



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
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Chief Deputy Director

KATHLEEN T. HOWARD
Director, Office of Governmental Affairs

March 19, 2007

Hon. Ted Lieu
Member of the Assembly
State Capitol, Room 4016
Sacramento, California 95814

Subject: AB 500 (Lieu) as introduced
Hearing: Assembly Judiciary Committee – March 27, 2007

Dear Assembly Member Lieu:

The Judicial Council is committed to working cooperatively on AB 500 with you and the Consumer Attorneys of California, the California Defense Counsel, and other interested stakeholders on the issue of telephonic appearances in civil actions in California's trial courts. While the council does not yet have an official position on AB 500, we have several significant concerns about the introduced version of the bill that we want to bring to your attention. Primarily, we are concerned that the bill in its current form may unintentionally undermine the effectiveness of the process that was mutually agreed upon by the Judicial Council, the Consumer Attorneys of California, and the California Defense Counsel to form a joint working group on this issue. Codifying only select portions of the existing rule of court, and changing the timelines under the rule are substantive changes in the law that could be interpreted as predetermining the outcome of the process before the joint working group has had its first meeting on the subject. Here are two specific concerns that illustrate this point:

- 1) The current version of the bill inappropriately eliminates the existing authority of judicial officers to order personal appearances in settlement conferences, case management conferences, and other hearings or conferences for which the court, in its discretion,

determines on a case-by-case basis that a personal appearance would materially assist in a determination of the proceedings or resolution of the matter. (See Rule 3.670(c), California Rules of Court) While the council is willing to explore possible amendments to Rule 3.670, as well as any other approaches that are designed to maximize the appropriate use of telephonic appearances, the bill's failure to provide for *any* judicial discretion in this area is quite problematic.

- 2) The bill also currently contains a level of detail regarding the practice and procedures governing telephonic appearances that is more appropriately addressed in a rule of court rather than a statute.

Notwithstanding the aforementioned concerns, we are hopeful that we will be able to achieve consensus through the upcoming efforts of our joint working group on the best methods for enhancing the use of telephonic appearances in a manner that makes litigation more cost effective and workable for both litigants and the courts. We appreciate the sponsor's offer to add a statement of legislative intent that the exemptions issue will be addressed. However, our concerns with the current version of the bill remain. We are grateful for your leadership on this issue and your commitment to working cooperatively with us in this effort.

Respectfully,

Daniel Pone
Senior Attorney

DP/op

cc: Members, Assembly Judiciary Committee
Kevin Baker, Counsel, Assembly Judiciary Committee
Mike Belote, California Defense Counsel
Nancy Drabble, Chief Legislative Counsel, Consumer Attorneys of California
Kate Kalstein, Legislative Counsel, California Judges Association
Mark Redmond, Policy Consultant, Assembly Republican Caucus
Lea-Ann Tratten, Legislative Counsel, Consumer Attorneys of California



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June 14, 2007

Hon. Ellen Corbett, Chair
Senate Judiciary Committee
State Capitol, Room 3092
Sacramento, California 95814

Subject: AB 500 (Lieu), as amended June 12, 2007 - Support
Hearing: Senate Judiciary Committee – June 19, 2007

Dear Senator Corbett:

The Judicial Council supports AB 500, as amended June 12, 2007, which provides generally that a party may appear by telephone in all general civil cases at case management conferences and other specified hearings and proceedings. The bill also provides that a court may require a party to appear in person at such hearings, conferences, or proceedings 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. In addition, AB 500 requires the Judicial Council to adopt, by January 1, 2008, implementing rules that address, among other things, the notice to be given by a party requesting a telephone appearance; the manner in which telephone appearances are to be conducted; other conditions required for a party to be permitted to appear by telephone; and provisions relating to the courts' use of private vendors for telephone appearance services.

In their annual liaison meetings with Chief Justice Ronald M. George, both the Consumer Attorneys of California (CAOC) and the California Defense Counsel (CDC) identified as a major issue the lack of uniformity in courts' practices in allowing attorneys to appear by telephone at

Hon. Ellen Corbett, Chair

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various conferences and hearings. The attorneys expressed a strong concern that disparate court practices result in attorneys being required to attend court hearings and conferences in person when a telephone appearance would have been sufficient. They noted that requiring personal appearances in such cases is inefficient, expensive and burdensome.

This spring, the council's Civil and Small Claims Advisory Committee formed a working group to address these concerns, and developed a consensus legislative proposal that is reflected in the current version of AB 500, together with a companion rule of court that is currently out for public comment. The working group's membership included geographically diverse representatives from CAOC, CDC, and the bench. If adopted by the Judicial Council, the implementing rule will take effect on January 1, 2008, which is when AB 500 would become effective.

The Judicial Council appreciates the commitment of the author, CAOC and CDC to work cooperatively with us in addressing the telephonic appearances issue. The council believes that AB 500 represents a solid compromise that expands the availability of telephone appearances, while at the same time preserving the discretion of judges to order personal appearances at court hearings and conferences in appropriate situations. The bill is balanced, promotes access to the courts, and reduces unnecessary personal appearances, all of which should significantly reduce the costs of litigation for both parties and the courts.

For these reasons, the Judicial Council supports AB 500. If you have any questions, please feel free to contact me.

Sincerely,



Daniel A. Pone
Senior Attorney

DP/op

cc: Members, Senate Judiciary Committee
Hon. Ted Lieu, Member of the Assembly
Ms. Kathy Banuelos, Counsel, Senate Judiciary Committee
Mr. Mike Belote, Lobbyist, California Defense Counsel
Mr. Eric Csizmar, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Nancy Drabble, Chief Legislative Counsel, Consumer Attorneys of California
Mr. Brent Jamison, Acting Director of Legislation, Governor's Office of Planning and Research
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



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September 7, 2007

Hon. Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 500 (Lieu) – Request for Signature

Dear Governor Schwarzenegger:

The Judicial Council supports AB 500, which provides generally that a party may appear by telephone in all general civil cases at case management conferences and other specified hearings and proceedings. The bill also provides that a court may require a party to appear in person at such hearings, conferences, or proceedings 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. In addition, AB 500 requires the Judicial Council to adopt, by January 1, 2008, implementing rules that address, among other things, the notice to be given by a party requesting a telephone appearance; the manner in which telephone appearances are to be conducted; other conditions required for a party to be permitted to appear by telephone; and provisions relating to the courts' use of private vendors for telephone appearance services.

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Hon. Arnold Schwarzenegger

September 7, 2007

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balanced, promotes access to the courts, and reduces unnecessary personal appearances, all of which should significantly reduce the costs of litigation for both parties and the courts.

For these reasons, the Judicial Council respectfully requests your signature on AB 500. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel A. Pone". The signature is fluid and cursive, with the first name "Daniel" being more prominent than the last name "Pone".

Daniel A. Pone
Senior Attorney

DP/op

cc: Hon. Ted Lieu, Member of the Assembly
Mr. Mike Belote, Lobbyist, California Defense Counsel
Ms. Nancy Drabble, Chief Legislative Counsel, Consumer Attorneys of California
Mr. Brent Jamison, Acting Director of Legislation, Governor's Office of Planning and Research
Mr. Chris Ryan, Deputy Legislative Affairs Secretary, Office of the Governor