

## TELEPHONIC APPEARANCE AT HEARINGS

### 1. When Appearance by Telephone is Permitted.

A. Preliminary Hearings, Scheduling Conferences, etc. Generally, counsel or parties may appear telephonically at preliminary hearings where no evidence is presented,<sup>1</sup> scheduling conferences, and presentment hearings if they seek timely permission as set forth below.

B. Final Hearings. Generally, counsel will not be permitted to appear telephonically at final hearings where evidence or testimony will be presented. If no evidence or testimony will be presented at a final hearing, counsel or parties may appear telephonically at the final hearing with permission from the Court. If you wish to appear at a final hearing by telephone, you should begin by contacting opposing counsel to find out whether opposing counsel objects to you appearing by telephone or intends to offer evidence or testimony at the final hearing, and report the results of that check when you contact chambers to request permission to appear telephonically at the final hearing. The Court will then determine on a case by case basis whether to permit the requesting counsel or party to appear telephonically at the final hearing. Except in very rare or unusual circumstances, the Court will not take testimony by telephone and persons appearing by telephone will not be permitted to present evidence or cross examine witnesses.

### 2. How to Request Appearance by Telephone.

A. When to Request Permission. Unless the Court orders otherwise, requests to appear by telephone should be made to the Chambers' staff **at least one business day** before the hearing.

B. How to Request Permission. There are **two** ways to request permission to appear telephonically at a hearing:

- i) Call the appropriate chambers: Judge Jacobvitz - (505) 600-4650; or Judge Thuma - (505) 600-4640.
- ii) Submit your request to the appropriate chambers by e-mail: [jacobvitzstaff@nmb.uscourts.gov](mailto:jacobvitzstaff@nmb.uscourts.gov), or [thumastaff@nmb.uscourts.gov](mailto:thumastaff@nmb.uscourts.gov).

The e-mail message must have a subject heading that includes the word "telephone" correctly spelled. The e-mail message also should include the name of the person who wishes to appear by telephone, the name of that person's client, the matter to be heard, the date and time of the hearing, the name of the debtor, the case number and adversary proceeding number (if applicable), and the telephone number to be called. This is a sample message:

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<sup>1</sup> The Court may take evidence at a preliminary hearings (also known as an emergency hearings) on use of cash collateral, debtor in possession financing, or other emergency "first day" motions.

jacobvitzstaff@nmb.uscourts.gov *or*  
thumastaff@nmb.uscourts.gov

Re: John Doe, case no 18-12345 j7; Request to Appear by Telephone

Requesting party: Sally Smith

Representing: The debtor John Doe

Hearing on: XYZ Bank's Motion for Relief from Stay

Hearing date and time: April 1, 2018 at 1:30 P.M.

Telephone number: 505-123-1234

3. Importance of Being Available at the Scheduled Time and Until You are Called. Preliminary hearings are often scheduled on a trailing docket. If you have requested to appear by telephone, please ensure that you are available at the scheduled time and until you are called, and that your telephone line is free until you are called. If you are not available when called, for example if your telephone line is busy or if we are directed to voice mail, the Court may deny your motion or overrule your objection by default, and may revoke or place restrictions on your privilege of appearing telephonically in the future.