

# Roundtable on the Use of Technology to Facilitate Appearances in Bankruptcy Proceedings

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# I. Introduction



Traditionally, at a trial or hearing the judge, attorneys, witnesses, and observers are all in the same courtroom. Developments in telephone, television, and Internet protocol technology (“distance participation technology,” or “DP technology”), however, allow the people to be in different places but participate in or just observe the proceedings. A number of courts have embraced DP technology enthusiastically, some have put a toe in the water, and others are just thinking about it. Proponents contend that DP technology (a) reduces costs and time for the court, litigants, and attorneys, (b) allows participation in distant venues by parties with limited claims and interests, and (c) speeds the adjudication of disputes. Critics are concerned that a proceeding held by telephone or television lacks fundamental aspects of a courtroom proceeding and reduces the dignity and solemnity of the judicial process. Therefore, critics believe that DP technology should be used only in limited circumstances.

At a conference held in 2003, a group of judges and attorneys with expertise in large chapter 11 cases identified the availability of DP technology as an issue that attorneys considered in venue selection in large bankruptcy cases.<sup>1</sup> Noting that appearance through the use of telephone, videoconference, and other technology makes the court proceeding more accessible and less expensive to lawyers and litigants, the Judicial Conference Committee on the Administration of the Bankruptcy System (“Bankruptcy Committee”) requested help in improving and standardizing procedures for use of such technology to facilitate appearances and participation in mega-cases by attorneys in locations some distance from the court.

In August 2005, the Federal Judicial Center (FJC), at the request of and with assistance from the Technology Subcommittee of the Bankruptcy Committee, chaired by Judge Wesley Steen (S.D. Tex.), held a program at which bankruptcy judges with varying levels of exposure to and attitudes toward using DP technology met in a roundtable format to discuss the use of such technology in bankruptcy proceedings (the “Roundtable”). The goals of the Roundtable included identifying the important issues relating to the use of DP technology in bankruptcy proceedings, sharing participants’ experiences in working through these issues with other courts that might be considering using the technology, and identifying “best practices” and possibly model local rules. The Roundtable members discussed a wide range of issues, from broad philosophical issues (e.g., Are litigants fully and fairly served by a proceeding that does not take place with all participants in the same

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This document is a report of the Subcommittee on Automation of the Judicial Conference Committee on the Administration of the Bankruptcy System. The Federal Judicial Center is publishing the report at the request of the Committee. The report reflects the sense of the participants in the August 2005 Roundtable.

1. See Conference on Large Chapter 11 Cases (Judicial Conference Committee on the Administration of the Bankruptcy System and Federal Judicial Center 2004), available at <http://www.fjc.gov>.

courtroom?) to practical implementation questions (e.g., What types of commercial services have courts used to conduct telephone conferences?).

This report summarizes the discussions at the August 2005 Roundtable. A number of considerations that apply to both audio and video technologies emerged throughout the discussions. Part II of this report gives an overview of general considerations that apply regardless of the technology to be used, including philosophical and political questions as well as practical implementation questions. Parts III and IV examine more specifically the use of telephone conferencing and videoconferencing, respectively. Appendices to this report include descriptions of how specific courts have implemented the use of audio or video technology and examples of orders and local rules governing the use of such technology to facilitate appearances in bankruptcy proceedings. Although program participants mentioned using DP technology for non-case-related matters—such as using videoconferencing for judges' meetings or interviews of potential law clerks—the focus of the Roundtable, and hence this report, was the use of audio and video technology to conduct proceedings in bankruptcy cases.

One significant comment from those who use DP technology most is that institution of these new procedures is much like the installation of the Case Management/Electronic Case Filing (CM/ECF) system. The initial change is difficult, and initial reaction from the bar is frequently negative. However, judges from those courts that have embraced DP technology fully (such as the Eastern District of Washington and the District of Montana) report that they cannot imagine doing without it.

## II. General Considerations Relating to the Use of DP Technology to Facilitate Appearances in Bankruptcy Proceedings



Several factors put the bankruptcy courts in the vanguard of the movement toward use of DP technology for court appearances. Bankruptcy courts are the federal courts with which members of the general public have the most contact. Thus, it is especially important that parties to bankruptcy proceedings, particularly consumers in chapter 13 cases, not only have justice served, but also have the perception that they have had their day in court. It can be argued that this goal is best met with an in-person proceeding. On the other hand, because of the nature of bankruptcy, parties need timely resolution of their disputes, and emergency hearings are not uncommon.

In addition, many districts are so large that judges must travel significant distances to outlying divisions. Proceedings presided over by judges in distant divisions can be infrequent and very expensive if technology is not used to supplement visits by the judge to the distant division.

Finally, large chapter 11 cases are commonly filed in New York or Delaware, but parties in interest are spread across the country. Many participants might like to monitor or participate in the proceedings in a limited way but do not have the financial resources to attend them. Or a large company considering its options to file a chapter 11 case might choose a larger city over the venue of its home office if travel to the smaller venue for many parties in interest and their counsel would be expensive. Implementing standing procedures for attendance by telephone or television (at least in routine, less significant hearings) or allowing parties to monitor the proceedings by telephone or television can enable parties with limited resources to participate in these situations.

These considerations, while not exhaustive, illustrate both the potential importance of DP technology and clear (reasonably) uniform rules and procedures in a bankruptcy proceeding and the careful analysis a court must undertake in deciding whether and how to use that technology.

### A. Roles of judges and court staff in implementing the technologies

Judges who have implemented audio or video technologies emphasized the need to involve judges actively in the selection and implementation of the equipment, software, and related services. Judges in all court units that will use the equipment should be involved in the implementation. It is critical for judges to coordinate with information technology (IT) staff to both analyze and compare systems and ensure that the systems meet the judge's requirements. In addition, familiarity with the systems and equipment enables judges to have realistic expectations, to realize

the full potential of the systems and equipment, and to be able to use them if staff is not available.

Courts must also consider the qualifications and training of staff who will help implement and operate DP technology. Many IT employees do not have experience with this type of equipment. Some courts have had success in training courtroom deputies to operate the equipment; others have not.

## **B. Education and communication**

Innovative uses of this technology have, to date, been ad hoc local initiatives. Courts have individually defined their needs, surveyed the market and options, established their own evaluation methodology, negotiated their own contracts, and trained their own staffs. Requiring each court to “reinvent the wheel” severely taxes or wastes court resources. In addition, the lack of uniformity, indeed the lack of similarity, in equipment, systems, and procedures discourages use of the equipment by attorneys from other jurisdictions who might want to participate in a limited way.

While decentralization of decision making has encouraged innovation and creativity in the courts, representatives from the Administrative Office of the U.S. Courts (AO) who attended the Roundtable pointed out that they are not always made aware of “homegrown” products developed and paid for by a particular court, and therefore it is difficult for them to monitor and assist with nationwide developments by negotiating a national contract, for example. Problems related to lack of uniformity of equipment are greatly exacerbated by the rapid changes in the technology.

Perhaps the strongest consensus of the Roundtable participants was that there is a need for a forum for sharing information and allowing courts to copy successful models. Representatives of the AO indicated that Ed’s Place, a website on the J-Net (see Appendix A), gives the courts one place to post information about various technologies that they have developed or used to meet court needs. The AO is interested in any other process that could be designed to help keep it informed about innovation in the courts. When the AO is aware of these needs and potential solutions, it is in a better position to help the courts in appropriate ways. The consensus of the Roundtable participants was that Ed’s Place serves an important function, but that demonstrations and discussions among judges are necessary to evaluate and decide on implementation of technology.

## **C. “Intangibles” related to using DP technology**

Judges at the Roundtable emphasized that the simple availability of audio and video technology should not be the only thing driving its use—as one participant said, “Don’t let the tail wag the dog.” Factors such as the dignity of the court, the benefit of attorneys chatting with each other in person while waiting for a hearing to begin, the political or diplomatic implications of a judge making in-person visits to



outlying divisions, and the local legal “culture” are difficult to quantify and to measure, but each court or judge should consider these factors in determining whether proceedings should be held using DP technology. For example, in some districts the local bar is pushing for greater use of technology for remote appearances, while in others the bar is resisting its use. Because every district has a different legal “culture,” different geographical considerations, different caseload mixes, and so on, no one solution will work for all courts.

The rest of this report, including the appendices, gives more detail about different ways in which courts have used telephone conferencing and videoconferencing. A court considering using such technologies could use some of these ideas, modify some, and design some of its own solutions according to its particular needs and those of its constituents.

#### **D. Demonstrations of use of DP technology**

Participants in the Roundtable saw demonstrations of highly innovative uses of DP technology. One court uses it to serve distant divisions, with substantial savings in travel expenses and judicial resources. Another uses Internet video to allow a disabled attorney to participate in court proceedings from his home. Another uses telephone appearances almost exclusively, substantially reducing travel expenses (for both the court and the parties) and increasing access to the court.

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### III. Telephone Conferencing



The practice of permitting attorneys and litigants to take part in or monitor hearings by telephone is widespread, though not universal, in bankruptcy courts. However, there are significant differences among courts in the technologies used, the types of proceedings in which the court will allow appearance by telephone, and the judges' comfort levels in allowing participation by telephone. Most of the judges who attended the Roundtable indicated that they allowed some use of telephone conferencing. This section discusses some of the technologies being used in bankruptcy courts, how they are used, their advantages and limitations, sources of information, the protocols and rules for appearing by telephone, and the issues that use of this technology raises concerning its impact on the quality and quantity of justice. Appendix B is a compendium of local rules and practices, with an introductory outline prepared by Judges Arthur Gonzalez (S.D.N.Y.) and Patricia Williams (E.D. Wash.). Appendix C is a sample paragraph regarding telephone conferencing taken from a case management order entered in a mega-case.

#### A. Means of telephonic connections

The choice of hardware and service vendors affects the cost of making each telephonic connection, the source of payment of that cost, the number of connections at a given hearing, and the amount of assistance that the court requires from outside vendors as opposed to court staff. These variables essentially result in two basic paradigms—one for larger cases, in which the parties pay the costs for a third-party service provider, and the other for smaller cases, in which the costs of a dedicated line for telephone conferencing are borne by the court—but there may be overlaps. For some situations that do not fit within one of these paradigms, a court might use simple conferencing capabilities on a non-dedicated courthouse phone.

##### *1. Party-funded connections and telephone conferencing services*

In cases involving significant assets or in which litigants have deep pockets, the costs of telephonic conferencing are usually borne directly or indirectly by the parties. In these situations, conferencing is normally managed by third-party providers. A familiar arrangement is for the debtor or other party, who pays for the call, to invite those persons who will participate to call a toll-free telephone number answered by a conference operator. The operator's job is to identify the callers and report to the person convening the meeting who is on the call at the appointed time. In courtroom situations, the courtroom deputy clerk is the equivalent of the chairperson to whom the operator reports.

Many state courts and a few bankruptcy courts are permitting attorneys and others to appear at, or to monitor, telephone hearings through a commercial intermediary that arranges the conference call and charges each participant a fee,

while providing the service to the courts without charge. The leading company providing this service is CourtCall, LLC, a company with offices in Los Angeles.<sup>2</sup>

The night before a hearing, CourtCall provides the court with a list of the names of persons who signed up for the telephone hearing. CourtCall sends the court a fax listing each person's law firm and telephone number and an indication of whether the person intends to participate or simply monitor the proceeding. One of the participants in the Roundtable indicated that the sound quality provided by CourtCall is very good. CourtCall's operators monitor each call. The operator can cut off anyone whose environment or telephone equipment is distracting. Court personnel can contact an operator on a call by e-mail to report noise problems, which usually arise if an attorney is using a speakerphone or is making the call from a location with a lot of ambient sound, such as in traffic or in a crowded airport.

The primary disadvantage of CourtCall's product is that it is expensive (\$50 per participant for up to 1.5 hours of time), which makes it unsuitable for use in most consumer cases. Some participants reported, however, that CourtCall had negotiated lower rates for users appearing in several cases on a mass calendar, such as a chapter 13 confirmation calendar.

At the time of the Roundtable, it was pointed out that bankruptcy courts are required to comply with federal procurement regulations when subscribing with a private vendor for court telephonic services, even though there is no charge to the court. Since then, the AO entered into Master License Agreements, effective March 20, 2006, with four vendors to provide telephonic court appearance services to federal courts. The Master License Agreements were awarded after a full and open competition performed by the AO. The Master License Agreements are for an initial 12-month period, with four 12-month option periods (up to five years in total). Individual courts can select one or more of the four teleconferencing vendors and receive seamless and integrated services that result in minimal or no disruption to the court's daily activities, including activities in the courtroom. By utilizing this judiciary-wide vehicle, federal courts now have the option of awarding local license agreements to one or more of the four vendors without conducting their own full and open competition. A broadcast e-mail was sent to clerks of court with links to the policies and procedures for the local award and use of telephonic court appearance services. For more information, contact Lisa Tomilson (202-502-1205), Contracting Officer Technical Representative on the project. Ms. Tomilson is in the Program Support Office of the Office of Judges' Programs.

Finally, in the category of large cases with many litigants, it is not unusual for a party to set up a conference call that is then connected to the courtroom at a time designated by the court.

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2. The website for this company is <http://www.courtcall.com>.

## ***2. Dedicated telephone conferencing lines funded by the court***

For cases that do not involve substantial sums, participants in the Roundtable reported good results using other telephone conferencing methods. Some courts reported using so-called “meet-me” lines, the expense for which is borne by those courts. A “meet-me” line is a hardware switch or software device that functions much like a party line in which many callers may participate at one time.

The Bankruptcy Court in the Eastern District of Washington uses a “meet-me” line to connect as many as thirty callers at once. Once the courtroom deputy clerk opens the line, a caller dials the conference number, posted on the court’s website, and is immediately connected to the hearing without being announced. The protocols that court uses for telephonic appearances are presented in Appendix B. The court pays \$250 per month for each “meet-me” line. To facilitate the use of the line, the court, which is a “notice and hearing court,” assigns one or two cases to a time slot; time slots are spaced about ten minutes apart so that an attorney need not wait a long time for his or her case to be reached. Attorneys are advised to access the line just prior to their assigned hearing time.

## ***3. Conference calls initiated by the court on a non-dedicated line***

Some courts connect one or more participants using conference call features on the court’s regular telephone system. There are other variations on this procedure, such as a judge participating in a hearing by telephone from a remote location with at least some counsel present in the courtroom. Calls are normally routed through the audio equipment driving the speakers and microphones in the courtroom, but some courts use Polycom videoconferencing equipment.

## **B. Getting permission to participate telephonically**

Most courts require that parties obtain prior permission to appear telephonically. Attorneys request such permission in some courts by e-mail or fax and in others by calling the courtroom deputy clerk. Some courts also require that such requests be made more than a certain number of hours prior to the hearing.

Some courts permit some, but not all, local attorneys to appear telephonically. The decision not to permit some attorneys to appear telephonically may be related in part to the perceived improvement in settlement prospects if attorneys are required to see each other in person, in court.

Requiring attorneys to request permission to appear by telephone allows the court to control the number of participants as well as to document their names and the matters on which they will appear. One Roundtable participant reported that he requires attorneys to e-mail his staff with a request to appear telephonically, and the staff prepares a list. The judge then calls the roll at the hearing. Another participant reported using a similar procedure in situations with as many as 100 people on the telephone conference line. As mentioned earlier, CourtCall supplies a list of participants to the court the evening prior to the hearing.

### **C. Limitations on telephonic appearances**

Most Roundtable participants were more comfortable allowing telephonic appearances for hearing legal argument than they were allowing such appearances for presentation of evidence. Telephonic appearances are useful in such matters as pre-trial conferences, status conferences, preliminary hearings on motions requiring evidence, motions to dismiss, summary judgment motions, and conferences to discuss case management. One participant holds telephonic hearings on motions to approve reaffirmation agreements, at which the pro se debtor is permitted to appear telephonically.

Some judges will permit testimony by telephone if the testimony does not require the court to determine the credibility of the witness, such as where the subject matter is uncontested or is not expected to evoke questions from the court or cross-examination by opposing counsel. A Roundtable participant reported that he has taken evidence by telephone in cases in which both parties consented and he did not feel that observing the witness was necessary to find the facts correctly.

### **D. Voice over Internet Protocol (VoIP)**

Use of Voice over Internet Protocol (VoIP), a technology that allows telephone conversations to take place over a standard Internet connection, is growing rapidly. One Roundtable participant reported, however, that such calls can suffer from low quality. The advantage of VoIP to the initiator of the call is that it is much cheaper than conventional long distance, if not free. Programs such as Skype, a free peer-to-peer VoIP service, cannot be used on the DCN, however, because it bypasses the security and virus software at the gateways. One possibility to explore is whether the DCN would be secure if a court used Internet conferencing software to connect several callers through a stand-alone computer having no connection to the DCN but having a connection to the court's sound system.

### **E. Providing information to attorneys about appearing telephonically and dealing with problems when they arise**

Courts have disseminated information about the availability of telephonic appearances through administrative orders in large cases, on court websites, and in a few courts in part by local rules. Courts using teleconference technology frequently have developed protocols for telephone etiquette to ensure that the record is clear and understandable. Rules include being on time, not interrupting, keeping one's phone on mute until one wishes to speak, not using speakerphones or cell phones (the latter particularly while driving), and announcing one's name each time one speaks. Appendix C is a provision dealing with telephonic appearances from a case management order entered in a mega-case.

In any conference call situation, there will be times when a caller creates unwanted noise, such as heavy breathing, or is in a location with excessive background noise, and the judge must ask the caller to stop making the noise or place his or her

phone on mute. Similarly, it is occasionally necessary to caution a caller against interrupting another caller. One of the advantages of CourtCall is that the operator can monitor the call and disconnect those who cause such distractions.

**F. Assistance to the judge not already permitting telephonic hearings**

Participants in the Roundtable discussed several ways in which a judge not familiar with using telephone technology for appearances can learn more and get help with these issues. These include monitoring hearings by telephone or listening to electronically recorded hearings to get a feeling for what they are like, and discussing particular methods for or limitations on telephonic appearances with “mentor” judges.

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## IV. Videoconferencing



Videoconferencing is the process by which the court and the parties at separate locations appear and participate in hearings by means of video technology. This section describes how some courts are using the technology for trials and other kinds of hearings, identifies the advantages and disadvantages of videoconferencing, discusses the technological and other requirements, and describes some of the other issues that arise in using this technology. Appendix D provides brief descriptions of how such technology is being used in particular bankruptcy courts.

As a whole, courts are using videoconferencing far less than they are using telephone conferencing. Nevertheless, in some locations videoconferencing is used extensively. Videoconferencing requires more resources than telephone conferencing, both to set up the basic infrastructure and to maintain and use the technology, but the ability to transmit live visual images significantly improves the hearing.

Many of the courts that use videoconferencing extensively are in geographically large but sparsely populated districts, such as Montana, the Eastern District of Washington, and New Mexico, but bankruptcy courts in the Western District of Pennsylvania and in Delaware make heavy use of the technology as well. The main consideration for using videoconferencing is really distance in its various forms: distance measured in miles between sites, or distance measured in time needed to travel.

### **A. Examples of how videoconferencing is implemented in bankruptcy courts**

The Bankruptcy Court for the District of Montana uses videoconferencing extensively. Appendix E is a description of this court's system, which uses multiple video cameras set up in each of four (or more) courtrooms throughout the district. The judge is generally in his "home" courtroom, and the parties are at the distant location. Use of multiple cameras enables the judge to view the parties (and they him) in "real time" almost as if they were in the same courtroom. Videoconferencing is used routinely in Montana, to the point that the district has a specific form to use if a party wants an in-person hearing. Montana began the use of video hearings when winter weather made traveling dangerous. The judges report that their experience with videoconferencing has been very positive. Appendix F describes how videoconferencing is used in the Northern District of Alabama.

The District of New Mexico, which is both geographically expansive and a border court with an active criminal docket that requires heavy courtroom use, has videoconference links between the four locations at which court is held. As a result, a bankruptcy judge can schedule evidentiary hearings between sites at times convenient for counsel and the court. Before the video technology became available, evidentiary hearings in the division closest to the border (Las Cruces) could be sched-

uled only infrequently because of the severe shortage of courtrooms and because travel to the divisions required a 3.5-hour drive each way. Because the video camera is set up in a conference room, there is in a sense another courtroom always available for video hearings. The primary scheduling limitation is other court units' use of the lines, such as for initial appearances.

Other bankruptcy courts use the technology for bulk dockets, such as chapter 13 panels, that require the participation of a number of people. Appendix D is a chart that summarizes the wide use of video technology by bankruptcy courts.

## **B. Advantages and disadvantages of videoconferencing**

As it is with telephone conferencing, bridging geographical distances is the most obvious advantage of videoconferencing. Bridging these distances allows significant cost savings while providing more frequent access to the court and reduction in unproductive travel time.

Videoconferencing can save travel time for the judge, law clerk, deputy clerks of court, and security personnel. Although videoconferencing reduces travel costs, travel costs are paid by the AO, while the cost of installing and using videoconferencing comes out of the court's budget, so there are competing interests for the court. Saving travel time and expense may be just as important to the parties. To the extent that videoconferencing reduces the cost of litigation, it levels the playing field by allowing more participation in the judicial process by parties with limited means.

Conducting video hearings allows everyone to observe the demeanor and reactions of the other persons attending the hearing and within view, a factor that is a determinant for many counsel in deciding to attend hearings in person rather than appear only by telephone. A judge can also more easily signal that he or she wants to ask a question or stop a discussion. These advantages make video evidentiary hearings more appropriate than telephonic evidentiary hearings. There was some disagreement among participants in the Roundtable, however, about the extent to which videoconferencing permits adequate witness observation.

Telephone technology is ubiquitous, system compatible, cheap, and easy to use. To conduct a telephonic hearing, a judge need only pick up the phone and use its conference capability to connect with one or more parties, whether the parties are expecting it or not. And the system works from almost any location, without installation of new equipment.

Videoconferencing, in contrast, is not widely available, is more expensive, and requires advance preparation. Videoconferencing requires that the parties participating remotely go to a location where they can be linked to the court video system. (Of course, in the paradigm of "appearing in court," parties are usually required to appear wherever the judge decides to sit, so in comparison this might be seen as less of a burden.) This location might be another court location, a commercial location, such as a Kinko's, or the offices of a law firm large enough to have its own video facility.

Costs of videoconferencing include not only the cost of obtaining adequate equipment and service lines, but also the cost of having the lines available and of having trained personnel available in case there are problems. (In some courts the judge or the deputy court clerk can handle problems.) In comparison with voice transmissions, videoconferencing requires substantial bandwidth. Therefore, the number of locations at which parties can participate in a videoconference is very limited when compared with the number of locations possible for telephone conferencing.

### **C. Getting started**

A court that wants to implement a videoconferencing system should first consult with its IT department to help determine the court's present and future needs. Like most technology that works, such a system is quickly committed to its maximum capacity. It is particularly important to have sufficient capacity to make the images as clear as possible if judges want to conduct evidentiary hearings in which they can closely observe the demeanor of the witnesses.

Judges must not only work with the IT department to assess what equipment they need and want, they must also work with the clerk to determine what their court can afford. Some court units share use of and budgets for video equipment. Judges who have experience with this technology agree that, if a court is putting in infrastructure, it should put in much more than it thinks it will need—more and bigger wiring, more drops, and so forth. Judges and court staff should spend time doing research about what equipment will best meet the needs identified; since every court has different needs, it is not enough simply to have a judge visit another court and decide to adopt the same kind of system that court has.

Having IT and chambers staff familiar with how to run the equipment is critical. Vendors of the technology will generally spend a lot of time making sure court staff understand the products and how to operate them.

Finally, the judge will need to get some idea of how to run a video hearing. While there are not significant management differences between video hearings and in-person hearings (assuming good enough video equipment and transmissions facilities), it is the minor details that can be distracting at first for both the judge and the parties. The next section of this report discusses running a videoconferencing program and conducting hearings.

A number of resources are available to help courts interested in acquiring and using videoconference technology. First, the AO has limited funds available to provide this technology to the courts. Because of tight budgets, most of this money is dedicated to new construction projects, and only a small amount is available to retrofit existing courthouses. Second, in numerous bankruptcy courts as well as at the AO there are individuals with considerable expertise in equipment specifications. Interested courts should consider telephone calls and site visits to other courts using the technology. See Appendix A for FJC and AO resources and Appendix D for a list of courts and the systems they use.

## **D. Running a videoconferencing program and conducting hearings**

While no court implements a videoconferencing program exactly the same way as another court, there are a number of similarities and a rough uniformity among the districts. For example, in Montana, videoconferencing is the rule, and parties file a specific request for an in-person hearing. Nevertheless, judges in that district still frequently travel to outlying divisions, and not just when someone requests an in-person hearing. The videoconferencing capability allows them, however, to travel without law clerks and courtroom deputies because the audio of the hearings can be digitally recorded over the videoconferencing equipment and sent back to the division where the courtroom deputy and the law clerk are.

In New Mexico, videoconferences are routinely scheduled along with the usual and more frequent in-person hearings. In the Western District of Pennsylvania, a party must request a videoconference hearing, albeit not necessarily by motion. Usually, the issue comes up (a) during a pretrial hearing in an adversary proceeding or (b) from attorneys who are not in the immediate Pittsburgh or Erie or Johnstown areas. The approval process does not have to be formal; a judge's chambers can work out arrangements with attorneys who have appeared by videoconference in cases in the past, so that the attorneys simply call the judge's chambers to get approval to appear by videoconference in new proceedings.

If district and bankruptcy courts share the cost and use of equipment, they must coordinate with each other to schedule use of the equipment. It is important to have a single district-wide "video" scheduling calendar shared by all units so that everyone can see at a glance what time is available on any given day and reserve it. Such a calendar is available to all court units in the District of New Mexico. The calendar protocol (available by clicking on a link on the calendar) requires that the party reserving the time slot do so by inserting, on the appropriate date on the calendar, the time (e.g., 3:00–5:00 p.m.), unit (usually by judge or other designation such as "USPO"), locations, and contact person. Other information can also be added (e.g., "Furrs status conf.").

Although video sites are not as ubiquitous as telephone locations, there are a number of possibilities for such sites. Intradistrict court sites are the obvious ones; so are interdistrict sites (e.g., a witness might appear at the bankruptcy court in San Diego for a hearing conducted in New Mexico). Many Kinko's sites have video facilities. Businesses and law firms may have facilities that are better than the court's. In appropriate circumstances the court might authorize or require a law firm to host a videoconference, and perhaps preside over that hearing in the law firm's conference room.

The use of facilities at Kinko's or a firm raises the issue of who pays for the videoconferencing. Intradistrict and interdistrict court facilities cost the parties nothing. Using Kinko's obviously costs something, but that cost is probably substantially less than traveling to the courthouse where the hearing is taking place. Alternatively, there may be circumstances in which the court can allow an administrative reimbursement to a firm for the use of its facilities.

For a video hearing, the judge needs to ensure that everyone can see him or her and the other parties. This requires that prior to the hearing the judge and IT staff work on the positioning of the cameras. The camera positioning must be done not only for the site where the judge will appear, but also for the other sites that will be used, to the extent the court has control over those sites. Ideally the system will have sufficient camera capacity so that the judge can view not only the witness and the attorney, but also counsel tables, the observers, etc., so that the judge can tell, as he or she could in an in-person hearing, when someone in the courtroom is attempting to signal a witness or otherwise misbehaving. In the District of New Mexico the cameras all swivel and zoom, and each camera is controlled from a keyboard in the courtroom or conference room where the camera is located. The judge controls the view everyone has of the judge's location, but needs someone else (a court staff person or perhaps one of the participants) to adjust the camera angle or zoom at any other site.

Audio is frequently a problem with video equipment. Some equipment attempts to use single microphones located at the camera. These are rarely adequate. Integrating the television audio into the courtroom PA system provides much better audio transmission.

Prior to the hearing, the judge should ensure that adequate arrangements are in place for documentary evidence. For example, the following should be addressed:

- Is everyone going to be working off what are supposed to be identical sets of paper exhibits?
- Will there be electronic transmission and use of images as exhibits, which may necessitate another set of monitors available for all the parties to look at?
- Does the party who controls the evidence monitor, such as an attorney at the podium with a laptop computer and a CD of exhibits, also control what the judge gets to look at during the hearing?

Participants in the Roundtable indicated that document cameras work well, as do the CD-ROM, DVD, and other projection-type equipment used to produce evidence in non-paper-copy format.

Finally, the judge needs to ensure that everyone in the case knows at what site they are supposed to be at what time, and with whom (for example, does the judge require the attorney and the party represented by the attorney to be at the same physical site?). The local court staff need to know that information as well so that they can help get the hearing started; therefore, it might be helpful for staff at each location to consult a district-wide calendar daily.

## **E. Considerations for local rules and procedures for videoconferencing**

Some courts have local rules and forms for videoconferencing, and others do not. Appendix G is a draft local order for a video hearing from the Western District of

Pennsylvania. This section discusses some considerations for local rules and procedures for videoconferences.<sup>3</sup>

*1. Do you even need a local rule?*

It appears that many districts have rules for telephone hearings, but far fewer have rules for video hearings. In the District of New Mexico, for example, the two bankruptcy judges have (differing) informal office procedures of their own for telephone and video hearings, but there is nothing in the local bankruptcy rules that addresses either type of hearing. That approach probably works for a district with a relatively small caseload (about 10,000 cases per year) and virtually no mega-cases. However, there is no denying the advantages of a local rule (especially when the parties are aware of the rule and actually observe it) as notice to everyone of the process and as a labor-saving device. Local rules are presumably most helpful in districts in which video hearings are almost as common as telephone hearings (such as Montana) and in districts that conduct relatively few video hearings but a large number of persons attend such hearings.

*2. Quality and availability of equipment*

For video hearings to be a practical consideration, the court needs sufficient bandwidth and adequate equipment. A court can conduct a video hearing with less than optimal equipment; it merely means that problems can occur, such as the images being jerky or the sound not being completely synchronized with the image. And of course the court needs good IT staff.

Even the best equipment will do no good if it is being used by someone else. Limited availability may mean that the bankruptcy court can only offer videoconferences on a limited basis so that, for example, a local rule or procedure could not contain a provision that allowed video hearings as freely as telephone hearings.

*3. Bases for conducting video hearings*

The “convenience of the court and the convenience of the parties” (especially the former) appear to govern when video hearings take place (assuming they take place at all). Convenience is usually measured by the distance from the courthouse where the judge is, or by the cost of travel, and may take into account not only counsel and parties but also witnesses.<sup>4</sup> From a review of the rules, it appears that some decisions are based on the cost of the service rather than just convenience. Some or

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3. This section was drafted by Judges Jack Caddell, Judith Fitzgerald, Ralph Kirscher, Barry Schermer, James Starzynski, and Patricia Williams.

4. None of the local rules appear to contemplate a national or international audience for a videoconference that is the equivalent of the O.J. Simpson trial on Court TV. It is easy, however, to imagine a hearing on an issue and in a case of such significance that there might be a demand for broadcasting a bankruptcy hearing (e.g., a major automobile manufacturer files a chapter 11 petition and seeks to transfer its pension obligations to millions of retired and current employees to the Pension Benefit Guarantee Corporation when, at a date not too far in the future, media attention is focused on the cumulative ballooning pension deficit of the nation’s businesses).

all of the parties may be required to bear the cost of the video link—that is, “no pay, no play”—particularly if a party is located at a Kinko’s for a hearing. (In those jurisdictions the rules generally specify who pays what.) It appears that the government absorbs the cost when the parties are all at a court site.

Some courts apparently do not conduct video hearings unless there is a specific request for them. Other courts schedule videoconferences routinely as part of managing the caseload. Examples include Montana, Wyoming, and New Mexico. In Montana, there is a specific form for requesting an “in-person” hearing. In any event, it appears that the decision to conduct a hearing by video is always in the end the judge’s decision.

#### *4. Evidentiary versus nonevidentiary hearings*

Other than perhaps for identification-verification reasons, there seems to be little use of video for nonevidentiary hearings; telephone hearings tend to be used for these instead. In fact, some rules provide for testimony by telephone. The Ninth and Tenth Circuit Bankruptcy Appellate Panels conduct oral arguments by video link.

#### *5. Preparing for an evidentiary hearing*

Although none of the rules specify it (perhaps because it is obvious), making sure beforehand who is supposed to be at what site seems to be a useful precaution. That raises the issue of whether a party could be at one location and the party’s counsel at another; at least one set of rules prohibits this. And the rules or a pretrial order might specify who needs to make the appointment and pay the bill at Kinko’s if needed.

Ensuring that everyone is working off the same set of exhibits is also important. This can be accomplished if the exhibits are part of the case management (CM) record and CM monitors are available at all the sites. If the court has an evidence presentation system such that a document or other tangible piece of evidence can be displayed on a screen and thereby made available to everyone on evidence monitors, that would also ensure that at any given time everyone is looking at the same evidence and provide the judge with a certain amount of control. However, the problem with evidence presentation systems that allow counsel or a witness to control what everyone sees, such as documents that are on CDs, is precisely that: someone other than the judge gets to control what everyone including the judge sees, and the judge cannot page forward or backward in a document while the witness is testifying to see what else is in the document. For that reason, a number of the rules provide for the exchange of numbered and indexed exhibit sets a certain number of days before the hearing takes place.

Most of the rules seem to assume that a verbatim record will be kept; this would seem to be obvious for an evidentiary hearing. However, at least one set of rules suggests that for nonevidentiary hearings, a party who wants a verbatim record should arrange for it. (This may occur when the court conducts an informal con-

ference with counsel.) Digital audio recording systems seem to be particularly suitable for recording the audio portion of these hearings. (It may not be too long before a complete video and audio record is available routinely for all hearings.)

#### **6. *Conducting an evidentiary hearing***

If more than one hearing or matter is scheduled, the parties and their counsel can presumably wait at a site and move to the counsel (or conference) tables when the hearing starts.

In the District of Montana, the judge and participants have at each site a view of the podium, the viewing section, the counsel tables, and the witness stand. A witness or counsel may appear at a non-court site, such as Kinko's or Mednet, but the court directs that all persons be in the judge's view and requires that all persons in the room be identified. This probably helps considerably in controlling what might be off-camera misbehavior (e.g., signals to witnesses such as nodding), although that behavior can occur in the courtroom as well.

### **F. Potential ramifications of videoconferencing**

It is worth thinking about some of the ramifications of videoconferencing. For example, a judge or the parties might ask if the decision rendered would have been the same if the hearing had taken place in person rather than on video (or for that matter by telephone). Does the judge listen as carefully to the parties at a video hearing as he or she would if they were appearing before the judge in person?

Another question concerns the "dignity" of the court. How do the parties perceive the judge when he or she is not surrounded by the furnishings of the courtroom and the other hallmarks of the office? Courts have long recognized that the bench, the seal, the judicial robes, and other hallmarks of the office and the court emphasize the importance of the proceedings and may lead the participants to be more truthful. Is some or all of that lost when someone appears by video (or by telephone)? Some of these concerns can be addressed by setting up what looks like a judicial bench with the court seal behind it (e.g., in a conference room) and having the judge wear the robes.

Another question relates to the court's decision and its affect on the parties. What happens when a party is at a Kinko's or another commercial location, with the attendant background noises and activity? What happens when a party gets an adverse decision or negative life-changing news at a Kinko's or some place other than the courtroom?

The court should also consider what effect the use of videoconferencing has on the local bar, or on the local practice culture. Does videoconferencing have an effect on the increasing nationalization of bankruptcy practice?

How much will or should videoconferencing replace the judge's taking the time to travel to other sites within the district and showing them the respect that a personal visit represents? If the judge travels to a "remote" site, will videoconferencing be used to allow parties at the "main" site to appear and thus avoid traveling to the



remote site where the judge will be? And how does a court draw principled distinctions about who can appear remotely and who cannot? For example, is permission routinely given to anyone outside a geographic area, or a jurisdiction, and if not, then how are the distinctions drawn and articulated? What about the firm with its own video equipment: will it be permitted to appear by videoconference upon request? Should a court let parties who only want to observe the proceedings and not question witnesses, make arguments, and so forth, participate by videoconference? Will the court activate the videoconference facility at the request of a pro se party or only for counsel?

As with every new technology, there are trade-offs, gains, and losses. Courts need to weigh all of the relevant considerations, no matter how intangible, against the more obvious convenience and cost savings from allowing videoconferencing.

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## V. Conclusion



Because of the potential to save costs and other resources, courts will undoubtedly come under increasing pressure from Congress and taxpayers to make use of remote technologies for conducting proceedings. For example, it is possible to imagine in the future attorneys making video appearances from their offices, litigants appearing from telephone cameras or home cameras, and judges appearing from their chambers, without the need for courtrooms. As bankruptcy courts embrace the advantages of remote technologies it is important not to lose sight of the broader question of preserving the dignity and seriousness of the court as an institution.

Participants in the Roundtable generally agreed, however, that there are circumstances under which using remote technology for appearances in bankruptcy cases benefits the court and litigants without sacrificing essential elements of the judicial process. This report, and other resources identified in Appendix A, will help courts and individual judges who are considering how best to use the technology to fit their particular circumstances.

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# Appendices

Appendix A. Resources for Courts Considering Use of DP Technology

Appendix B. Description and Examples of Local Rules and Procedures Regarding Telephone Conferencing, with an Introduction by Judges Gonzalez and Williams Regarding Issues and Topics for a Court to Consider in Establishing Procedures for Telephonic Appearances

Appendix C. Sample Provision from a Case Management Order in a Mega-Case Providing for Telephone Appearances Paid for by the Debtor's Estate (taken from the Case Management Order entered on July 29, 2003, in *In re Worldcom, Inc.*, Case No. 02-13533, U.S. Bankruptcy Court, Southern District of New York)

Appendix D. Videoconferencing Use in U.S. Bankruptcy Courts

Appendix E. Description of Videoconferencing Procedures in the District of Montana

Appendix F. Description of Videoconferencing Between Decatur, Alabama, and Florence, Alabama

Appendix G. Draft Administrative Order on Use of Videoconferencing from the Western District of Pennsylvania

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## Appendix A Resources for Courts Considering Use of DP Technology

### *Federal Judicial Center*

In addition to periodically holding educational programs on using technology in the courts (contact: Denise Neary, 202-502-4054), the Federal Judicial Center provides the following resources for courts and judges considering the use of technology:

- *Effective Use of Courtroom Technology: A Judge's Guide to Pretrial and Trial* (Federal Judicial Center and National Institute for Trial Advocacy 2001).
- A web page entitled "Resources on Courtroom Technology," which can be accessed from the main FJC web page ([www.fjc.gov](http://www.fjc.gov)). The above-mentioned guide can also be downloaded from this web page.

### *Administrative Office of the U.S. Courts*

The Administrative Office of the U.S. Courts (AO) provides a wealth of information about using technology in the courts, including policies and contact names and numbers, at [http://jnet.ao.dcn/Information\\_Technology/index.html](http://jnet.ao.dcn/Information_Technology/index.html).

"Ed's Place" on the J-Net (<http://edsplace.uscmail.dcn/>) provides a place for courts to post information about technologies they are using (contact: Wendy Fite, 202-502-2753).

Other contact people at the AO are the following:

- Carol Smith, Space and Facilities Division, 202-502-1340
- Lisa Tomilson, Program Support Office of the Office of Judges' Programs, 202-502-1205
- Mel Bryson, Assistant Director, Office of Information Technology, 202-502-2300.

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**Appendix B**  
**Description and Examples of Local Rules and**  
**Procedures Regarding Telephone Conferencing**

1. Outline of Issues and Topics for a Court to Consider in Establishing Procedures for Telephonic Appearances
2. Description of Telephone Conferencing Procedures and Local Rules in the District of Montana
3. Description of Videoconferencing and Telephone Conferencing Procedures and Local Rules in the Northern District of Ohio
4. Description of Videoconferencing and Telephone Conferencing Procedures and Local Rules in the Eastern District of Washington
5. Description of Videoconferencing and Telephone Conferencing Procedures and Local Rules in the Eastern District of California
6. Local Rule on Telephone Conferences in the District of Wyoming
7. Description of Telephone Conferencing in the Southern District of Florida

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**1. *Outline of Issues and Topics for a Court to Consider in Establishing Procedures for Telephonic Appearances***

**Prepared by Judges Arthur Gonzalez and Patricia Williams**

This outline is not meant to be all inclusive, but is a suggestion of issues and topics that a court may need to address in establishing telephonic appearance procedures.

- A. Method of noticing of availability
  - 1. Case management order (case-by-case basis)
  - 2. Local rule
  - 3. Standing or administrative order
  - 4. Protocol (website)
  - 5. Any combination of the above
- B. Topics covered
  - 1. Authorization
  - 2. Type of matters that would be subject to telephonic appearances
  - 3. Applicable rules, whether available as default or by request
  - 4. Procedure for seeking permission, if required
  - 5. Procedures for connecting
    - a. time by which interested parties must notify the court that they intend to participate
    - b. time and procedure for giving appearances for the record
    - c. contact information for the court (telephone, e-mail, etc.)
    - d. who initiates and is “host” of call
    - e. who pays for the call
  - 6. Limitations; for example, prohibiting:
    - a. speakerphones
    - b. cell phones
    - c. mobile phones
    - d. Internet connection
  - 7. Etiquette; any procedures necessary for judge to control conduct of hearing
    - a. speakerphone (put on mute when caller is not speaking)
    - b. any special rules for cell phone participation
    - c. identification of clients or others on phone with lawyer
    - d. speaker identifies self each time he or she speaks
  - 8. Information
    - a. Court date and time
    - b. Case name and number
    - c. Name and phone number of attorney

*Bankruptcy Technology Roundtable*

- d. Name of party
- e. Type of participation (full or “listen only”)
- f. How the above information is transmitted to the court

***2. Description of Telephone Conferencing Procedures and Local Rules in the District of Montana***

**Based on information from Judge Ralph Kirscher**

Telephone hearings in the District of Montana are typically used for pro se reaffirmations, preliminary hearings on motions to lift stay, and scheduling conferences. The court initiates the call if only two parties are involved; otherwise, the Sprint conference operator system is used. There have been difficulties using the Sprint conference system. The Montana District Court has a Qwest conference bridge line that allows participants to call a number and automatically be connected to the hearing. An arrangement is being discussed to use that conference bridge line for bankruptcy hearings, but its capacity is limited to eight parties and no other conference bridge lines are available.

**LOCAL BANKRUPTCY RULES—DISTRICT OF MONTANA**

**RULE 5074-1. Telephone, Video or In-Person Conferences and Hearings.**

(a) **Conferences and Hearings.** The Court may schedule any matter in a bankruptcy case, contested matter or adversary proceeding to be heard by video or telephone conference. Any party in interest affected by or involved in such case, matter or proceeding may request the Court to hear the matter by telephone or video conference, or in-person. Requests for in-person hearings shall be made in substantial conformity with Mont. LBF 26, and may be granted at the discretion of the Court. The Court may, at its discretion, hold pretrial conferences in adversary proceedings, preliminary hearings on motions to modify and any other matter requiring an emergency hearing by telephone.

(b) **Exchange of Exhibit and Witness Lists.** The parties involved in video and in-person conferences and hearings shall exchange proposed witness and exhibit lists and copies of all proposed exhibits, and file such lists and exhibits with the Court, at least three (3) business days prior to a hearing or trial. The moving party in a contested matter and the plaintiff in an adversary proceeding shall identify exhibits in numerical sequence commencing with the number 1. The responding party in a contested matter and the defendant in an adversary proceeding shall identify exhibits in alphabetical sequence. If multiple parties are involved, the parties prior to hearing or trial shall determine an identification sequence that eliminates any duplicative sequence. Failure to timely exchange and file proposed witness and exhibit lists and copies of proposed exhibits in accordance with this rule may result in the Court barring any undisclosed witness testimony and denying the admission of any unexchanged exhibits. This Local Rule may be affected by the implementation of CM/ECF. Subsequent general orders of this Court may alter the filing and exchanging of exhibits to correspond to the capability of CM/ECF and its filing users.

**Mont. LBF 26. Request for In-Person Hearing.**

Name of Attorney/Party in Interest  
Address  
Phone No.  
[If applicable: ]  
(Attorney for \_\_\_\_\_)  
State Bar I.D. Number \_\_\_\_\_

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

In re ) Case No.  
 )  
 )  
 )  
 )  
 )  
 Debtor(s). )

-----  
REQUEST FOR IN-PERSON HEARING  
-----

Pursuant to Mont. LBR 5074-1, the undersigned respectfully requests that the Court schedule and conduct the hearing or trial on [describe the matter in issue] in person. The undersigned asserts that good cause exists for the Court to conduct the hearing in person for the following reason:

\_\_\_\_\_  
\_\_\_\_\_

The undersigned has contacted or attempted to contact other affected parties to gain their consent to this request, and advises the Court regarding such contacts or attempts as follows:

\_\_\_\_\_

WHEREFORE, the undersigned respectfully requests the Court to conduct the hearing or trial on \_\_\_\_\_ in person.

DATED this \_\_\_\_ day of \_\_\_\_\_, 200\_.

By: \_\_\_\_\_  
Attorney for \_\_\_\_\_

**3. *Description of Videoconferencing and Telephone Conferencing Procedures and Local Rules in the Northern District of Ohio***

**Based on information from Judge Russ Kendig**

The bankruptcy court regularly convenes in five different locations, each of which has clerk's office staff and a judge. Consequently, there has been little need for videoconferencing or telephone hearings. However, scheduling conferences in adversary proceedings are often conducted by telephone. The court-generated notice of scheduling conference directs counsel to contact the court if they desire a telephone conference.

The court does have videoconference capability and regularly uses it for internal purposes, such as staff meetings. There are technological problems with connecting five locations. Some court proceedings have been conducted by video, particularly during a period of judicial vacancy in one of the single-judge courts. The video is less useful in a discussion format because it is difficult to determine who is trying to speak at any given time, but works better in hearings, where there are short, discrete, segmented matters. One difficulty has been the tendency of the lawyers, perhaps owing to their unfamiliarity with the system, to talk over each other and disrupt the flow of the hearing. There is also a noticeable time delay in transmission, which may be improved by using other equipment or increasing line capacity. Since there is no pressing need for videoconferencing, it has had limited use.

The videoconference equipment is a Polycom Viewstation PVS-14XX (equipment that George Lucas of "Star Wars" fame uses). There is no internal bridging capability in one location, so that location uses the Sprint T1. Currently, only one of the five locations has internal bridging capacity, which is limited to four locations. Another location is currently upgrading its system.

The Cleveland court is relocating and acquiring a new phone system, including a conference bridge. As other court locations complete planned moves they intend to do the same. However, the Bankruptcy Court doesn't control the phone system unless it is the largest tenant in the building; thus, the phone systems will not be consistent across different locations of the same court as new systems are installed in new buildings, renovated buildings, etc. This is going to be more of a problem with shared services and the new phone policies.



**LOCAL BANKRUPTCY RULES—NORTHERN DISTRICT OF OHIO**

**Rule 9074-1 TELEPHONE CONFERENCES**

(a) Pretrial and Status Conferences. The use of telephone conference calls and, where available, video conferencing for pretrial and status conferences is encouraged. The Court, upon motion by counsel or its own instance, may order pretrial and status conferences to be conducted by telephone conference calls. In addition, upon motion by any party and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the conduct of pretrial and status conferences by video conference equipment.

(b) Trial and Hearing. Upon motion of any party and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the taking of testimony by video conferencing equipment at a trial or other hearing.

**4. *Description of Videoconferencing and Telephone Conferencing Procedures and Local Rules in the Eastern District of Washington***

**Based on information from Judge Patricia Williams**

The majority of hearings are conducted telephonically. There are three conference bridge lines through Qwest according to a contract with GSA FTS, each of which has a capacity of thirty participants. The cost is \$250 per month per line. This is a notice and hearing court, which means only matters actually in dispute are scheduled for hearing. Each hearing is scheduled to begin at a particular time, and participants call one of the conference bridge lines at that time and are automatically connected to the hearing. This alleviates the burden on chambers staff to call the lawyers. Occasionally, there are problems, such as static caused by someone using a cell phone, but generally the quality of the audio is excellent. The judges often wear headsets, which frees their hands and seems to improve the quality.

Hearings have been scheduled telephonically for nearly fifteen years, owing to the geography of the district. It is huge but sparsely populated, and many lawyers are at least an hour from the site of any courthouse. If counsel wish to attend an actual in-court hearing by phone (usually counsel who are not primarily involved), they are free to do so.

If lawyers want nonevidentiary hearings to be held in open court, they must request such hearings. During scheduling conferences on more complicated matters, such as motions for summary judgment, the court generally asks if the lawyers want to hold the hearing telephonically or in court.

Videoconferences on staff matters occur regularly, as there are two staffed locations and weekly video meetings between the two judges, who are about 180 miles apart. Witnesses may appear by video by agreement of counsel. The quality of the videoconference is generally very good without noticeable delay in transmission and with clear sound and view. The witnesses must have separate copies of exhibits, and the judge has to monitor the record to ensure that it is clear which exhibit is being discussed. Generally there have been no problems. The equipment in the courtroom is Polycom I Power, Model 680. The line is a 512 KB ISDN as well as the DCN line.

**United States Bankruptcy Court  
Eastern District of Washington**

**TELEPHONE CONFERENCE CALLS**

Approximately 90 percent of all hearings conducted in the Bankruptcy Court for the Eastern District of Washington are by telephone conference call. Chambers have adopted what is known as “meet-me” calls to enable all participants to be easily connected from any location. In order to connect, it is required that participants call the correct phone line slightly prior to the time of the hearing. The following numbers are the meet-me conference lines for the respective judges:

**Judge John A. Rossmeissl - 509-353-3182**

**Judge Patricia C. Williams - 509-353-3183**

**Judge John M. Klobucher - 509-353-3192**

**TELEPHONE ETIQUETTE**

1. Call in on time, as hearings start as promptly as possible at the scheduled time.
2. Be patient and listen for a moment, as there may be another hearing taking place on the conference line. If there is not, announce yourself and the party you represent, as well as any other parties listening from your office. If there is a hearing ongoing, please wait until that hearing is concluded to announce yourself.
3. If using a speakerphone, take whatever steps you can to eliminate as much background noise as possible, such as shutting your office door and turning off any background music.
4. Position your phone so that paper rustling is at a minimum.
5. If using a car phone, stop your car to eliminate engine and road noise, and check your location so that you have an adequate signal.
6. When you are speaking, if appropriate, identify yourself so that other participants and the court recorder will know who is speaking.
7. Speak directly into the receiver. Do not use a cell phone if possible, as the sound quality is often questionable.

**LOCAL BANKRUPTCY RULES - EASTERN DISTRICT OF WASHINGTON**

**Rule 1072-1**

**Places of Holding Court**

**(a) Courtroom Hearings**

Courtroom hearings are regularly held in Spokane, Yakima and Richland.

**(b) Telephonic Hearings**

Telephonic hearings are regularly held for the convenience of the parties or the Court.

**(c) Participation at Telephonic Hearings**

Any party in interest who desires to be heard at a telephonic hearing and who has not filed a pleading in the matter at issue should notify the appropriate chambers no less than one (1) day prior to the hearing of such desire.

**(d) Attendance at Hearings**

(1) Members of the public may attend all bankruptcy hearings.

(A) In the case of a courtroom hearing, a party need only be present in the designated courtroom at the appointed time.

(B) In the case of a telephonic hearing, the party need only call in on the designated telephone number at the appointed time.

(C) A party desiring to use court-operated telephonic equipment need only present themselves to the appropriate chambers sixty (60) minutes prior to the hearing if they wish to attend by the use of court-operated telephonic equipment.

(2) Attendees at all hearings shall conduct themselves in a manner so as not to disturb the hearing or the participants.

**Related Provisions**

FRBP 5001 Courts and Clerks' Offices

28 USC 152 Places of Holding Court

**LBR 1072-1**

February 1, 2005

***5. Description of Videoconferencing and Telephone Conferencing Procedures and Local Rules in the Eastern District of California***

**Based on information from Judge Michael McManus**

This court convenes in three locations and has six full-time judges and three recall judges, but not all locations have judges present full time. This court also uses a system of tentative rulings to manage its very large caseload. Probably as a result of the practical realities of commuting, the requests by attorneys for telephonic appearances are increasing. Those judges who must commute to other locations are encouraging the use of such appearances.

OFFICE OF THE CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

(Revised November 12, 2004)

TELEPHONIC COURT APPEARANCE  
THROUGH COURTCALL CONFERENCE SERVICE

I. POLICIES AND PROCEDURES GOVERNING TELEPHONE APPEARANCES:

Provided they adhere to these policies and procedures, attorneys and parties may appear by telephone in connection with most nonevidentiary hearings. Unless a personal appearance is excused in advance, telephonic appearances are *not* allowed in the following instances:

1. Initial Chapter 11 status conferences: debtor and debtor's counsel *must* appear in person. Others may appear telephonically.
2. Chapter 11 and 12 confirmation hearings.
3. Pretrial conferences (as distinguished from status conferences and trial setting conferences), trial counsel *must* appear in person except in the Fresno Division.
4. Trials and evidentiary hearings.
5. Any matter designated by the court as requiring a personal appearance.

If the court has issued a tentative ruling or prehearing disposition, each individual who appears telephonically shall have reviewed and shall be familiar with the tentative ruling or prehearing disposition. Failure to comply with this requirement constitutes a waiver of the opportunity to appear telephonically at the hearing.

The deadline for scheduling telephonic appearances (see below) is independent of the issuance of tentative rulings and prehearing dispositions. Late scheduling of a telephonic appearance is not justified by the fact that tentative rulings or prehearing dispositions have not been posted on the court's Internet site prior to the deadline for scheduling a telephonic appearance.

If an individual who has scheduled a telephonic appearance does not respond to the call of a matter on the calendar, the court may pass the matter or may treat the failure to respond as a failure to appear. Scheduling simultaneous telephonic ap-

pearances in multiple courts or departments does not excuse a failure to appear when a matter is called on the calendar.

Individuals making use of the conference call service are cautioned that they do so at their own risk. Hearings generally will not be rescheduled due to missed connections.

## II. SCHEDULING A TELEPHONIC APPEARANCE:

*You may schedule a telephonic appearance for any division or department by following the telephone or facsimile request instructions outlined below:*

***By Telephone:*** Telephonic appearances may be arranged by calling *CourtCall* at (866) 582-6878.

***By Facsimile:*** Use the court-approved *Facsimile Request for Telephonic Appearance Form* located under the *Calendars* section of the court's website at [www.caeb.uscourts.gov](http://www.caeb.uscourts.gov) and send it to *CourtCall* at its facsimile number, (866) 533-2946.

Whether arranged by telephone or by facsimile, the telephonic appearance must be arranged **24 hours** in advance.

**6. *Local Rule on Telephone Conferences in the District of Wyoming***

**Local Rule 9074-1**

**Telephone Conferences**

(A) **Request for Telephone Conference.** Any party requesting that a scheduled courtroom hearing be held by telephone must first contact opposing counsel and must advise the court whether other counsel agrees to a telephone hearing. If the court determines that the matter may be handled by telephone, the court will set and notice the hearing.

(B) **Arrangements for Conference Call.** The court will initiate a telephone conference call, unless the party requesting the conference call is ordered by the court to arrange for and place the call.

(C) **Availability for Telephone Conference.** Counsel must be at the published office telephone numbers 30 minutes before the time set and must take any steps necessary to keep the telephone lines open for the call. If counsel is to be reached at a telephone number other than the published office telephone number, counsel must advise the court at least 24 hours in advance of the hearing.

(D) **Documents.** If the use of written documents is anticipated at a telephone hearing, counsel must ensure that the court and opposing counsel have copies of the documents in time for adequate review before the telephone hearing.



***7. Description of Telephone Conferencing in the Southern District of Florida***

**Based on information from Judge A. Jay Cristol**

The Southern District of Florida has a local rule (Rule 9074-1) relating to telephone conferences.

Generally, the judges in the Southern District of Florida are very liberal in regard to the rule and, with the exception of evidentiary hearings, allow telephone conferences in many situations. From time to time the conference by telephone is held when the judge is absent from the courtroom. Conferences may involve all other parties appearing in the courtroom and the judge appearing by telephone, or, in some instances all parties appearing at remote locations and only the telephone link and the reporter in the courtroom.

***Rule 9074-1. Telephone Conferences.***

A party to a contested matter may request to participate in any hearing by telephone conference by contacting the judge's calendar clerk at least 2 business days prior to the date of the hearing. Unless the judge otherwise specifically directs, this procedure is available only to parties who are not residents of this district. Telephone hearings may be deferred by the judge to the end of the hearing calendar, so the party must remain available for the court's call from the scheduled hearing time until the end of the day's hearing calendar. The court need not postpone the hearing because of the party's unavailability or telephonic transmission problems.

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**Appendix C**  
**Sample Provision from a Case Management Order**  
**in a Mega-Case Providing for Telephone Appearances**  
**Paid for by the Debtor's Estate**

Taken from the Case Management Order entered on July 29, 2003, in *In re Worldcom, Inc.*, Case No. 02-13533, U.S. Bankruptcy Court, Southern District of New York

***Participation in Hearings by Telephone/Video-Conferencing***

13. The Debtors shall arrange with a service, to be determined by the Debtors in their sole and absolute discretion, for the participation in hearings in these chapter 11 cases by telephone conference. Any party filing a motion, application or other pleading, including, without limitation, an objection or response thereto, may participate in a hearing by telephone conference; provided, however, that prior written notification of such party's intention to participate telephonically shall be provided by such party to counsel to the Debtors and any statutory committee at least twenty-four (24) hours prior to the commencement of any hearing. Any party not submitting a pleading, but interested in monitoring the Court's proceedings, may participate by telephone conference in "listen-only" mode. Under no circumstances may any party record or broadcast the proceedings conducted by the Court. Information regarding the manner and cost of telephonic participation shall be posted on the Court's website and the Independent Website. Any costs associated with setting up this system, but expressly not including the cost of participation, shall be borne by the Debtors as permitted by 28 U.S.C. § 156(c).

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Appendix D. Videoconferencing Use in U.S. Bankruptcy Courts

Bankruptcy Court/ Respondent	Equipment used (see Note)	Contacts: [VC] = videoconference generalist; [H] = hearings troubleshooter; [T] = teleconference generalist	Current video equipment; its reliability and effectiveness; how to make better use of it or improve quality	How videoconference is set up; personnel other than judge needed	Other comments and suggestions
9th Cir. BAP H. Marenus	V	Scott Morgan [VC] 626-229-7260	BAP uses CA9 videoconferencing system connected to local BC system.	CA9 IT personnel set up main court in Pasadena, and local BC IT personnel operate remote location.	Current financial hardships suffered by local BCs adversely affect BAP's ability to schedule, arrange, and conduct videoconferences.
Alabama (Middle) K. Burkhard	V, SC#4, DC#1	Karlene Burkhard [VC] 334-954-3631	1. Tandberg 6000. Reliable. 2. Planned courtrooms will have Polycom Viewstation FX.	Setup is automatic. Judge can monitor equipment with IT staff on call.	Providing video facilities in remote courthouses would increase judicial security and reduce travel expenses.
Alabama (Southern) G. Lester	V, D, SC#2, DC#1	David A. Cook [VC] 251-441-5391 x 4114 Jim Wood [VC] x 4140 Troy Baas [VC] x 4115 Faith Hoffman [VC] x 4131	Polycom FSX7000. Very reliable.	Deputy clerk sets up and monitors equipment.	Videoconferencing is used on a regular basis.
Alaska P. Krumrey	V, T, D	Paul Krumrey [T] 907-271-2655 x 2642 Gary Wallan [VC] (DC system mgr.) 907-677-6111	Current BC system is an old Intel Teamstation. DC has Polycom System, and BC is likely to purchase same for compatibility.	Old system requires staff to move camera during hearing.	

Note: This table was assembled by Bankruptcy Judge Judith Fitzgerald, based on information obtained from individual bankruptcy courts. Some of the information is missing or incomplete, and the accuracy of the information has not been independently verified. Abbreviations: N = no videoconferencing; T = teleconference in use; V = videoconference in use; D = DC video equipment available to BC; A = video only for administrative use; SC# = no. of screens used; DC# = no. of document cameras used; BC = bankruptcy court; DC = district court; BAP = Bankruptcy Appellate Panel; IT = information technology.

Bankruptcy Technology Roundtable

Bankruptcy Court/ Respondent	Equipment used (see Note)	Contacts: [VC] = videoconference generalist; [H] = hearings troubleshooter; [T] = teleconference generalist	Current video equipment; its reliability and effectiveness; how to make better use of it or improve quality	How videoconference is set up; personnel other than judge needed	Other comments and suggestions
Arkansas (Eastern) J. Rolfs	V, SC#1	Jason Ortega [VC, H] 501-918-5563 Tommy Tiler [VC, H] 479-582-5802	Polycom and Tandberg. Equipment is reliable, but network is only 75% of the time. Need upgrade and ability to use DCN.	Some judges require IT staff for setup and monitoring.	
California (Central) J. Ceretto	V	Jon Ceretto [VC] 213-894-6244	Extensive systems for both conferences and hearings. Hearings use 5-camera set-up with multiple monitors. Conferences use one camera with up to 4 multipoint conference locations.		
Connecticut	N				
Delaware S. Manley	V, T		Portable Polycom and built-in Tandberg.	Polycom requires IT staff for setup, but none needed during hearings. Tandberg is always available and no setup is required.	Videoc Conferencing is limited to one remote. More than one would require expensive bridge.
Florida (Middle) D. Oliveria	V, SC#4	Bill Miguenes [VC] 813-301-5105	Polycom. Reliable.	Easy to set up. IT staff are available when needed.	

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Bankruptcy Technology Roundtable

Bankruptcy Court/ Respondent	Equipment used (see Note)	Contacts: [VC] = videoconference generalist; [H] = hearings troubleshooter; [T] = teleconference generalist	Current video equipment; its reliability and effectiveness; how to make better use of it or improve quality	How videoconference is set up; personnel other than judge needed	Other comments and suggestions
Florida (Northern) W. Blevins	V, SC#1	Luke Adams [VC] 850-521-5022	<ol style="list-style-type: none"> <li>Main courtroom uses Polycom VS4000 with Crestron control center. Remote courtrooms have Viewstation 512MP.</li> <li>Should add second screen to view multiple parties at same time.</li> </ol>	Courtroom deputy or IT staff sets up equipment. Deputy monitors and troubleshoots.	Image delay, sound problems, and connection problems are due to ISDN lines from Bell South and Sprint.
Florida (Southern) K. Eddy	D	James St. Louis (DC systems)			
Georgia (Middle) B. Tanner	V, SC#1	Jerry Glass [VC] 478-752-3506	Sony equipment. Very reliable and effective.	No additional personnel needed, although it's best to set up equipment before the judge arrives to avoid problems.	<ol style="list-style-type: none"> <li>Videoconferencing is used extensively for ch. 13 routine matters; it's not used for witness testimony.</li> <li>ISDN lines are used for connectivity with few problems. If there is a problem, it sometimes takes a while to get it resolved. Local and long distance telephone service providers sometimes blame each other or the equipment. Staff test lines before use in case problems need to be resolved.</li> </ol>

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Bankruptcy Technology Roundtable

Bankruptcy Court/ Respondent	Equipment used (see Note)	Contacts: [VC] = videoconference generalist; [H] = hearings troubleshooter; [T] = teleconference generalist	Current video equipment; its reliability and effectiveness; how to make better use of it or improve quality	How videoconference is set up; personnel other than judge needed	Other comments and suggestions
Hawaii R. Sugiyama	V, SC#1, DC#1	Randall Sugiyama [VC] 808-522-8100 x 122 Neal Maeshiro [H] 808-522-8100 x 110	1. Polycom MP512. Reliable and effective. 2. Funding for DSL or other high-speed connection would help.	ECRO or courtroom deputy sets up and monitors equipment. IT staff sets up equipment outside of courtroom.	
Idaho C. Hansen	V, SC#1	Douglas Ward [VC] 208-334-9097 Clay Hansen [VC] 208-334-9069 Matt Groover [VC] 208-334-9065	1. PictureTel Venue 2000 (ISDN) in all four courts; Polycom ViewStation FX multi-point in Boise; Polycom ViewStation 512 in Coeur d'Alene and Pocatello. Equipment is reliable, but phone lines can cause problems. 2. Need to upgrade CRT monitors to plasma. Dedicated ISDN lines would be preferable.	IT staff sets up equipment 30 mins. before hearing. No personnel needed to monitor equipment.	District needs more training of personnel and better integration with existing technology (such as courtroom audio).
Illinois (Central) H. Hawes	T, D				
Indiana (Southern)	T				
Iowa (Northern) S. McAvoy	V, SC#1	Kirk Leggott [VC] 319-286-2222	Polycom Viewstation EX. Very reliable and effective.	Equipment is easy to set up. Judge can control it.	

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Bankruptcy Technology Roundtable

Bankruptcy Court/ Respondent	Equipment used (see Note)	Contacts: [VC] = videoconference generalist; [H] = hearings troubleshooter; [T] = teleconference generalist	Current video equipment; its reliability and effectiveness; how to make better use of it or improve quality	How videoconference is set up; personnel other than judge needed	Other comments and suggestions
Iowa (Southern) M. Weibel	V	Bill Gast [VC] 515-284-6234			Attorneys are very happy with the videoconference system.
Kentucky (Eastern)	N				
Kentucky (Western) D. Robl	D, SC#1			DC staff sets up and is available during videoconference.	
Maine D. Lepauloue	V, SC#1	David Lepauloue [VC, T] 207-780-3482 x 232	PictureTel Venue 2000. Reliable, but considered very old and court cannot get service contract because of its age.	IT staff sets up and is on call during videoconference.	Videoconferencing is used infrequently for hearings.
Michigan (Western) D. LaVille	V, SC#1	Ken Bross [VC, H] 616-456-2056 Rodney Bean [VC, H] 616-456-2248 Gregg Knapp [VC, H] 616-456-2548 Scott Stephenson [VC, H] 906-226-1562 Karl Zubrickas [VC, H] 616-456-2699 Sheri Brolick [VC, H] 616-456-2467 Greg Kaiser [VC, H] 616-456-2542	1. PictureTel. Very reliable and effective. 2. Need to upgrade ISDN lines to improve picture quality.	IT staff sets up and monitors equipment.	Equipment is bulky and heavy and is extremely difficult to move from location to location.
Minnesota L. Vosejka	D				Probation office operates and monitors videoconferencing systems.

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Montana L. Myers	V, D	Lynn Myers [VC] 406-497-1252 Kevin Miner [VC, H] 406-497-1253	Three systems: Tandberg 2500 (in Billings DC, Butte BC, Missoula BC); Tandberg 6000 (in Butte DC, Great Falls DC); Tandberg 880 (in Helena DC).	Setup is automatic. Out-of-state calls require testing a few days before hearing. IT staff are on call during videoconference.	District needs additional funding for hardware and software that would allow touch-screen control of call connection and retrieval; local and remote control of audio; and local and remote camera view, pan, tilt, and zoom.
Nebraska D. Zech	N, T				
Nevada V. Mullings	V, SC#1, DC#1	Vicki Mullings [VC] 702-388-6155	Two systems: VCON HD2000 (in Las Vegas) and VCON HD3000LT (in Reno). Equipment is reliable, but ISDN is not.	IT staff sets up and monitors videoconference.	District needs more bandwidth. It is currently limited to 384 KB connections, which is less than the 512 KB used by most courts. Also, only one videoconference can occur at a time.
New Hampshire S. Chase	V, SC#4, DC#1	Steve Chase [VC] 603-222-2620	Polycom Viewstation MP. Generally reliable and effective.	IT staff sets up and monitors videoconference.	More bandwidth would improve quality. Smaller equipment with graphical interfaces would be more useful for some court personnel.

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New Mexico L. Merewether	V, D, SC#1	Lana Merewether [VC] 505-348-2490	1. Polycom iPower. Reliable. 2. This is portable equipment and not as efficient as built-in.	IT staff sets up and is on call during videoconference.	Only one videoconference can occur at a time because it shares equipment/capacity with phone system.
New York (Southern) V. Genna	V, T, SC#2	Vito Genna [VC] 212-668-3892 Alexandra Pantazis [VC] 212-668-2870 x 3527 Trevor George [VC] 212-668-2870 x 3528	PictureTel 9000. Very reliable.	IT staff sets up and is on call during videoconference.	These portable units are efficient for administrative matters but not really designed for courtroom hearings. Carts in the center of the courtroom and ISDN lines running on the floor create obstacles.
New York (Western) P. Warren	N				
N. Carolina (Eastern) P. Deans	V	Jeffrey Elmore [VC] 252-237-0248 x 125 Christine Castelloe [VC] 919-856-4752 x 107	Tandberg equipment with Sony monitor. Reliable.	IT staff sets up equipment and courtroom deputy monitors it.	It would be helpful to have a national directory of locations with video facilities.
N. Carolina (Middle) S. Schwenn	V, SC#1	John Howard [VC, H] 336-333-5647 x 3134 Ken Roberts [VC, H] 336-333-5647 x 3131	1. Polycom (Models FX and MX) over IP connection with Time Warner Cable. Reliable. 2. Could be improved with more bandwidth and adding a gateway for ISDN-based systems.	IT staff are present at both ends of conference for setup and monitoring.	1. Judge, deputy, and reporter have commented on ease of use of system. 2. Speed, quality, and dependability have greatly improved with use of Time Warner as transmission carrier.

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N. Dakota D. Schmitz	V, SC#2		1. RSI Video Flyer Plus-Codec. 2. Some concern with line quality and fuzzy picture from remote end.	IT staff set up equipment and are usually present for monitoring. Court is hoping to train courtroom deputies to perform these functions.	District needs more sensitive microphones at both ends, remote camera that can be controlled from the home court, and codec that can handle two sites at once.
Ohio (Northern) K. Hirz	V, SC#2 (Tandberg) DC#1 (both Polycom and Tandberg)	Lori McLaughlin-Nelson [VC] 330-489-4431 x 6153	Tandberg (in Youngstown) and Polycom Viewstation (in other four courts).	Tandberg system is automatic and does not require monitoring. Polycom usually requires IT staff setup and monitoring. For hearings, Polycom requires staff to move cameras.	1. It would be better to have permanent setup of the equipment to avoid problems. 2. Audio difficulties are the most frequent complaint.
Oklahoma (Eastern)	T				
Oregon T. Dunn	V, SC#1	John Wester 503-326-2231 x 181	1. Polycom Viewstation MP. 2. Very reliable, but limited use in judicial proceedings because of single fixed camera.	IT staff sets up equipment, and court has seen no need to monitor.	District is building a new courthouse in Eugene that will hopefully have state-of-the-art video equipment.
Pennsylvania (Eastern) W. Stoertz	V, SC#3, DC#1	Jeff Simmins [VC, H] 215-408-2811 Kathleen Guerrero [VC, H] 215-408-2812	32" and 35" PictureTel systems.	No setup or additional personnel required.	

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Bankruptcy Court/ Respondent	Equipment used (see Note)	Contacts: [VC] = videoconference generalist; [H] = hearings troubleshooter; [T] = teleconference generalist	Current video equipment; its reliability and effectiveness; how to make better use of it or improve quality	How videoconference is set up; personnel other than judge needed	Other comments and suggestions
Pennsylvania (Western) J. Fitzgerald	V, T, SC#2, DC#1	Roy Kerekamich [VC, T] 412-355-3265 Kevin Murphy [VC, T] 412-644-4060 x 183 Shirley Fuller [VC, T] 814-464-9780 Pam Friend [VC, T] 814-464-9760	Polycom VS4000 systems used in Pittsburgh courtrooms. Polycom PowerExec portable unit used in Erie courtroom. Reliable.	Courtroom deputy sets up and monitors equipment. IT staff is on call.	<ol style="list-style-type: none"> <li>1. Videoconferencing is used on a regular basis.</li> <li>2. Video and audio connections to the Virgin Islands have some problems (see comments below).</li> <li>3. Regardless of connected courts or systems, audio feedback is difficult to control.</li> <li>4. AO should consider standardization of equipment in all courts to avoid compatibility problems.</li> </ol>
Puerto Rico C. Matta-Mendez	V	Nina Figueroa [VC, T] 787-287-1290 Carlos Mergal [H] 787-977-6081 Felix Martinez [H] 787-977-6089	<ol style="list-style-type: none"> <li>1. Polycom ViewStation 512 with 42" plasma display.</li> <li>2. Reliable, but there are concerns with quality of ISDN lines. Transmission can degrade with poor weather conditions or telephone line quality.</li> </ol>	IT staff performs setup.	<ol style="list-style-type: none"> <li>1. AO should set standards for video equipment.</li> <li>2. Infrastructure should be developed similar to DCN and PACER to provide reliable video network, including centralized contract system for sales, service, and support.</li> <li>3. Not all courtrooms and equipment are Courtroom 21 compliant.</li> </ol>

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S. Dakota K. Hodson	T	K. Hodson [T] 605-224-0560 N. Sarvis [T] 605-224-6013			
Texas (Eastern) J. Tokoph	V, T, SC#2	Mark Taylor [VC] 903-590-3222 Tony Ruffin [VC] 903-590-3223	Four systems: Polycom VS4000 (in Tyler), Polycom EX (in Tyler Clerk's), Polycom H.323 (in Plano and Beaumont).	IT staff sets up conference. Courtroom deputy monitors it.	1. Judges' most common complaint about video hearings is that they cannot clearly see or read witnesses' and litigants' facial expressions or body language during hearings. 2. Staff in remote locations say they do not feel part of meetings or comfortable participating in discussions, and they cannot hear some spontaneous roundtable discussion at main location.
Texas (Northern) T. Marshall	V, SC#1, DC#1	Timothy Christmagel [VC] 214-753-2020	Sony/Polycom W. Reliable.	IT staff sets up and monitors videoconference.	District needs better and more structured training for users.

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Texas (Southern) M. Milby	V, SC#2, DC#1		Polycom Viewstation 512mp. Reliable.	IT staff sets up equipment. No need to monitor.	In one courtroom, videoconference uses speakers in the ceiling as well as microphones. Plan is to add telephone line to the video system so that phone participants can be added to the videoconference.
Texas (Western) G. Prentice	V, SC#2, DC#1	Louis Phillips [VC] 210-472-6720 x 275 Julie Herrera [VC] 210-472-6720 x 224	Polycom Viewstation EX, with PictureTel Accord Bridge.	Usually not necessary for staff to monitor hearings. IT staff is on call.	ISDN lines are problematic. District is exploring use of dedicated circuits.
Utah B. Stillgebauer	V, SC#1, DC#1	Larry Gardner [VC] 801-524-6553 David Lemmon [VC] 801-524-6552	Polycom codec and sound servers. Very reliable. A few problems with sound servers.	IT staff sets up equipment, and courtroom deputy monitors it.	District needs formal technical training on Polycom equipment.
Vermont G. Gfeller	V, SC#2,	Gary Gfeller [VC] 802-776-2015	Tandberg Vision 2000 system. Very reliable.	Equipment is easy to set up. Although someone usually sets it up for the judge, it can be done by the judge or deputy.	
Virginia (Western) D. Fletcher		David Fletcher 540-857-2391 x 21			

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Virgin Islands J. Jamison	D, SC#1	Jim Jamison [VC] 340-774-0640 Aben Marrero [VC] 340-774-5528	1. Polycom Viewstation EX. 2. Usually reliable, but some limitations on transmissions owing to lack of ISDN connection.	Courtroom deputy sets up and monitors videoconference.	Since ISDN is not available, district must use the slower DCN connection. As the number of users on DCN increases transmission quality deteriorates.
Washington (Western) M. Hatcher	V, T, SC#1	Tim Ah'Yat [VC, T] 206-370-5379 Curtis Udy [VC, T] 206-370-5370	4 Canon cameras mounted on top of 42" plasma NEC TV.	Video staff member required for setup. No need to monitor.	Video system is in place but not yet used.
West Virginia (Northern) M. Sturm	V, T	Chris Warsinsky Lisa McNeil Jennifer Mattem [VC, T] all 304-233-1655			Videoconferencing is rarely used.
West Virginia (Southern) T. Deppner	D, SC#1, DC#1	Ted Philyaw [VC] 304-347-3099 Craig Timmons [VC] 304-347-3038 Eddie Danford [VC] 304-347-3053	Equipment is reliable but underutilized.	IT staff sets up videoconference.	District needs to increase awareness that videoconferencing should be used as an alternative to personal appearance. Judges should designate types of hearings where video is acceptable and publish rules and procedures.

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Wisconsin (Western) M. Anderson	V, SC#1		<ol style="list-style-type: none"> <li>PictureTel 2000 Model 50 in Madison and Eau Claire. Madison system is not reliable.</li> <li>Multiple carts and central network connection would allow more than one conference at the same time.</li> </ol>	<p>IT staff sets up and monitors videoconferences. No monitor for administrative conferences.</p>	<ol style="list-style-type: none"> <li>Equipment needs to be upgraded.</li> <li>IP connection would make the system more flexible.</li> </ol>
Wyoming J. Harris	V, T	Tim Ellis [VC, T] 307-433-2213			The district is huge, and attorneys appreciate use of telephone conferencing and videoconferencing. Videoconferencing saves the court thousands of dollars per year.

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## Appendix E

### Description of Videoconferencing Procedures in the District of Montana

**Based on information from Judge Ralph Kirscher**

This district is huge geographically but sparsely populated. The court convenes at four locations, some of which do not have permanent clerk's office staff. It also connects by video to a fifth location for counsel in that geographic area. There is one judge and a recall judge. This situation has necessitated the court's extensive use of a videoconference system to conduct hearings for the past several years. Montana is a "notice and hearing" court, which is very compatible with the regular use of video hearings.

The equipment is Tandberg, which has an internal bridging capacity but could be operated through Sprint. Normally, counsel request to appear by video on a first come, first served basis. The system permits four screens to appear on the video with sub-screens (picture-in-a-picture) for each site. For example, if a Missoula hearing is scheduled, one screen connects to Butte, where the courtroom deputy and other court personnel are present, one screen connects to the judge if he is not in Butte, and one screen connects to Missoula. If opposing counsel is not in Missoula, another screen can be added. More sites could be added, but since the screens are voice activated, the system becomes more difficult to use because of the delay in activating the additional screens. With four sites, the podium, the viewing area, the counsel tables, and the witness stand in each site can be seen continuously. A witness or attorney can appear at a non-court site, such as Kinko's or Mednet, but if so, the court directs that all persons be in the judge's view and requires that all persons in the room be identified. Nearly all hearings include three or four sites.

All exhibits must be filed in advance of the hearing or trial except rebuttal exhibits. Elmo, the exhibit camera, is available but rarely used, as it requires the entire screen. Normally, the exhibits are accessed through CM/ECF, though occasionally there are paper copies. The system allows a close-up view of the witness in the stand and is actually a better view than that obtained in the courtroom with the witness physically present. The system works best with digital 384K capacity lines rather than 128K capacity lines, as the 384K capacity lines reduce and nearly eliminate distorted voice, jerky movement, and time delay.

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## Appendix F

### Description of Videoconferencing Between Decatur, Alabama, and Florence, Alabama

Based on information from Judge Jack Caddell

For at least the last five years, I have conducted bimonthly motion dockets by videoconferencing between Decatur and Florence. I sit in Decatur, and a few of the litigants appear here, but most parties appear at the bankruptcy courtroom in Florence, which is approximately 65 miles away. We have recently upgraded the connection between the two courtrooms, which has substantially increased the quality of the overall experience. Until recently, the connection between the two courts was made by using three BRI ISDN lines at each site. A BRI ISDN line contains two channels, providing for a bandwidth of 64 kb/s each, or a total of 128 kb/s, and thus using three lines, we could have a bonded call at 384 kb/s ( $3 \times 128 = 384$ ). This connection speed sometimes provides good service, but often not so good. Any interference along the lines or in the telephone company's switches causes distortion, loss of sound, or total disconnection. When we called the phone company about the problems, they always disavowed any fault. Furthermore, conducting court at this speed can present unique problems. Because of the limitations of the 384 kb/s bandwidth, there is or may be some lag between the time the picture and sound occur in one site and the time they arrive at the other site. This creates confusion, as the parties may talk over each other. The best way I can describe this is to picture that you meet someone in a narrow hall and you both try to pass each other—both of you move the same way, then you both move the same way again. Because of the lag, both parties try to talk at the same time, then both parties are silent at the same time. Because of the frequent poor connections, disconnects, and lag time, we set out to find a better system.

For our office telephone system, we use a T-1 ISDN line, a/k/a PRI. Remember that a BRI ISDN line has two 64 kb/s channels, and using three of these provides for a connection at 384 kb/s. A T-1 line, or PRI, has twenty-three channels, for a total of 1536 kb/s, or approximately 64 kb/s per channel. After a month-long system history report by the telephone company, we found that we never used all channels. It was safe to take eight channels from the twenty-three available channels and emulate ISDN lines for the videoconference court sessions. The eight dedicated channels allow us to increase our videoconference connection capability to speeds up to 512 kb/s ( $8 \times 64 = 512$ ). This allowed us to terminate the three BRI ISDN lines and save approximately \$300 per month at our Decatur court (\$100 per line). The Florence courthouse does not have T-1 service, but we added another BRI ISDN line there.

By deleting three BRI ISDN lines in Decatur, using eight channels of our T-1 line (which we were already paying for), and adding one BRI ISDN line in Flor-

ence, we brought both sites to 512 kb/s. We now usually get excellent video and audio performance and have a net savings to the court of \$200 per month.

### ***Breaking Out Channels from Your Phone System's PRI***

If you have a full PRI, including twenty-three usable channels, and find your office does not use the entire bandwidth, you can break out channels from it and dedicate it for videoconferencing.

Adtran makes a device (the Atlas 550) that will take your PRI connection and break out as many as eight channels (even more if needed with additional cards), then dedicate the rest of the fifteen channels for your phone system. This means that now your phone system may have fifteen outside calls at one time, compared with the twenty-three calls before. With those eight channels dedicated to ISDN service, you can now use it for your videoconferencing equipment. With eight channels that have a capacity of 512 kb/s, you will be able to conduct a video session with smooth picture movement and real-time audio, voice, and picture connections. Since the Decatur site now connects at 512 kb/s using the T-1 breakout, we find that the quality is greatly improved even when we connect with other sites using old ISDN 384 kb/s connections.

### ***Problems Experienced with the New Installation***

Our court has two Polycom videoconferencing devices. One is a one-year-old VSX 7000, and the other is a six- to seven-year-old Viewstation 512. The two are basically the same in capabilities, but slightly different in their ways of connecting ISDN sessions.

Here is the problem we experienced with installation. We bought the equipment from BlackBox and had them install it. When they were through, we tested it with the Viewstation 512 and it worked fine. Then we tested it with the VSX 7000. We could not call out, but could receive calls.

We had to reprogram the SPIDS in the Atlas 550 from two line entries on one channel to one line entry on one channel. Somehow the Polycom 7000 could not find the other SPIDS on the other channels when dialing out unless they were individually assigned. The problem was solved.

### ***Additional Equipment Needed***

Besides the Atlas 550, we needed to buy two additional NT1 devices, one for Florence and one for Decatur.

### ***Future Project***

We are looking into possibly having a full or partial T1 at our Florence court at a cost of \$400 per month so that we can terminate all four ISDN lines currently installed. T1s are decreasing in cost, and in our opinion, the T1 is better in performance than the ISDN because the T1 comes in on one pair of wires and the ISDN

uses four pairs of wires. The additional wires increase the chances of problems during a videoconference session. We have found that sometimes phone company representatives don't like to tell you about newer products.

We have attached an ISDN definition sheet done by Ralph Becker ([www.ralphb.net](http://www.ralphb.net)), who has agreed to let us include it.

## **ISDN Definitions**

ISDN, which stands for Integrated Services Digital Network, is a system of digital phone connections which has been available for over a decade. This system allows voice and data to be transmitted simultaneously across the world using end-to-end digital connectivity.

With ISDN, voice and data are carried by bearer channels (B channels) occupying a bandwidth of 64 kb/s (bits per second). Some switches limit B channels to a capacity of 56 kb/s. A data channel (D channel) handles signaling at 16 kb/s or 64 kb/s, depending on the service type. Note that, in ISDN terminology, "k" means 1000 ( $10^3$ ), not 1024 ( $2^{10}$ ) as in many computer applications (the designator "K" is sometimes used to represent this value); therefore, a 64 kb/s channel carries data at a rate of 64000 b/s. A new set of standard prefixes has recently been created to handle this. Under this scheme, "k" (kilo) means 1000 ( $10^3$ ), "M" (mega-) means 1000000 ( $10^6$ ), and so on, and "Ki" (kibi-) means 1024 ( $2^{10}$ ), "Mi" (mebi-) means 1048576 ( $2^{20}$ ), and so on.

(An alert reader pointed out some inconsistencies in my use of unit terminology throughout this Tutorial. He also referred me to a definitive website. As a result, I have made every effort to both conform to standard terminology, and to use it consistently. I appreciate helpful user input like this!)

There are two basic types of ISDN service: Basic Rate Interface (BRI) and Primary Rate Interface (PRI). BRI consists of two 64 kb/s B channels and one 16 kb/s D channel for a total of 144 kb/s. This basic service is intended to meet the needs of most individual users.

PRI is intended for users with greater capacity requirements. Typically the channel structure is 23 B channels plus one 64 kb/s D channel for a total of 1536 kb/s. In Europe, PRI consists of 30 B channels plus one 64 kb/s D channel for a total of 1984 kb/s. It is also possible to support multiple PRI lines with one 64 kb/s D channel using Non-Facility Associated Signaling (NFAS).

H channels provide a way to aggregate B channels. They are implemented as:

- H0 = 384 kb/s (6 B channels)
- H10 = 1472 kb/s (23 B channels)
- H11 = 1536 kb/s (24 B channels)
- H12 = 1920 kb/s (30 B channels) - International (E1) only

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To access BRI service, it is necessary to subscribe to an ISDN phone line. Customers must be within 18000 feet (about 3.4 miles or 5.5 km) of the telephone company central office for BRI service; beyond that, expensive repeater devices are required, or ISDN service may not be available at all. Customers will also need special equipment to communicate with the phone company switch and with other ISDN devices. These devices include ISDN Terminal Adapters (sometimes called, incorrectly, "ISDN Modems") and ISDN Routers.

*Updated December 4, 2003*

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<http://www.ralphb.net/ISDN/defs.html>

6/21/2005



**Appendix G**  
**Draft Administrative Order on Use of Videoconferencing**  
**from the Western District of Pennsylvania**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

In re

Administrative Order Governing Hearings Held By Video Conference

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2005, it is ORDERED that the following procedures shall apply with respect to requests for hearings using the Court's video conference capabilities:

A request to attend a hearing by video conference must be made by 4:00 p.m. prevailing Eastern time on or before 15 days before the scheduled hearing date.

For chapter 7 and 11 cases, the requesting party shall call the Courtroom Deputy in chambers.

For chapter 13 cases, the requesting party shall call the Chapter 13 Clerk in the Clerk's Office.

REQUESTS MADE AFTER THE DEADLINE WILL NOT BE GRANTED.

In order to participate in a video conference, the participant must have a system that runs the H.323 protocol with an ISDN line that is capable of 384 kbps.

IT IS SO ORDERED.

## The Federal Judicial Center

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