



2014 California Rules of Court

Rule 3.670. Telephone appearance

(a) Policy favoring telephone appearances

The intent of this rule is to promote uniformity in the practices and procedures relating to telephone appearances in civil cases. To improve access to the courts and reduce litigation costs, courts should permit parties, to the extent feasible, to appear by telephone at appropriate conferences, hearings, and proceedings in civil cases.

(Subd (a) adopted effective January 1, 2008.)

(b) Application

This rule applies to all general civil cases as defined in rule 1.6 and to unlawful detainer and probate proceedings.

(Subd (b) relettered effective January 1, 2008; previously repealed and adopted as subd (a) effective July 1, 1998; previously amended effective January 1, 1999, January 1, 2001, January 1, 2003, and January 1, 2007.)

(c) General provision authorizing parties to appear by telephone

Except as ordered by the court under (f)(2) and subject to (d) (regarding ex parte applications) and (h) (regarding notice), all parties, including moving parties, may appear by telephone at all conferences, hearings, and proceedings other than those where personal appearances are required under (e).

(Subd (c) amended effective January 1, 2014; previously repealed and adopted as subd (b) effective July 1, 1998; previously amended effective July 1, 1999, and January 1, 2003; previously amended and relettered as subd (c) effective January 1, 2008.)

(d) Provisions regarding ex parte applications

(1) Applicants

Except as ordered by the court under (f)(2) and subject to (h), applicants seeking an ex parte order may appear by telephone provided that the moving papers have been filed and a proposed order submitted by at least 10:00 a.m. two court days before the ex parte appearance and, if required by local rule, copies have been provided directly to the department in which the matter is to be considered.

(2) Opposing Parties

Even if the applicant has not complied with (1), except as ordered by the court under (f)(2) and subject to the provisions in (h), parties opposing an ex parte order may appear by telephone.

(Subd (d) adopted effective January 1, 2014.)

(e) Required personal appearances

(1) Except as permitted by the court under (f)(3), a personal appearance is required for the following hearings, conferences, and proceedings:

- (A) Trials, hearings, and proceedings at which witnesses are expected to testify;
- (B) Hearings on temporary restraining orders;
- (C) Settlement conferences;
- (D) Trial management conferences;

- (E) Hearings on motions in limine; and
 - (F) Hearings on petitions to confirm the sale of property under the Probate Code.
- (2) In addition, except as permitted by the court under (f)(3), a personal appearance is required for the following persons:
- (A) Persons ordered to appear to show cause why sanctions should not be imposed for violation of a court order or a rule; or
 - (B) Persons ordered to appear in an order or citation issued under the Probate Code.

At the proceedings described under (2), parties who are not required to appear in person under this rule may appear by telephone.

(Subd (e) amended and relettered effective January 1, 2014; adopted as subd (c) effective July 1, 1998; previously amended effective July 1, 2002, and January 1, 2003; previously amended and relettered as subd (d) effective January 1, 2008.)

(f) Court discretion to modify rule

(1) *Policy favoring telephone appearances in civil cases*

In exercising its discretion under this provision, the court should consider the general policy favoring telephone appearances in civil cases.

(2) *Court may require personal appearances*

The court may require a party to appear in person at a hearing, conference, or proceeding listed in (c) or (d) if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.

(3) *Court may permit appearances by telephone*

The court may permit a party to appear by telephone at a hearing, conference, or proceeding under (e) if the court determines that a telephone appearance is appropriate.

(Subd (f) amended and relettered effective January 1, 2014; adopted as subd (e) effective January 1, 2008.)

(g) Need for personal appearance

If, at any time during a hearing, conference, or proceeding conducted by telephone, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

(Subd (g) relettered effective January 1, 2014; adopted as subd (f) effective January 1, 2008.)

(h) Notice by party

- (1) Except as provided in (6), a party choosing to appear by telephone at a hearing, conference, or proceeding, other than on an ex parte application, under this rule must either:
- (A) Place the phrase "Telephone Appearance" below the title of the moving, opposing, or reply papers; or
 - (B) At least two court days before the appearance, notify the court and all other parties of the party's intent to appear by telephone. If the notice is oral, it must be given either in person or by telephone. If the notice is in writing, it must be given by filing a "Notice of Intent to Appear by Telephone" with the court at least two court days before the appearance and by serving the notice at the same time on all other parties by personal delivery, fax transmission, express mail, e-mail if such service is required by local rule or court order or agreed to by the parties, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.
- (2) If after receiving notice from another party as provided under (1) a party that has not given notice also decides to appear by telephone, the party may do so by notifying the court and all other parties that have appeared in the action, no later than noon on the court day before the appearance, of its intent to appear by telephone.
- (3) An applicant choosing to appear by telephone at an ex parte appearance under this rule must:
- (A) Place the phrase "Telephone Appearance" below the title of the application papers;
 - (B) File and serve the papers in such a way that they will be received by the court and all parties by no later than 10:00 a.m. two court days before the ex parte appearance; and

(C) If provided by local rule, ensure that copies of the papers are received in the department in which the matter is to be considered.

- (4) Any party other than an applicant choosing to appear by telephone at an ex parte appearance under this rule must notify the court and all other parties that have appeared in the action, no later than 2:00 p.m. on the court day before the appearance, of its intent to appear by telephone. If the notice is oral, it must be given either in person or by telephone. If the notice is in writing, it must be given by filing a "Notice of Intent to Appear by Telephone" with the court and by serving the notice at the same time on all other parties by any means authorized by law reasonably calculated to ensure delivery to the parties no later than the close of business on the court day before the appearance.
- (5) If a party that has given notice that it intends to appear by telephone under (1) subsequently chooses to appear in person, the party may appear in person.
- (6) A party may ask the court for leave to appear by telephone without the notice provided for under (1)-(4). The court should permit the party to appear by telephone upon a showing of good cause or unforeseen circumstances.

(Subd (h) amended and relettered effective January 1, 2014; adopted as subd (d) effective July 1, 1998; previously amended effective January 1, 1999, July 1, 1999, January 1, 2003, and January 1, 2007; amended and relettered subd (g) effective January 1, 2008.)

(i) Notice by court

After a party has requested a telephone appearance under (h), if the court requires the personal appearance of the party, the court must give reasonable notice to all parties before the hearing and may continue the hearing if necessary to accommodate the personal appearance. The court may direct the court clerk, a court-appointed vendor, a party, or an attorney to provide the notification. In courts using a telephonic tentative ruling system for law and motion matters, court notification that parties must appear in person may be given as part of the court's tentative ruling on a specific law and motion matter if that notification is given one court day before the hearing.

(Subd (i) amended and relettered effective January 1, 2014; adopted as subd (e) effective July 1, 1998; previously amended effective January 1, 1999, and January 1, 2003; previously amended and relettered as subd (h) effective January 1, 2008.)

(j) Provision of telephone appearance services

A court may provide for telephone appearances only through one or more of the following methods:

- (1) An agreement with one or more vendors under a statewide master agreement or agreements.
- (2) The direct provision by the court of telephone appearance services. If a court directly provides telephone services, it must collect the telephone appearance fees specified in (k), except as provided in (l) and (m). A judge may, at his or her discretion, waive telephone appearance fees for parties appearing directly by telephone in that judge's courtroom.

(Subd (j) amended and relettered effective January 1, 2014; adopted as subd (f) effective July 1, 1998; previously relettered as subd (i) effective January 1, 2008; previously amended effective January 1, 2003, July 1, 2011 and July 1, 2013.)

(k) Telephone appearance fee amounts; time for making requests

The telephone appearance fees specified in this subdivision are the statewide, uniform fees to be paid by parties to a vendor or court for providing telephone appearance services. Except as provided under (l) and (m), the fees to be paid to appear by telephone are as follows:

- (1) The fee to appear by telephone, made by a timely request to a vendor or court providing telephone appearance services, is \$86 for each appearance.
- (2) An additional late request fee of \$30 is to be charged for an appearance by telephone if the request to the vendor or the court providing telephone services is not made at least two days before the scheduled appearance, except:
 - (A) When an opposing party has provided timely notice under (h)(4) on an ex parte application or other hearing, conference, or proceeding, no late fee is to be charged to that party;
 - (B) When the court, on its own motion, sets a hearing or conference on shortened time, no late fee is to be charged to any party;
 - (C) When the matter has a tentative ruling posted within the two day period, no late fee is to be charged to any party; and
 - (D) When the request to appear by telephone is made by a party that received notice of another party's intent to appear and afterward decides also to appear by telephone under (h)(2), no late fee is to be charged to that party if its request is made to the vendor or the court providing the service by noon on the court day before the hearing or conference.

- (3) A fee of \$5 is to be charged instead of the fees under (1) and (2) if a party cancels a telephone appearance request and no telephone appearance is made. A hearing or appearance that is taken off calendar or continued by the court is not a cancellation under this rule. If the hearing or appearance is taken off calendar by the court, there is no charge for the telephone appearance. If the hearing or appearance is continued by the court, the appearance fee must be refunded to the requesting party or, if the party agrees, be applied to the new hearing or appearance date.

(Subd (k) amended and relettered effective January 1, 2014; adopted as subd (j) effective July 1, 2011; previously (j) amended effective July 1, 2013.)

(l) Fee waivers

(1) *Effect of fee waiver*

A party that has received a fee waiver must not be charged the fees for telephone appearances provided under (k), subject to the provisions of Code of Civil Procedure section 367.6(b).

(2) *Responsibility of requesting party*

To obtain telephone services without payment of a telephone appearance fee from a vendor or a court that provides telephone appearance services, a party must advise the vendor or the court that he or she has received a fee waiver from the court. If a vendor requests, the party must transmit a copy of the order granting the fee waiver to the vendor.

(3) *Lien on judgment*

If a party based on a fee waiver receives telephone appearance services under this rule without payment of a fee, the vendor or court that provides the telephone appearance services has a lien on any judgment, including a judgment for costs, that the party may receive, in the amount of the fee that the party would have paid for the telephone appearance. There is no charge for filing the lien.

(Subd (l) amended and relettered effective January 1, 2014; adopted as subd (k) effective July 1, 2011.)

(m) Title IV-D proceedings

(1) *Court-provided telephone appearance services*

If a court provides telephone appearance services in a proceeding for child or family support under Title IV-D of the Social Security Act brought by or otherwise involving a local child support agency, the court must not charge a fee for those services.

(2) *Vendor-provided telephone appearance services*

If a vendor provides for telephone appearance services in a proceeding for child or family support under Title IV-D, the amount of the fee for a telephone appearance under (k)(1) is \$58 instead of \$78. No portion of the fee received by the vendor for a telephone appearance under this subdivision is to be transmitted to the State Treasury under Government Code section 72011.

(3) *Responsibility of requesting party*

When a party in a Title IV-D proceeding requests telephone appearance services from a court or a vendor, the party requesting the services must advise the court or the vendor that the requester is a party in a proceeding for child or family support under Title IV-D brought by or otherwise involving a local child support agency.

(4) *Fee waivers applicable*

The fee waiver provisions in (l) apply to a request by a party in a Title IV-D proceeding for telephone appearance services from a vendor.

(Subd (m) amended and relettered effective January 1, 2014; adopted as subd (l) effective July 1, 2011; previously amended effective July 1, 2013.)

(n) Audibility and procedure

The court must ensure that the statements of participants are audible to all other participants and the court staff and that the statements made by a participant are identified as being made by that participant.

(Subd (n) relettered effective January 1, 2014; adopted as subd (f); previously amended effective January 1, 2003, and January 1, 2007; previously amended and relettered as subd (j) effective January 1, 2008; previously relettered as subd (c) effective January 1, 1989, as subd (g) effective July 1, 1998, and as subd (m) effective July 1, 2011.)

(o) Reporting

All proceedings involving telephone appearances must be reported to the same extent and in the same manner as if the participants had appeared in person.

(Subd (o) relettered effective January 1, 2014; adopted as subd (h) effective July 1, 1998; previously amended effective January 1, 2003; previously relettered as subd (k) effective January 1, 2008, and as subd (n) effective July 1, 2011.)

(p) Conference call vendor or vendors

A court, by local rule, may designate the conference call vendor or vendors that must be used for telephone appearances.

(Subd (p) relettered effective January 1, 2014; adopted as subd (i) effective July 1, 1998; previously amended effective January 1, 1999, and January 1, 2003; previously relettered as subd (l) effective January 1, 2008; previously amended and relettered as subd (o) effective July 1, 2011.)

(q) Information on telephone appearances

The court must publish notice providing parties with the particular information necessary for them to appear by telephone at conferences, hearings, and proceedings in that court under this rule.

(Subd (q) relettered effective January 1, 2014; adopted as subd (j); previously amended effective January 1, 2003, and January 1, 2007; previously amended and relettered as subd (m) effective January 1, 2008; previously relettered as subd (p) effective July 1, 2011.)

Rule 3.670 amended effective January 1, 2014; adopted as rule 298 effective March 1, 1988; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1989, July 1, 1998, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2002, January 1, 2003, January 1, 2008, July 1, 2011, and July 1, 2013.

Advisory Committee Comment

This rule does not apply to criminal or juvenile matters, and it also does not apply to family law matters, except in certain respects as provided in rule 5.324 relating to telephone appearances in proceedings for child or family support under Title IV-D of the Social Security Act. (See Cal. Rules of Court, rule 3.670(b) [rule applies to general civil cases and unlawful detainer and probate proceedings]; rule 5.324(j) [subdivisions (j)-(q) of rule 3.670 apply to telephone appearances in Title IV-D proceedings].)

Subdivision (d). The inclusion of ex parte applications in this rule is intended to address only the way parties may appear and is not intended to alter the way courts handle ex parte applications.

Subdivision (h). Under subdivision (h)(6), good cause should be construed consistent with the policy in (a) and in Code of Civil Procedure section 367.5(a) favoring telephone appearances. Some examples of good cause to appear by telephone without notice include personal or family illness, death in the family, natural disasters, and unexpected transportation delays or interruption.

Subdivision (j). Under subdivision (j)(3) of this rule and Government Code section 72010(c), even for proceedings in which fees are authorized, the fees may be waived by a judicial officer, in his or her discretion, for parties appearing directly by telephone in that judicial officer's courtroom.

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