 268 repeals California Government Code section 68070.1.²²

C. Proposition 220

In 1998, Proposition 220 amended the California Constitution, combining municipal courts and superior courts into one superior court system.²³ Before the consolidation, superior courts heard felonies, family law, and civil cases (in excess of \$25,000), and municipal courts, widely regarded as “the people’s court,”²⁴ heard misdemeanors and infractions.²⁵ Supporters of the Proposition saw the consolidation of the courts as an opportunity to save the “Three Strikes” law by opening up more courtrooms to felony trials.²⁶ After Proposition 220’s enactment, the state’s single court system faced increased pressure to fully utilize all available time-saving measures.²⁷ Judges found that allowing telephonic appearances helped reduce time spent on crowded dockets.²⁸

19. See, e.g., *Cottle v. Super. Ct.*, 3 Cal. App. 4th 1367, 1379, 5 Cal. Rptr. 2d 882, 888 (2d Dist. 1992) (“Under the Trial Court Delay Reduction Act, designated counties . . . have been given wide latitude in developing their own rules and procedures to reduce litigation delays that have reached ‘scandalous proportions’ in some counties.” (citation omitted)).

20. CAL. GOV’T CODE § 68070.1 (repealed by Chapter 268).

21. *Id.* § 68070.1(b) (repealed by Chapter 268) (setting the date for a pilot program at March 1, 1988).

22. CAL. CIV. PROC. CODE § 367.5(a) (enacted by Chapter 268).

23. Legislative Analyst’s Office, Proposition 220: Courts. Superior & Municipal Court Consolidation, June 1998, http://www.lao.ca.gov/ballot/1998/220_06_1998.htm [hereinafter Proposition 220] (on file with the *McGeorge Law Review*).

24. Editorial, *Streamlining the Judiciary*, S.F. CHRON., May 26, 1998, at A16.

25. Proposition 220, *supra* note 23.

26. Editorial, *The Examiner’s Editorials on Statewide Ballot Measures*, S.F. EXAMINER, May 31, 1998, at C13. *But see* Howard Mintz, *Politics Enliven Prop. 220 Debate Court-Unification Measure Raises ‘Three Strikes’ Issue*, SAN JOSE MERCURY NEWS, May, 5, 1998, at 1B (noting that scholars have questioned whether “Three Strikes” was used as a hot button issue in the campaign in order to mask its more mundane purpose—i.e., judicial administration). The “Three Strikes” law is codified in CAL. PENAL CODE § 1170.12 (West 2004).

27. Susan E. Davis, *Heard But Not Seen: Thanks to Rule 298, Lawyers May Phone in Some of Their Court Appearances*, CAL. LAW., June 1999, (spec. reprint 2008), available at http://www.courtcall.com/images/CourtCallNews/CaliforniaLawyerArticleJune1999_2.pdf (“Using telephonic appearance really cuts down on the crowd and makes it easier for the staff because the vendor gets the attorneys lined up and processed before their cases are heard.”) (quoting Los Angeles Superior Court Judge Florence-Marie Cooper).

28. *Id.* (“It makes the whole process less chaotic.”); see *Reducing Court Costs and Delay*, A.B.A. J., Nov. 1984, at 142, 142 [hereinafter *Reducing Court Costs*] (stating that teleconferencing reduced the time attorneys spent on motion hearings by one-half in Colorado and New Jersey).

D. Federal System

Under the Federal Rules of Civil Procedure, a party may offer contemporaneous remote testimony on a showing of “good cause . . . in compelling circumstances.”²⁹ While remote appearances are allowed in many instances, “[t]ransmission cannot be justified merely by showing that it is inconvenient for the witness to attend the trial.”³⁰ The 1996 Advisory Committee notes for Federal Rule of Civil Procedure 43 illustrate a showing of “compelling circumstances” as an inability to attend the trial for “unexpected reasons, such as accident or illness.”³¹ Yet the Committee, assured of the importance of live testimony, keeps a watchful eye on remote appearances by noting that “[o]ther possible justifications for remote transmission must be approached cautiously.”³²

E. Existing California Rules

Currently, California Rule of Court 3.670 dictates when a party may appear by telephone.³³ However, courts have discretion in determining whether to adopt the rule.³⁴ While California Code of Civil Procedure section 575.5 authorizes telephonic appearances, a superior court is not obligated to adopt the rule.³⁵ Such discretion has led to inconsistency.³⁶ In general, courts do not permit telephonic appearances at settlement conferences or case management conferences.³⁷ Furthermore, the court can require a personal appearance in any type of case if the court decides that the appearance would “materially assist” in the proceeding or resolution of the case.³⁸ As a result of this judicial latitude, predicting with certainty whether a court will allow a telephonic appearance is unclear.³⁹

A party who wishes to appear telephonically is required to notify the court and all other parties of his or her intention and must notify such persons through

29. FED. R. CIV. P. 43(a).

30. FED. R. CIV. P. 43 advisory committee’s note (1996).

31. *Id.*

32. *Id.* (“The very ceremony of trial and the presence of the factfinder may exert a powerful force for truth-telling.”).

33. CAL. R. CT. 3.670.

34. CAL. CIV. PROC. CODE § 575.5(c) (repealed by Chapter 268) (allowing courts to exercise discretion regarding the implementation of rules for telephone appearances); ASSEMBLY JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007) (discussing the unwillingness of some courts to allow telephone appearances).

35. CAL. CIV. PROC. CODE § 575.5(c) (repealed by Chapter 268).

36. ASSEMBLY JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007) (“[T]he unwillingness of some courts to apply the rule consistently and fairly has caused some confusion . . .”).

37. CAL. R. CT. 3.670(c)(1)-(2).

38. CAL. R. CT. 3.670(c)(3).

39. ASSEMBLY JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007) (“[T]here appears to be no consistent policy across the state.”).

one of two options.⁴⁰ First, a party may simply “[p]lace the phrase ‘Telephone Appearance’ below the title of the moving or opposing papers.”⁴¹ Alternatively, the party may inform the court of its intent to appear telephonically either in person or by telephone;⁴² either way, the moving party must notify the court of its intention five court days⁴³ before the appearance.⁴⁴ If the court requires that the moving party appear in person after a motion has been made, the court must notify all parties by telephone at least one court day before the hearing.⁴⁵

As a practical matter, a court may enter into a contract with a phone service provider and allow the provider to impose a reasonable fee for telephone appearance services.⁴⁶ Currently, most courts in California employ a provider located in Southern California that charges \$35 to \$60 per call.⁴⁷ The court record of telephone appearances must be kept to the same extent and in the same manner as a regular hearing.⁴⁸

III. CHAPTER 268

Chapter 268 enables a party to appear by telephone at specified types of conferences, hearings, and proceedings in civil cases.⁴⁹ Existing court rules brought telephonic appearances to most counties.⁵⁰ Chapter 268 expands the availability of telephonic appearances, improves access to the method of appearance, and seeks to promote uniformity in all courts.⁵¹

Chapter 268 places control for the adoption of measures with the Judicial Council.⁵² The rules promulgated by the Judicial Council may include the manner in which appearances are conducted, the conditions required for appearances, and

40. CAL. R. CT. 3.670(d)(1)(A)-(B).

41. CAL. R. CT. 3.670(d)(1)(A).

42. CAL. R. CT. 3.670(d)(1)(B).

43. BLACK'S LAW DICTIONARY 424 (8th ed. 2004) (defining a “court day” as “[a] day on which a particular court is open for court business”).

44. CAL. R. CT. 3.670(d)(1)(B).

45. CAL. R. CT. 3.670(e).

46. CAL. R. CT. 3.670(f); *see also* ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007) (noting that most courts “enthusiastically and efficiently” apply the rule through a private vendor, CourtCall).

47. CourtCall, LLC, Participating Courts and Fee List (Dec. 2007), http://docs.courtcall.com/ccall/docstore/December_%2007_Participating_Courts_List.pdf (on file with the *McGeorge Law Review*); *see also* CourtCall, Frequently Asked Questions, http://www.courtcall.com/ccallp/FAQPage_Public# (last visited Jan. 2, 2008) (on file with the *McGeorge Law Review*) (stating that the fee is high because a telephonic appearance is not simply a phone call—it is a “Court Appearance”).

48. CAL. R. CT. 3.670(h).

49. CAL. CIV. PROC. CODE § 367.5(a) (enacted by Chapter 268).

50. CAL. R. CT. 3.670; *see* ASSEMBLY JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007) (explaining that “many” judges throughout the state used the rule).

51. CAL. CIV. PROC. CODE § 367.5(a) (enacted by Chapter 268).

52. *Id.* § 367.5(d) (enacted by Chapter 268) (“[T]he Judicial Council shall adopt rules . . . by January 1, 2008 . . .”).

the provisions relating to the use of private vendors who supply the telephonic appearance services.⁵³

Chapter 268 lists six types of proceedings available for telephonic appearances.⁵⁴ However, it grants the court discretion to allow telephonic appearances in other proceedings when appropriate.⁵⁵ The court also has considerable discretion to constrain or expand telephonic appearances.⁵⁶ The law gives authority to the court to mandate that a party actually appear if the court deems that the appearance will “materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.”⁵⁷

Chapter 268 limits the new statute’s authority to the types of proceedings listed in the statute itself.⁵⁸ However, it also enables the Judicial Council, consistent with its rulemaking authority, to create rules for telephonic appearances where appropriate.⁵⁹

IV. ANALYSIS OF CHAPTER 268

A. *Tool for Efficient Judicial Administration*

Supporters of Chapter 268 pointed to the convenience and ease of appearances by telephone.⁶⁰ Appearances by telephone keep litigants off of crowded highways, and the time saved by attorneys can reduce litigation costs.⁶¹ In addition, courts handle simple matters in less time, leaving valuable court time open for more complex matters.⁶² Sponsors of the bill also point to the difficulties encountered by small-firm attorneys who struggle to make appointments in different counties due to inconsistency in the rules.⁶³ For example, many attorneys complain of “home-towning,” a process by which judges allow local attorneys to make telephonic appearances but require out-of-county attorneys to

53. *Id.* (enacted by Chapter 268).

54. *Id.* § 367.5(b) (enacted by Chapter 268). The six categories of permitted proceedings are: case management conferences, trial setting conferences, law and motion hearings, discovery motion hearings, arbitration or mediation status conferences, and review of dismissal hearings. *Id.* § 367.5(b)(1)-(6) (enacted by Chapter 268). However, a court may also allow “[a]ny other hearing, conference, or proceeding if the court determines that a telephone appearance is appropriate.” *Id.* § 367.5(b)(7) (enacted by Chapter 268).

55. *Id.* § 367.5(b)(7) (enacted by Chapter 268).

56. *Id.* § 367.5(e) (enacted by Chapter 268) (granting authority to the Judicial Council to provide rules for appearances not expressly stated in Chapter 268).

57. *Id.* § 367.5(c) (enacted by Chapter 268).

58. *Id.* § 367.5(e) (enacted by Chapter 268).

59. *Id.* § 367.5(d), (e) (enacted by Chapter 268).

60. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007).

61. *Id.*; SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 500, at 4 (June 20, 2007). *But see Reducing Court Costs*, *supra* note 28, at 142 (stating that while teleconferencing and other streamlining measures reduced the costs of hourly services to clients, the cost of litigation with contingent fee lawyers was not reduced).

62. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007).

63. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 500, at 3 (June 20, 2007).

make actual appearances.⁶⁴ The new rule will bring consistency to the entire state by allowing all attorneys to appear telephonically.⁶⁵ Although a mere telephonic appearance may sound quaint in the age of broadband internet, it may be a stepping-stone to implement future technological devices in the courtroom.⁶⁶

While less convenient, there are some indirect benefits to actual appearances.⁶⁷ For example, when trial courts in Manhattan allowed parties to appear by phone, one judge noted, “many attorneys work out the details of discovery schedules while they are in court waiting for their cases to be called.”⁶⁸ According to that judge, this face-to-face time serves the court indirectly because these routine issues need not come before a judicial hearing officer or judge if they can be worked out among the attorneys.⁶⁹

B. Constitutional Due Process and Access to the Courts

A chief concern regarding teleconferencing and remote appearances is the potential conflict with the procedural due process provisions of the U.S. Constitution.⁷⁰ The Fourteenth Amendment⁷¹ affords parties an “opportunity to be heard ‘at a meaningful time and in a meaningful manner.’”⁷² Under the appropriate analysis, a court must determine what kind of due process is required in any given situation.

On the one hand, a remote appearance may be the only possible means to preserve due process requirements.⁷³ Thus, a telephone call may be a perfectly feasible means of making a court appearance.⁷⁴ In *Hoversten v. Superior Court*, an incarcerated plaintiff was unable to appear in court for a custody hearing.⁷⁵ As a result, he lost custody and visitation rights with his children.⁷⁶ On appeal, the California Court of Appeal reversed, ruling that the plaintiff’s inability to

64. *Id.*

65. *Id.*

66. Kenneth Ofgang, *C.A. Holds First Teleconferenced Arguments; Presiding Justice Calls It Success*, METRO. NEWS ENTER., June 23, 1997, at 3.

67. Daniel Wise, *Plan Allows Lawyers to Make Appearance by Phoning Court*, N.Y. L.J., Jan. 26, 2004, at 231, 231.

68. *Id.* (quoting Justice Stanley Sklar).

69. *Id.*

70. U.S. CONST. amend. V; U.S. CONST. amend. XIV, § 1.

71. U.S. CONST. amend. XIV.

72. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (holding that an evidentiary hearing was not required prior to termination of disability benefits).

73. *See Hoversten v. Super. Ct.*, 74 Cal. App. 4th 636, 639, 88 Cal. Rptr. 2d 197, 199 (2d Dist. 1995) (holding that prison inmates should be provided alternative and meaningful access to courts when personal appearances are restrained).

74. *Id.* at 643, 88 Cal. Rptr. 2d at 202 (quoting *Wantuch v. Davis*, 32 Cal. App. 786, 792-93, 39 Cal. Rptr. 29, 47 (2d Dist. 1995)).

75. *Id.* at 639, 88 Cal. Rptr. 2d at 199.

76. *Id.*

actually appear deprived him of “‘meaningful’ access” to the judicial system.⁷⁷ Thus, the court suggested that the trial court judge should have fashioned some alternative means of appearing for the plaintiff due to his inability to physically appear.⁷⁸ The court proposed several solutions, including the possibility of conducting pretrial proceedings by telephone.⁷⁹

On the other hand, some courts have been more skeptical of the proposition that remote appearances and due process go hand-in-hand.⁸⁰ In *Rusu v. U.S. Immigration & Naturalization Service*, the Fourth Circuit Court of Appeals held that video conferencing in an asylum proceeding, while not impeding the due process of the applicant, “created additional barriers” to the effectiveness of the proceeding.⁸¹ The court noted that the credibility of the petitioner carries significant weight in such a proceeding and the inability of the court to assess the credibility and demeanor of a party can be detrimental to a case.⁸² Furthermore, the court noted the dilemma forced by remote appearances when counsel, client, and judge are in at least two different locations.⁸³ If the attorney is present with the client in a remote location, he may confer with the client but not the judge.⁸⁴ If the attorney is present with the judge while the client appears by video conference, then the attorney loses the opportunity to confer with the client.⁸⁵ The court ultimately held that the petitioner was afforded due process in so much as Rusu had the “opportunity” to be heard;⁸⁶ however, the court noted that the “presentation” of his claim was problematic.⁸⁷

Chapter 268 obviates many of these concerns by limiting the availability of telephonic appearances to general civil proceedings;⁸⁸ yet the presence and application of technology in the courtroom will likely increase.⁸⁹ As the benefits

77. *Id.* at 642, 88 Cal. Rptr. 2d at 201 (quoting *Wantuch*, 32 Cal. App. 4th at 792, 39 Cal. Rptr. 2d at 51). “One of the goals of our legal system is to secure access to the courts for everyone.” *Id.* at 641, 88 Cal. Rptr. 2d at 201.

78. *Id.* at 642, 88 Cal. Rptr. 2d at 201.

79. *Id.* at 643, 88 Cal. Rptr. 2d at 202 (quoting *Wantuch*, 32 Cal. App. 4th at 792-93, 39 Cal. Rptr. 2d at 47).

80. *Rusu v. U.S. Immigration & Naturalization Serv.*, 296 F.3d 316, 318, 322 (4th Cir. 2002).

81. *Id.* at 323; *see also* FED. R. CIV. P. 43 advisory committee’s note (1996) (“The very ceremony of trial and the presence of the factfinder may exert a powerful force for truth-telling.”).

82. *Rusu*, 296 F.3d at 323.

83. *See id.* (explaining that the separation of the parties in any remote appearance can add barriers to free conversation).

84. *Id.*

85. *See id.* (describing the lawyer’s predicament as a “Catch 22”).

86. *Id.* at 324.

87. *Id.* at 323.

88. CAL. CIV. PROC. CODE § 367.5(b) (enacted by Chapter 268). “‘General civil case’ means all civil cases except probate, guardianship, conservatorship, juvenile, and family law proceedings . . . , small claims proceedings, unlawful detainer proceedings, and ‘other civil petitions’” CAL. R. CT. 1.6(4).

89. Fredric I. Lederer, *Technology Comes to the Courtroom, and . . .*, 43 EMORY L.J. 1095, 1097 (1994); *see also* Ofgang, *supra* note 66 (quoting Justice David Sills of California’s Fifth District Court of Appeal as saying that the court will write a policy to “make teleconferencing a regular part of the court’s procedures”).

of technology become more apparent and highway travel becomes more burdensome, attorneys will likely embrace methods for remote court appearances.⁹⁰ Plaintiffs who previously could not bring claims can now appear telephonically.⁹¹ Despite these benefits, the possibility remains that new forms of appearances might be challenged on due process grounds under the Fourteenth Amendment.⁹²

V. CONCLUSION

Chapter 268 recognizes what has been a simple court rule for many years and seeks to ensure consistency in its application.⁹³ As a practical matter, telephonic appearances save time and money associated with attorney travel.⁹⁴ Chapter 268 gives the Judicial Council latitude to implement new rules for a wide variety of proceedings.⁹⁵ Until the Council creates such new rules, appearances at general civil proceedings will be as simple as dialing a few numbers.⁹⁶

90. SENATE JUDICIARY COMMITTEE, COMMITTEE ANALYSIS OF AB 500, at 4 (June 20, 2007) (noting that for solo practitioners or non-profit organizations the inability to make a remote appearance may be “especially burdensome”).

91. See Karen DeMasters, *Getting Day in Court Via the Internet*, N.Y. TIMES, Oct. 4, 1998, at 14NJ.9 (citing the case of a quadriplegic man’s testimony via teleconferencing).

92. See, e.g., *Rusu*, 296 F.3d at 318 (holding that teleconferencing, while not officially denying due process, was “problematic” in an asylum proceeding).

93. ASSEMBLY COMMITTEE ON JUDICIARY, COMMITTEE ANALYSIS OF AB 500, at 2 (Mar. 24, 2007).

94. Robert V. Alvarado, Jr. & Mark S. Wapnick, *Telephonic Court Appearances: An Easy Way to Reduce Litigation Costs*, CASE IN POINT, Winter/Spring 2006, at 24, 24, http://www.courtcall.com/images/CourtCallNews/caseinpoint_winter06.pdf (on file with the *McGeorge Law Review*).

95. CAL. CIV. PROC. CODE § 367.5(d), (e) (enacted by Chapter 268).

96. *Id.* § 367.5(b)(1)-(7) (enacted by Chapter 268) (listing appropriate proceedings).