
**United States Court of Appeals
For the First Circuit**

**IN RE: SONY BMG MUSIC ENTERTAINMENT;
WARNER BROS. RECORDS, INC.;
ATLANTIC RECORDING CORPORATION;
ARISTA RECORDS LLC;
AND UMG RECORDINGS, INC.**

PETITIONERS

ON PETITION FOR EXTRAORDINARY WRIT TO THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

**District Court Case No. 07-11446-NG (D. Mass.)
(Consolidated with District Court Case No. 03-11661-NG (D. Mass.))
Hon. Nancy Gertner, United States District Judge, presiding**

**BRIEF *AMICUS CURIAE* OF COURTROOM VIEW NETWORK IN SUPPORT
OF RESPONDENT AND AFFIRMANCE OF DECISION BELOW**

Jonathan Sherman (admission pending)
Dean Kawamoto (admission pending)
Melissa Felder (admission pending)
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Avenue, N.W.
Washington, D.C. 20015
(202) 237-2727

*Counsel for Amicus Curiae
Courtroom View Network*

Dated: January 29, 2009

CORPORATE DISCLOSURE STATEMENT

The undersigned counsel of record provides the following statement under Fed. R. App. P. 26.1: *Amicus Curiae* Courtroom View Network [dba] Courtroom Connect states that it has no parent corporation and that no publicly held corporation owns 10% or more of its stock.

TABLE OF CONTENTS

CORPORATE DISCLOSURE STATEMENT i

TABLE OF AUTHORITIES iii

INTRODUCTION AND STATEMENT OF INTEREST OF
COURTROOM VIEW NETWORK..... 1

STATEMENT OF ADDITIONAL FACTS RELEVANT TO BRIEF
AMICUS CURIAE 3

ARGUMENT 6

JUDGE GERTNER CORRECTLY HELD THAT LOCAL RULE
83.3 GRANTS JUDGES THE DISCRETION TO PERMIT THE
RECORDING AND BROADCASTING OF DISTRICT COURT
PROCEEDINGS 6

 A. The Text and Structure of Rule 83.3 Make Clear That District
 Courts Have the Discretion to Permit Broadcasting and Recording of
 District Court Proceedings..... 6

The Unambiguous Text..... 7

Petitioners' Rewrites and Surplusage 8

*Other Courts and the Conference Have Shown That
 Writing a Ban on Coverage of all Adversarial
 Proceedings is Not a Complicated Task*..... 9

Petitioners' Reading Defies Common Sense..... 10

 B. District Courts are Entitled to a “Special Degree of
 Deference” in Interpreting Their Own Rules and are Best Situated to
 Exercise Their Discretion to Permit Coverage of Adversarial
 Proceedings..... 12

CONCLUSION 15

TABLE OF AUTHORITIES

Cases

<i>In re Bushkin Associates, Inc.</i> , 864 F.2d 241, 245 (1st Cir. 1989).....	14
<i>Chandler v. Florida</i> , 449 U.S. 560 (1981)	15
<i>C.K. Smith & Co. v. Motiva Enterprises</i> , 269 F.3d 70, (1st Cir. 2001).....	8
<i>E*Trade Financial Corp. v. Deutsche Bank AG</i> , 582 F. Supp. 2d 528 (S.D.N.Y. 2008)	5
<i>Hearst v. Justices of the Superior Court</i> , No. SJ-96-0047 (Mass. Feb. 1, 1996).....	4
<i>In re Jarvis</i> , 53 F.3d 416 (1st Cir. 1995).....	6
<i>Johnson v. Louisiana</i> , 406 U.S. 366 (1972)	13
<i>Koon v. United States</i> , 518 U.S. 81 (1996)	12
<i>Lopez-Soto v. Hawyek</i> , 175 F.3d 170 (1st Cir. 1999)	8,9
<i>Marisol v. Giuliani</i> , 929 F. Supp. 660 (S.D.N.Y. 1996).....	5
<i>Morales v. Sociedad Espanola De Auxilio Mutuo y Beneficencia</i> , 524 F.3d 54 (1st Cir. 2008).....	7
<i>Nebraska Press Ass’n v. Stuart</i> , 427 U.S. 539 (1976)	15
<i>New State Ice Co. v. Liebman</i> , 285 U.S. 262 (1932)	13
<i>Petitioning Creditors of Melon Produce v. Braunstein</i> , 112 F.3d 1232 (1st Cir. 2007)	10
<i>Plumley v. Southern Container, Inc.</i> , 303 F.3d 364 (1st Cir. 2002).....	6
<i>Reiter v. Sonotone Corp</i> , 442 U.S. 330 (1979).....	7

Scotchtown Holdings LLC v. Town of Goshen,
No. 08-cv-4720 (S.D.N.Y. Dec. 11, 2008)..... 5

United States v. Horn, 29 F.3d 754 (1st Cir. 1994) 6

United States v. Merric, 166 F.3d 406 (1st Cir. 1999)..... 5

United States v. Parilla-Tirado, 22 F.3d 368 (1st Cir. 1994). 12

United States v. Cassiere, 4 F.3d 1006 (1st Cir. 1993)..... 12

In re Zyprexa Products Liability Litigation, Case No. 04-md-1596,
2008 WL 1809659 (E.D.N.Y. March 4, 2008)..... 5,14

Statutes

28 U.S.C. § 2071(a)..... 5

Federal Rules of Procedure

Fed. R. App. P. 29(b)..... 1

Fed. R. Civ. P. 83(a)(1)..... 3,5,13

Fed. R. Crim. P. 53 5

District Court Rules

N.D. Cal. R. 77-3..... 10

S.D. Cal. R. 83.7(c) 10

D. Del. R. 83.2..... 10

M.D. Fla. R. 4.11 10

D. Haw. R. 83.8..... 10

N.D. Ind. R. 83.3 10

N.D. Ind. R. 83.4	10
S.D. Ind. R. 83.3	10
D. Mass. R. 83.3	<i>passim</i>
E.D. Mich. R. 83.31(c)	10
E.D. Mo. R. 83-13.02	10
D. Mont. R. 83.10	10
E.D.N.Y. & S.D.N.Y. R. 1.8	5, 13, 14
E.D.N.C. R. 83.6	10
N.D. Okla. R. 39.3	10
E.D. Pa. R. 83.3	10
D.P.R. R. 83.6	10
N.D. Tex. R. 83.18	10
E.D. Va. R. 83.3	10

State Court Rules

Mass. Sup. Jud. Ct. R. 1:19	4
-----------------------------------	---

Legislative History

House Rep. No. 99-422 (1985)	13
------------------------------------	----

CORPORATE DISCLOSURE STATEMENT

The undersigned counsel of record provides the following statement under Fed. R. App. P. 26.1: *Amicus Curiae* Courtroom View Network [dba] Courtroom Connect (a California corporation) states that it has no parent corporation and that no publicly held corporation owns 10% or more of its stock.

INTRODUCTION AND STATEMENT OF INTEREST OF COURTROOM VIEW NETWORK

Amicus Curiae, Courtroom View Network (“CVN”), is an independent media organization that provides unedited, gavel-to-gavel coverage of court proceedings to subscribers over the internet.¹ CVN has covered over 200 proceedings, including trials and some of the most prominent civil litigation in the United States. (Docket #719 [Shin Decl. at ¶ 4]) CVN’s purpose is no different than that of the press generally: to provide information about courts and proceedings as accurately as possible. But it does this through the unique emerging opportunities afforded by the internet. CVN’s subscribers vary by proceeding—and can include, for example, only parties; interested groups, such as the shareholders of a party; and members of the public, who subscribe to CVN proceedings. (*Id.* at ¶ 3) The internet provides a particularly effective model to reach these persons (*e.g.*, financial analysts, class members, lawyers and in-house counsel located across the country or globe in MDL proceedings).²

At the heart of this proceeding is whether the Rules of the district court bar the continued, deliberate, and judicious evolution of this phenomenon—in *every*

¹ CVN respectfully submits this brief pursuant to this Court’s January 21, 2009 Order and Fed. R. App. P. 29(b), accompanied by a motion for leave to file pursuant to the January 21 Order.

² In light of CVN’s interest in the interpretation of Rule 83.3, CVN respectfully requests that it be given permission to participate in oral argument, and CVN has submitted herewith a motion seeking permission to do so.

case in the District of Massachusetts that such stakeholders wish to observe. CVN seeks to persuade this Court that it should not, and indeed *may* not, construe Local Rule 83.3 to bar cameras in all adversarial judicial proceedings. Rule 83.3 is unambiguous in creating two exceptions to the general prohibition in the Rule. One covers activity “specifically provided in these rules”; the other covers activity that is permitted “by order of the court.” Petitioners’ argument that the phrase “by order of the court” is limited to *only* those activities set forth in one subsection of the Rule is flawed because it: (i) reads language into the Rule that is not there; (ii) renders superfluous language that *is* there; (iii) ignores language from analogous rules that do unambiguously bar cameras in adversarial proceedings; and (iv) makes absolutely no sense.

Indeed, under Petitioners’ reading, Rule 83.3 renders impermissible routine uses of audio-visual technology that take place every day in adversarial proceedings—including the use of security cameras in courtrooms; media overflow rooms; audio broadcasts of proceedings to law clerks in chambers; video or audio conferencing in complex cases; even the display of an allegedly defamatory broadcast at issue in a defamation case.³

³ Rule 83.3(a) provides in pertinent part (*see* Addendum at 1 for full text):
(a) Recording and Broadcasting Prohibited. Except as specifically provided in these rules or by order of the court, no person shall take any photograph, make any recording, or make any broadcast by radio, television, or other means, *in the course of or in connection with any*

This Court has repeatedly accorded greater deference to a district court’s interpretation of its own local rules than of statutes. Judge Gertner’s interpretation of the local rule is correct and should be afforded deference. And if Judge Gertner’s interpretation of Rule 83.3 is inconsistent with the views of a majority of the judges of the District of Massachusetts, those members can revise the Rule; if the views of the entire Court are inconsistent with those of the First Circuit Judicial Council, it is empowered to “modify or abrogate” the Rule. *See* Fed. R. Civ. P. 83(a)(1). Given this remedial framework, an extraordinary writ is insupportable—quite apart from Petitioners’ failure to have shown irreparable injury,⁴ *see* note 15 *infra*—where this Court must find Judge Gertner’s interpretation to be not only erroneous but “*palpably erroneous*” in order to grant the Petition.

**STATEMENT OF ADDITIONAL FACTS
RELEVANT TO BRIEF AMICUS CURIAE**

The history of cameras in the federal and state courts is set forth in detail in Defendant’s Motion to Admit the Internet filed in the district court. (# 718) We

proceedings in this court, on any floor of any building on which proceedings of this court are or, in the regular course of the business of the court, may be held

⁴ Petitioners’ denunciation of CVN as conspiring with “Defendant and his counsel” (Petition at 6) to advance one party’s cause, is reckless and unfounded rhetoric. CVN has no interest in the outcome of the underlying case—indeed CVN did not even appear below and does not necessarily agree with the conditions enumerated by the Court for imposing coverage—but most assuredly has an interest in ensuring the proper reading of Rule 83.3.

highlight these key matters:

First, cameras have become a fixture in the trial courts of 43 states, and numerous studies have been conducted to evaluate their effects on the judicial process. (#720 [Nesson Decl. Exs. 1-2, 4-9, 23]) For example, following a successful pilot program in the 1980s, the Commonwealth of Massachusetts adopted a rule allowing cameras to cover state court proceedings. *See* Mass. Sup. Jud. Ct. R. 1:19 (Addendum at 7) That rule remains in effect to this day. *See Hearst v. Justices of the Superior Court*, No. SJ-96-0047 (Mass. Feb. 1, 1996) (“The circumstances of *People v. Simpson* in California should not be permitted to influence the operation of our Massachusetts rule.”). (#720 [Nesson Decl. Ex. 3])

Second, the federal judiciary has experimented with cameras. It initially did so through a pilot program that authorized coverage of cases in several federal courts (including in the District of Massachusetts). (#720 [Nesson Decl. Exs. 5, at 104; 7])⁵ The results of the pilot program were favorable, and the Judicial Conference’s Case Management Committee—charged with evaluating the program—recommended making coverage permanent in all civil proceedings. (#720 [Nesson Decl. Ex. 8]) The Conference “declined to approve” the recommendation. (#720 [Nesson Decl. Exs. 9, at 47; 10])

Finally, and despite the Conference’s opposition, several federal courts (nine

⁵ The program lasted from 1991 to 1994 and involved coverage of over 50 trials and other proceedings. (#720 [Nesson Decl, Ex. 7 at 5])

of them) continue to have rules that permit the discretionary exercise of authority to permit cameras in adversarial proceedings. Thus, federal courts in New York, notwithstanding the policy of the Conference, have permitted coverage under the Rule in force in those localities.⁶ E.D.N.Y. & S.D.N.Y. R. 1.8. They have done so over the objections of parties, for trials, *e.g.*, *E*Trade Financial Corp. v. Deutsche Bank AG*, 582 F. Supp. 2d 528 (S.D.N.Y. 2008); evidentiary hearings, *In re Zyprexa Products Liability Litigation*, Case No. 04-md-1596, 2008 WL 1809659 (E.D.N.Y. March 4, 2008); and oral arguments. *E.g.*, *Scotchtown Holdings LLC v. Town of Goshen*, No. 08-cv-4720 (S.D.N.Y. Dec. 11, 2008) (Addendum at 3)⁷

These rulings have not precipitated a “flood of applications,” as Petitioner

⁶ In response to the first of these rulings, *Marisol v. Giuliani*, 929 F. Supp. 660 (S.D.N.Y. 1996), the Conference approved a resolution “to strongly urge each circuit judicial council to adopt” Conference policy banning cameras, and to “abrogate any rules of court” that conflict with that policy. (#720 [Nesson Decl. Ex. 12]) To our knowledge, no circuit judicial council has done so.

⁷ Much of the Petition seeks to rely on Conference policy to provide guidance in passing upon *whether* Rule 83.3 permitted Judge Gertner to act at all. But the unambiguous language of the Judiciary Code, and the case law, have made clear that this is not up for dispute. In the absence of a federal rule of procedure, district courts have the authority to enact their own rules, *see* 28 U.S.C. § 2071(a), and only a majority of judges on the district court or the First Circuit Judicial Council have the power to amend or abrogate these rules. Here there is no applicable federal rule, *compare* Fed. R. Crim. P. 53, and Rule 83.3 is the only rule of court in Massachusetts covering this subject matter. It, *not* the Conference, grants authority. *See* Fed. R. Civ. Proc. 83(a)(1); *In re Zyprexa Products Liability Litigation*, 2008 WL 1809659, at *1 (“The position of the Judicial Conference . . . does not bind federal district courts.”); *accord United States v. Merric*, 166 F.3d 406, 412 (1st Cir. 1999).

posits—we are aware of approximately 40 applications having been made since 1996—and there is no record of coverage undermining the administration of justice or otherwise causing injury, let alone irreparable injury that could justify an extraordinary writ vacating the trial court’s exercise of discretion.

ARGUMENT

JUDGE GERTNER CORRECTLY HELD THAT LOCAL RULE 83.3 GRANTS JUDGES THE DISCRETION TO PERMIT THE RECORDING AND BROADCASTING OF DISTRICT COURT PROCEEDINGS

To justify a writ of mandamus or prohibition, Petitioners must demonstrate both that they face a “special risk of irreparable harm,” and that the Court’s order is “palpably erroneous.” *United States v. Horn*, 29 F.3d 754, 769 (1st Cir. 1994). That standard of review is of particular importance here, given the Petitioners’ emphasis on the Conference’s policy views, because this Court has long held that “*a special degree of deference—above and beyond the traditional standards of decisionmaking and appellate oversight—attaches to a court’s interpretation of its own local rules.*” *In re Jarvis*, 53 F.3d 416, 422 (1st Cir. 1995) (Selya, J.) (emphasis added). Under either that appropriately extra-deferential standard of review, or even under the standard that would apply to construction of statutory language outside the local rule context,⁸ Judge Gertner’s determination that Rule

⁸ “[I]n plotting the contours of a statute, courts must look first to its language and structure.” *Plumley v. Southern Container, Inc.*, 303 F.3d 364, 369 (1st Cir. 2002) (Selya, J.). “If, after employing all the traditional tools of construction, the

83.3 accords her discretion to permit recording or broadcasting is not erroneous—let alone “palpably erroneous.”

A. The Text and Structure of Rule 83.3 Make Clear That District Courts Have the Discretion to Permit Broadcasting and Recording of District Court Proceedings

The Unambiguous Text. Rule 83.3 comprises four separate subsections (83.3(a)-83.3(d)). (Addendum at 1) Subsection 83.3(a) bars recording and broadcasting “except” in two categorical circumstances: “Except as specifically provided in these rules [Category One] *or* by order of the court [Category Two].” (emphasis added).⁹ Subsections 83.3(b)-(d) straightforwardly enumerate the exceptions “specifically provided in these rules,” none of which are at issue here. Rule 83.3(a) thus permits not only certain enumerated exceptions to the general prohibition on broadcasting and recording but also expressly provides a catch-all provision—“by order of the court” [*i.e.* the Category Two exception]—that permits the Court to exercise discretion under other circumstances.

Judge Gertner’s straightforward interpretation of Rule 83.3(a) is consistent

statute’s text seems unambiguous and the ordinary meaning of that unambiguous language yields a reasonable result, the interpretive odyssey is at an end.” *Morales v. Sociedad Espanola De Auxilio Mutuo y Beneficencia*, 524 F.3d 54, 57 (1st Cir. 2008), *cert. denied*, 2009 WL 56203 (Jan. 12, 2009).

⁹ As Judge Gertner recognized (Order at 5), the use of the disjunctive “or” in Rule 83.3(a) signifies the two separate and alternative categories of exceptions. *See Reiter v. Sonotone Corp.*, 442 U.S. 330, 339 (1979) (“[T]erms connected by the disjunctive [should] be given separate meanings, unless context dictates otherwise.”).

with the well recognized power of courts to control the proceedings before them—
in this case by permitting cameras to cover an oral argument. (Order at 5)

Petitioners’ Rewrites and Surplusage. Petitioners argue that the “except[ions] specifically provided in the rules” (Category One) apply to court reporters (83.3(b)) and dictation equipment in the clerk’s office (83.3(d)); and that “by order of the court” (Category Two) applies specifically and *only* to preservation of evidence or ceremonial proceedings (83.3(c)). (Petition at 10-12) Despite its plain text, Petitioners in effect claim that the first dependent clause in Rule 83.3(a) actually *means* the following: “Except as specifically provided in these rules, **including as set forth in subsections (b) and (d) below** or by order of the court **as permitted in subsection (c) below**, no person shall take any photograph” Rule 83.3 simply does not say that—and there is no basis for Petitioners to rewrite the Rule to support their desired interpretation.¹⁰

Petitioners contend that the use of the phrase “may permit” in Rule 83.3(c) modifies—and delimits—the exception permitting entry of an “order of the court” set forth in Rule 83.3(a). (Petition at 11) This too makes no sense, grammatically or logically. Rule 83.3(c) is self-executing—its language is all that is needed for a court to permit the use of recording devices for preserving evidence, perpetuating a

¹⁰ *E.g., Lopez-Soto v. Hawyek*, 175 F.3d 170, 173 (1st Cir. 1999) (“Courts have an obligation to refrain from embellishing statutes by inserting language that Congress opted to omit.”); *C.K. Smith & Co. v. Motiva Enterprises*, 269 F.3d 70, 77 (1st Cir. 2001) (same).

record, or recording investiture, ceremonial, or naturalization proceedings. No separate authorization of an “order of the court” is required. More to the point, nothing in Rule 83.3 suggests that the *only* “order[s] of the court” permitted are those that may be issued to permit the proceedings listed in Rule 83(c).

This is so for two reasons. First, as Petitioners acknowledge, it is a “familiar canon of construction that each word and phrase of a statute or rule must be given effect.” (Petition at 12 (citing authorities)) But Petitioners’ interpretation would limit the exceptions to the Rule’s general prohibition solely to those exceptions “specifically provided in these rules.” That self-evidently renders superfluous the phrase “by order of the court.”

Second, the structure of the statute—which locates “order of the court” in a separate subsection from the exceptions for presentation of evidence and ceremonial proceedings—reinforces the notion that the court may issue orders *other* than those “specifically set forth in the rules.”¹¹ Once again, Petitioners’ interpretation cannot be squared with the Rule’s plain language and would require a wholesale revision to the text of Rule 83.3(a), Rule 83.3(c), or both.

Other Courts and the Conference Have Shown That Writing a Ban on Coverage of all Adversarial Proceedings is Not a Complicated Task. Further confirmation that Rule 83.3’s plain language supports the ruling below is to be

¹¹ See, e.g., *Lopez-Soto*, 175 F.3d at 175 (the “language and structure of subsections [of statute at issue] counsel in favor of a disjunctive interpretation”).

found in the many rules of other jurisdiction that express unambiguously and directly the *exact* ban on cameras in adversarial proceedings that Petitioners seek to read into Rule 83.3. *E.g.*, N.D. Cal. R. 77-3; S.D. Cal. R. 83.7(c); D. Del. R. 83.2; D. Haw. R. 83.8; E.D.N.C. R. 83.6; N.D. Okla. R. 39.3; E.D. Pa. R. 83.3; N.D. Tex. R. 83.18; E.D. Va. R. 83.3. (Addendum at 8-28) And to the extent that local courts have adopted the Conference Policy Statement that cameras are permitted “*only*” via the exceptions specifically enumerated in the Policy Statement, they, too, have done so. *E.g.*, M.D. Fla. R. 4.11; N.D. Ind. R. 83.3 & 83.4; S.D. Ind. R. 83.3; E.D. Mich. R. 83.31(c); E.D. Mo. R. 83-13.02; D. Mont. R. 83.10; D.P.R. R. 83.6. (Addendum at 29-47) Yet the District of Massachusetts has done none of this.

Petitioners’ Reading Defies Common Sense. Finally, Petitioners’ proposed reading of the Rule would lead to nonsensical results—which also weighs against their proffered interpretation. *See, e.g., Petitioning Creditors of Melon Produce v. Braunstein*, 112 F.3d 1232, 1238 (1st Cir. 2007) (emphasizing the importance of looking to the “practical effects” in interpreting a statute). In fact, Petitioners’ repeated citation to the Policy Statement *confirms* that Judge Gertner’s interpretation of Rule 83.3 is the only interpretation that makes sense: If Petitioners are correct—and the *only* exercises of discretion permitted by Rule 83.3 are to preserve[e] evidence or perpetuat[e] the record, or for investigative,

ceremonial or naturalization proceedings (Petition at 10)—then Rule 83.3 imposes far more stringent limitations on audio-visual recording activity than even the Conference has suggested would be desirable. Petitioners want it both ways: they argue repeatedly that Rule 83.3 “precisely tracks” Conference policy at the same time that they insist that the Rule bars any exceptions other than those enumerated in subsections (b)-(d).

But under Petitioners’ interpretation, no judge in the District of Massachusetts could permit cameras in her courtroom for purposes of “judicial administration,” or even for “security purposes,” (Petition at 13 (quoting prongs (c) and (d) of Conference Policy Statement)), because those are not among the enumerated exceptions in Rule 83.3. Thus, Petitioners would have this Court deem impermissible routine uses of technology. In addition to the use of security cameras and the several others mentioned on page 2 above, banned uses would include the demonstration of a recording device for evidentiary purposes (not to preserve evidence), such as to determine whether the recording device can actually record; and the use of dictation equipment by a visually impaired law clerk outside of the clerk’s office. The Policy Statement permits all of this, and all of it, if Petitioners prevail, would be *ultra vires* under Rule 83.3.

B. District Courts are Entitled to a “Special Degree of Deference” in Interpreting Their Own Rules and are Best Situated to Exercise Their Discretion to Permit Coverage of Adversarial Proceedings

The Petition is threaded with distrust of the power of District Court judges to read their own rules and exercise their own discretion. (*E.g.*, Petition at 10) This Court should firmly reject the inference that district judges cannot be trusted.

As an initial matter, the discretion afforded under Rule 83.3 is consistent with the broad authority conferred upon trial court judges to manage their own proceedings and courtrooms. *E.g.*, *U.S. v. Cassiere*, 4 F.3d 1006, 1018 (1st Cir. 1993). Discretion is particularly appropriate in this case because it concerns a question of case management¹²—the role of cameras in district court proceedings—as to which district courts have special expertise, and with respect to which they ought to be entitled to significant deference because of that expertise and experience. *See Koon v. United States*, 518 U.S. 81, 98 (1996) (district courts have an “institutional advantage” over appellate courts in the area of sentencing because of their “vantage point and day-to-day experience”).

Thus, it is wrong to denounce Judge Gertner’s reasoned exercise of discretion as “limitless.” Her ruling was but one step in an evolving process of experimentation that the local rules permit—and which in all other local matters

¹² As this Court has emphasized, “[t]rial judges are the judiciary’s infantry: they man the front lines, and therefore, possess special insight into the dynamics of the cases over which they preside.” *United States v. Parilla-Tirado*, 22 F.3d 368, 371 (1st Cir. 1994).

the court rules exist to encourage. Indeed, such evolutionary experimentation was among the reasons for establishing a system of local district court rules in the Enabling Act. *See* House Rep. No. 99-422, at 14 (1985) (recognizing problems of inconsistent local rules but stating that “Local rulemaking has some obvious benefits, including flexibility to accommodate local conditions and needs.”).¹³

This then is the central—and indisputable—relevance of the activity since 1996 by which federal courts in New York have permitted audio-visual coverage of civil proceedings on the authority of their analogous Local Rule 1.8. Whatever the differences between the texts of Rule 83.3 and Rule 1.8,¹⁴ this much cannot be

¹³ This varying local practice is of a piece with Justice Brandeis’ theory of states as “laboratories of experimentation.” *New State Ice Co. v. Liebman*, 285 U.S. 262, 311 (1932) (Brandies, J., dissenting). And, as Justice Powell and others have emphasized, the theory applies with no less force to the differing practices of different courts: “[i]n an age in which empirical study is increasingly relied upon as a foundation for our decision making, one of the more obvious merits to our federal system is the opportunity it affords each state, if its people so choose, to become a ‘laboratory’ and to experiment with a range of trial and procedural alternatives.” *Johnson v. Louisiana*, 406 U.S. 366, 376 (1972) (Powell, J., concurring).

¹⁴ Petitioners argue that Rule 83.3 is “dramatically different” from Rule 1.8. (Petition at 17) But while the language of the rules may differ—“order of the court” versus “written permission of a judge”—there is no functional difference between the two phrases from the perspective of the ability of a court to exercise discretion. If anything, Rule 1.8 is the broader of the two, at least under Petitioners’ approach to the rules, because it bars *everything without specific exceptions*, unless in a specific instance a specific judge provides permission. Thus, for example, in New York a judge may not even permit a “the use of dictation equipment,” *compare* D. Mass. R. 83.3(d), except upon written permission. (For obvious reasons, New York is well known as the most security-conscious federal court in the nation.)

disputed: the judges in New York have exercised their discretion responsibly and with attention to the rights of all parties. *See, e.g., In re Zyprexa Products Liability Litigation*, 2008 WL 1809659, at *1 (Weinstein, J.) (the public should be permitted “so long as there is no interference with due process, the dignity of litigants, jurors and witnesses, or with other appropriate aspects of the administration of justice.”) (emphasis added).

Judge Gertner has acted with no less care. When first confronted with a request (by CVN) under Rule 83.3, she asked serious (often skeptical) questions and did not grant the request. (#720 [Nesson Decl, Ex. 24]) And her order in this case (at 9-10) took account of Petitioners’ concerns about prejudice, by imposing conditions on coverage to ensure minimal disruption (noting that cameras were already installed in the courtroom) and maximize the value of the coverage (requiring gavel-to-gavel coverage, without editing). This is not the work of a judge who has abused her discretion and the extraordinary writ of mandamus would be inappropriate here. *See In re Bushkin Associates, Inc.*, 864 F.2d 241, 245 (1st Cir. 1989).

Petitioners have not demonstrated that the trial court's reading of Rule 83.3 was "palpably erroneous." To the extent there is any doubt, it should be resolved in favor of Judge Gertner's interpretation of the local rules of the court on which she sits.¹⁵

CONCLUSION

For the foregoing reasons, the Petition should be denied.

Dated: January 29, 2009

Respectfully submitted,



Jonathan Sherman (admission pending)
Dean Kawamoto (admission pending)
Melissa Felder (admission pending)
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Avenue, N.W.
Washington, D.C. 20015
(202) 237-2727

*Counsel for Amicus Curiae
Courtroom View Network*

¹⁵ We will defer to Respondent and our fellow *amici* to dispose of Petitioners' argument that they will suffer irreparable injury, except to say the following: *First*, the Supreme Court has rejected precisely the same conclusory assertions of prejudice as a basis to vacate or reverse a determination permitting camera coverage. *Chandler v. Florida*, 449 U.S. 560 (1981). *Second*, pre-trial publicity is not a new phenomenon, and courts have long relied on instructions to the jury and voir dire—as Judge Gertner noted—to protect the integrity of trials from the risks of publicity. *Nebraska Press Ass'n v. Stuart*, 427 U.S. 539, 601-02 (Brennan, J. concurring).

ADDENDUM OF COURTROOM VIEW NETWORK

ADDENDUM
TABLE OF CONTENTS

District of Massachusetts Rule

D. Mass. R. 83.3..... 1

Unpublished Authority

Scotchtown Holdings LLC v. Town of Goshen, No. 08-cv-4720
(S.D.N.Y. Dec. 11, 2008) 3

The Hearst Corp. v. Justices of the Superior Court,
No. SJ-96-0047 (Mass. Feb. 1, 1996) 4

State Court Rules

Mass. Sup. Jud. Ct. R. 1:19..... 7

Federal Rules

District Court Rules Prohibiting Coverage of Adversarial Proceedings

N.D. Cal. R. 77-3 8

S.D. Cal. R. 83.7 10

D. Del. R. 83.2 12

D. Haw. R. 83.8 15

E.D.N.C. R. 83.6 17

N.D. Okla. R. 39.3 20

E.D. Pa. R. 83.3..... 22

E.D. Va. R. 83.3 25

N.D. Tex. R. 83.18..... 27

District Court Rules That Follow the Judicial Conference

M.D. Fla. R. 4.11	29
N.D. Ind. R. 83.3-83.4	31
S.D. Ind. R. 83.3	35
E.D. Mich. R. 83.31(c).....	37
D. Mont. R. 83.10	40
E.D. Mo. R. 83-13.02.....	43
D.P.R. R. 83.6(b)	45

Eastern and Southern District of New York Rules

E.D.N.Y. & S.D.N.Y. R. 1.8.....	48
---------------------------------	----

**LOCAL RULES
OF THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS**



**Including Amendments Through
APRIL 1, 2008**

RULE 83.3 PHOTOGRAPHING, RECORDING AND BROADCASTING

(a) Recording and Broadcasting Prohibited. Except as specifically provided in these rules or by order of the court, no person shall take any photograph, make any recording, or make any broadcast by radio, television, or other means, in the course of or in connection with any proceedings in this court, on any floor of any building on which proceedings of this court are or, in the regular course of the business of the court, may be held. This prohibition shall apply specifically but shall not be limited to the second, third, ninth, eleventh, twelfth, thirteenth, fifteenth, sixteenth, eighteenth, nineteenth and twentieth floors of the John W. McCormack Post Office and Courthouse Building in Boston and the fifth floor of the Courthouse Building in Springfield.

(b) Voice Recordings by Court Reporters. Official court reporters are not prohibited by section (a) from making voice recordings for the sole purpose of discharging their official duties. No recording made for that purpose shall be used for any other purpose by any person.

(c) The court may permit (1) the use of electronic or photographic means for the preservation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.

(d) The use of dictation equipment is permitted in the clerk's office of this court by persons reviewing files in that office.

Effective September 1, 1990.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
 :
 SCOTCHTOWN HOLDINGS LLC, :
 :
 Plaintiff, :
 v. :
 TOWN OF GOSHEN, :
 :
 Defendant :
 -----X

[PROPOSED] ORDER
GRANTING
APPLICATION

No. 08-cv-4720 (CS)

CATHY SEIBEL, United States District Judge:

The application of Courtroom View Network, made pursuant to Local Rule 1.8 and dated November 25, 2008, to provide audio-visual coverage of the oral argument scheduled for

December 19, 2008^{at 10 a.m.} in the above entitled matter is hereby GRANTED. *Neither party objects to the application.*

SO ORDERED,

Cathy Seibel

Cathy Seibel

Dated: 12/11/08
White Plains, New York

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SE

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO. SJ-96-0047

THE HEARST CORPORATION, d/b/a WKVB-TV CHANNEL 5
& d/d/a NEW ENGLAND CABLE NEWS, WESTINGHOUSE
ELECTRIC CORPORATION, d/b/a WBZ-TV CHANNEL 4,
SUNBEAM TELEVISION CORPORATION, d/b/a WHDH-TV
CHANNEL 7 & RADIO-TELEVISION NEWS DIRECTORS
ASSOCIATION

vs.

JUSTICES OF THE SUPERIOR COURT

MEMORANDUM OF DECISION

Canon 3 (A) (7) of S.J.C. Rule 3:09, Code of Judicial Conduct, states the general rule that a judge shall permit broadcasting, television, and electronic recording by the news media of proceedings open to the public in a courtroom. Clause (a) of Canon 3 (A) (7) states that:

"A judge may limit or temporarily suspend such news media coverage, if it appears that such coverage will create a substantial likelihood of harm to any person or other serious harmful consequence."

I construe that right to "limit" coverage to include a total limitation of coverage, if, but only if, the reasons for a finding of a substantial likelihood of harm or harmful consequence applies to the entire proceeding.

The motion judge found that media coverage of the proceedings will be extensive. She noted the possibility of one or more jurors being exposed to prejudicial information and that the saturation of coverage will make it difficult for the court to control juror's access to prejudicial information. I reject this reason as an adequate basis for limiting coverage of a trial by the electronic media. Instructions to the jury and the jurors' adherence to those instructions must provide the protection. A juror's seeing again what happened before him or her in the courtroom would not be as bad as a juror's seeing, reading, and hearing comment and opinions about the evidence and the trial. The latter cannot be controlled by limiting television and radio coverage of the trial. I agree with the judge that "constant replay and analysis of every aspect of the trial" has potential to interfere with a juror's ability to render a verdict based solely on the evidence at trial. The cure is jury adherence to the judge's instructions not to watch, listen to, or read about the trial until the case is over.

The judge stated other reasons for her decision to deny television coverage of the trial. The defendant has displayed disruptive

behavior during court proceedings in attempting to communicate with the media. The presence of cameras in the courtroom, the judge concluded, might encourage the defendant "to continue to use the proceedings as a forum to air his views on abortion and other issues." This special circumstance, not unique but relatively rare, is entitled to considerable weight. This problem of disruptive behavior applies throughout the trial. The concern about disruptive behavior is not speculative. The motion judge has witnessed such events in the course of pretrial proceedings at which electronic media were present.

The judge also relied on the fact that media coverage would increase the risk of harm to material witnesses, surviving victims, and the families of the deceased victims. These people, the judge found, had justifiably heightened fears of harassment and physical attack by misguided viewers. This circumstance, where the case involves crimes apparently committed because of the defendant's reaction to the performance of abortions, is entitled to weight in deciding whether to allow electronic recording that affects such people. The motion judge, however, did not spell out in detail why the concerns of these people required the entire proceeding to be closed to the electronic media.

Electronic media may be denied the right to record trial proceedings only if that coverage will create a substantial likelihood of harm to someone or a substantial likelihood of a serious harmful consequence. The defendant and the prosecution both concur that such a substantial likelihood exists in this case, but neither each one alone nor both together can control the decision. The judge has made a specific finding of a substantial likelihood of harm to the defendant and his right to a fair trial. If that finding depends on the possibility of improper extra judicial influences on jurors, it cannot stand. Because it stands on the basis of other considerations, the judge's conclusion is warranted.

As a single justice I should not interfere with the judge's ruling unless it was wrong as a matter of law or the judge abused her discretion. Because of the strong emotions and reactions that the "abortion" question generates in this country, as the circumstances of this very case demonstrates, because of the expressed concerns of persons who might be harmed, and because of the potential for disruptive behavior, the judge, after making necessary findings, did not abuse her discretion in concluding that the trial should be closed to electronic recording. I see no error of law in the judge's rulings that requires or permits me to vacate her order.

The controlling canon does not expressly oblige the judge to adopt the least restrictive means of achieving protection of the concerned witnesses and others. Implicitly, however, the rule requires a limitation or suspension of media coverage only to the extent necessary to eliminate the substantial likelihood of harm or other serious consequence. The electronic media have suggested procedures by which, in their view, the concerns of those people can be protected while not excluding the electronic media from the courtroom. The trial judge has discretion in such matters once the appropriate findings are made. See *Boston Herald, Inc. v. Superior Court Dept. of the Trial Court*, 421 Mass. 502, 507 n.8 (1995).

There is no means of avoiding the possibility of disruptive behavior by the defendant through some less than total elimination of electronic recording. The threat will exist throughout the trial.

The circumstances of People v. Simpson in California should not be permitted to influence the operation of our Massachusetts rule. I see no indication that it has in this case. It would be instructive to record electronically how an able Massachusetts judge conducts a high publicity trial, but in the circumstances the trial judge was warranted in her discretion in barring the electronic media from the courtroom in this case. The judge's order is always open for reconsideration by her in light of this memorandum or if circumstances change.

I emphasize that this case presents special circumstances that warrant the closing of the entire trial to the electronic media, in the judge's discretion: an established pattern of disruptive conduct by the defendant and a basis for concluding that there is a substantial likelihood of harm to witnesses, surviving victims, and others.

What I have said should be considered in the light of (1) a rule whose strong presumption is that no media will be excluded from the courtroom and (2) the necessity to make findings of fact that support the exemption stated in the relevant rule.

A judgment shall be entered denying relief under G.L. c. 211, sect. 3.

/s/

Herbert P. Wilkins
Associate Justice

February 1, 1996

RULE 1:19. CAMERAS IN THE COURTS.

A judge shall permit broadcasting, televising, electronic recording, or taking photographs of proceedings open to the public in the courtroom by the news media for news gathering purposes and dissemination of information to the public, subject, however, to the following limitations:

(a) A judge may limit or temporarily suspend such news media coverage, if it appears that such coverage will create a substantial likelihood of harm to any person or other serious harmful consequence.

(b) A judge should not permit broadcasting, televising, electronic recording, or taking photographs of hearings of motions to suppress or to dismiss or of probable cause or voir dire hearings.

(c) During the conduct of a jury trial, a judge should not permit recording or close-up photographing or televising of bench conferences, conferences between counsel, or conferences between counsel and client. Frontal and close-up photography of the jury panel should not usually be permitted.

(d) A judge should require that all equipment is of a type and positioned and operated in a manner which does not detract from the dignity and decorum of the proceeding. Only one stationary, mechanically silent, video or motion picture camera, and, in addition, one silent still camera should be permitted in the courtroom at one time. The equipment and its operator usually should be in place and remain so as long as the court is in session, and movement should be kept to a minimum, particularly, in jury trials.

(e) A judge should require reasonable advance notice from the news media of their request to be present to broadcast, to televise, to record electronically, or to take photographs at a particular session. In the absence of such notice, the judge may refuse to admit them.

(f) A judge may permit, when authorized by rules of court, the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, for other purposes of judicial administration, or for the preparation of materials for educational purposes.

(g) A judge should not make an exclusive arrangement with any person or organization for news media coverage of proceedings in the courtroom.

(h) Any party seeking to prevent any of the coverage which is the subject of this Rule may move the court for an appropriate order, but shall first deliver written or electronic notice of the motion to the Bureau Chief or Newspaper Editor or Broadcast Editor of the Associated Press, Boston, as seasonably as the matter permits. The judge shall not hear the motion unless the movant has certified compliance with this paragraph; but compliance shall relieve the movant and the court of any need to postpone hearing the motion and acting on it, unless the judge, as a matter of discretion, continues the hearing.

(i) A judge entertaining a request from any news medium pursuant to paragraph (e) may defer acting on it until the medium making the request has seasonably notified the parties and the Bureau Chief or Newspaper Editor or Broadcast Editor of the Associated Press, Boston.

(j) A judge hearing any motion under this rule may reasonably limit the number of counsel arguing on behalf of the several interested media.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA



LOCAL RULES

Civil Local Rules

(f) Orders taxing costs pursuant to Civil L.R. 54-4.

Cross Reference

See ADR L.R. 4-11(d) "*Nonbinding Arbitration; Entry of Judgment on Award.*"

77-3. Photography and Public Broadcasting.

Unless allowed by a Judge or a Magistrate Judge with respect to his or her own chambers or assigned courtroom for ceremonial purposes, the taking of photographs, public broadcasting or televising, or recording for those purposes in the courtroom or its environs, in connection with any judicial proceeding, is prohibited. The term "environs," as used in this rule, means all floors on which chambers, courtrooms or on which Offices of the Clerk are located, with the exception of any space specifically designated as a Press Room. Nothing in this rule is intended to restrict the use of electronic means to receive or present evidence during Court proceedings.

77-4. Official Notices.

The following media are designated by this Court as its official means of giving public notice of calendars, General Orders, employment opportunities, policies, proposed modifications of these local rules or any matter requiring public notice. The Court may designate any one or a combination of these media for purposes of giving notice as it deems appropriate:

(a) **Bulletin Board.** A bulletin board for posting of official notices shall be located at the Office of the Clerk at each courthouse of this district.

(b) **Internet Site.** The Internet site, located at <http://www.cand.uscourts.gov>, is designated as the district's official Internet site and may be used for the posting of official notices.

(c) **Newspapers.** The following newspapers are designated as official newspapers of the Court for the posting of official notices:

(1) The Recorder; or

(2) The San Francisco Daily Journal; or

(3) The San Jose Post-Record, for matters pending in the San Jose Division, in addition to the newspapers listed in subparagraphs (1) and (2); or

(4) The Times Standard, for matters pending before a Judge sitting in Eureka.

United States District Court
Southern District
of California



L O C A L R U L E S

Revised as of:

October 8, 2007

official newspapers for publication of all notices required to be published in bankruptcy matters and all other notices required to be published by law or order of this court.

The court may, in any case for the convenience of the parties in interest or in the interest of justice, designate any other newspaper for publication of notices as the court may determine.

- b. **Publicity.** Courthouse supporting personnel, including, among others, marshals, clerks and deputies, law clerks, messengers and court reporters, shall not disclose to any person information relating to any pending criminal or civil proceeding that is not part of the public records of the court without specific authorization of the court, nor shall any such personnel discuss with the public the merits of such proceeding while it is pending before the court.
- c. **Photographs, Broadcasts, Video Tapes and Tape Recordings Prohibited.** All forms, means and manner of taking photographs, tape recordings, video taping, broadcasting, or televising are prohibited in the United States Courthouse Building during the course of, or in connection with, any judicial proceedings, whether the court is actually in session or not. This rule shall not prohibit recordings by a court reporter provided, however, no court reporter or any other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio, video tape or television broadcast of any kind. The court may permit photographs of exhibits to be taken by or under the direction of counsel. The court, on motion, may permit the video taping of depositions in rooms other than courtrooms to be used for court proceedings.
- d. **Publicity in Criminal Cases.** In criminal cases or proceedings before any judge of this court, prosecuting attorneys and defense counsel, as officers of this court, and their associates, assistants, agents, enforcement officers and investigators, shall refrain from making, or advising or encouraging others to make to, for, or in the press, or on radio, television or other news media, statements concerning the parties, witnesses, merits of cases, probable evidence, or other matters which are likely to prejudice the ability of either the government or the defendant to obtain a fair trial.

Civil Rule 83.8 Nonappropriated Funds Plan for Administration of The Court Library Fund and Pro Bono Fund

Pursuant to the "Guidelines for Non-appropriated Funds Maintained by the Courts of the United States" issued by the Director of the Administrative Office of the United States Courts on October 1, 1981, the United States District Court for the Southern District of California has adopted the following plan for the administration and operation of the funds derived from attorney admission fees. These funds shall be held by the court in appropriate depositories, separate from other monies received by the court. They shall be expended at the direction of the chief judge, in accordance with guidelines set forth in Section A of this plan, below, and in subsequent orders of the court. Unreasonable accumulations to both funds shall be avoided.

a. **Guidelines for Use**

1. **Library Fund.** Consistent with Judicial Conference Guidelines, the fund shall be used for purposes approved by the district court judges for expenses that inure to the benefit of members of the bench and the bar of the court, including, but not limited to the following:
 - a. Expenses of the court library for which appropriated funds are not available at the time the expense is incurred (such as payment for publications and periodicals, filing services, temporary assistance with special projects and the computerization of library catalog);
 - b. Expenses related to attorney admission proceedings;
 - c. Expenses related to attorney discipline enforcement and proceedings;
 - d. Lawyer lounge and other courthouse facilities benefitting the bar;
 - e. Equipment and materials to assist attorneys in the courtroom;

LOCAL RULES
OF
CIVIL PRACTICE AND PROCEDURE
OF THE
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF DELAWARE

(Amended Effective June 30, 2007)

(1) Any party shall be entitled to have such exhibits returned to the party or person to whom they belong, without the necessity of filing any copies thereof; and

(2) The Clerk shall notify counsel to remove the exhibits within 30 days and, upon counsel's failure to do so, the Clerk may dispose of them as the Clerk sees fit and at the expense of counsel.

(c) Conclusion of an Action. An action shall be deemed concluded when:

(1) A stipulation is filed that serves to waive or abandon the right to a rehearing or new trial or to an appeal; or

(2) The time to file an appeal has expired; or

(3) The action has been fully resolved on appeal.

RULE 79.2. Custody of Files and Documents not in Electronic Format.

All files of the Court shall remain in the custody of the Clerk and no record or paper belonging to the Court's files shall be taken from the Clerk's custody without a special order of the Court and a proper receipt signed by the person obtaining the record or paper. No such order will be entered except in extraordinary circumstances.

RULE 80.1. Court Reporting Fees.

A current schedule of transcript fees, as established by the Judicial Conference, is posted in the Clerk's Office and is available from the official court reporters.

XI. MISCELLANEOUS PROVISIONS

RULE 81.1. Caption on Removed Cases.

In a removed case, the caption on any pleading, including the petition, shall be identical, insofar as the parties are concerned, as in the state court.

RULE 81.2. Cases Transferred or Removed to this Court.

In any case transferred or removed to this Court, within 20 days of the filing of the case with the Clerk, the parties shall submit a statement identifying all pending matters which require judicial action.

RULE 83.2. Photographs and Broadcasting.

Broadcasting, televising, recording or taking of photographs in connection with any judicial proceedings within the United States Courthouse at Wilmington, Delaware, whether or not such judicial proceedings are actually in session, is prohibited, except that the Court may authorize:

(a) The use of electronic or photographic means as a presentation of evidence and for the perpetuation of a record; and

(b) The broadcasting, televising, recording or photographing of investiture, ceremonial or naturalization proceedings, law school moot court proceedings, and activities sponsored by the bar association for continuing legal education.

RULE 83.4. Security of the Court.

The Court or any Judge may, from time to time, make such orders or impose such requirements as may be reasonably necessary to assure the security of the Court and of all persons in attendance.

XII. ATTORNEYS

RULE 83.5. Bar Admission.

(a) The Bar of this Court. The Bar of this Court shall consist of those persons heretofore admitted to practice in this Court and those who may hereafter be admitted in accordance with these Rules.

(b) Admission. Any attorney admitted to practice by the Supreme Court of the State of Delaware may be admitted to the Bar of this Court on motion of a member of the Bar of this Court made in open court and upon taking the following oath and signing the roll:

"I, _____, do solemnly swear (or affirm) that I will conduct myself, as an attorney and counselor of this Court, uprightly, and according to law; and that I will support the Constitution of the United States."

(c) Admission *Pro Hac Vice*. Attorneys admitted, practicing, and in good standing in another jurisdiction, who are not admitted to practice by the Supreme Court of the State of Delaware, may be admitted *pro hac vice* to the Bar of this Court in the discretion of the Court, such admission to be at the pleasure of the Court. Unless otherwise ordered by the Court, or authorized by the Constitution of the United States or acts of Congress, an applicant is not eligible for permission to practice *pro hac vice* if the applicant:

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

MAY 14 2003

at 4 o'clock and 15 min. PM
WALTER A. Y. H. CHINN, CLERK

IN THE MATTER OF THE AMENDMENT)	ORDER AMENDING THE LOCAL RULES
OF THE LOCAL RULES OF PRACTICE)	OF PRACTICE FOR THE UNITED
FOR THE UNITED STATES DISTRICT)	STATES DISTRICT COURT FOR THE
COURT FOR THE DISTRICT OF)	DISTRICT OF HAWAII
HAWAII)	
_____)	

ORDER AMENDING THE LOCAL RULES OF PRACTICE FOR THE
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

IT IS HEREBY ORDERED that the Local Rules of Practice
for the United States District Court for the District of Hawaii
are amended, effective June 2, 2003, as follows:

disciplinary infractions that occur during authorized practice; except that such disciplinary infractions may be considered by a court or agency authorized to entertain applications for admission to the practice of law.

2. Nothing contained in this rule shall affect the right of any person to do anything that he or she might lawfully do were this rule not in existence.

LR83.8. Broadcasting, Televising, Recording, or Photographing Judicial and Grand Jury Proceedings.

The taking of photographs, operation of tape recorders, or radio or television broadcasting in the courtrooms, in grand jury rooms, and their environs (i.e., the second, third, fourth, and fifth floors of the United States Courthouse) during the progress of or in connection with any proceeding, including proceedings before a magistrate judge and a grand jury, whether or not in session, are prohibited. A district judge may, however, permit (1) the use of electronic or photographic means for the presentation of the evidence or the perpetuation of a record by a court reporter and, (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings. Attorneys for the government may use recording devices for the purpose of the presentation of evidence to the grand jury.

LR83.9. Publicity.

Courthouse supporting personnel, including, among others, marshals, clerks and managers, law clerks, messengers, and court reporters, shall not disclose to any person information relating to any pending proceeding that is not part of the public records of the court without specific authorization of the court.

LR83.10. Gratuities.

No person shall directly or indirectly give or offer to give, nor shall any judge, employee, trustee, or anyone appointed by the court or by any judge for any purpose accept on his behalf or on behalf of the court any gift or gratuity, regardless of value, directly or indirectly related to services performed by or for the court.

LR88.1 Mediation.

(a) **Purposes and Scope.** Pursuant to the findings and directives of Congress in the Alternative Dispute Resolution Act of 1998, 28 U.S.C. §§ 651, et seq., use of alternative dispute

**UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA**



**LOCAL RULES
of
PRACTICE AND PROCEDURE**

December 2008 Edition

in the discretion of the court, and without any showing of cause.

(2) **Supervising Attorney.** Certification of the supervising attorney shall be filed with the clerk, and shall remain in effect indefinitely unless withdrawn by the court, in its discretion, and without any showing of cause.

(e) **Activities.** A certified student may under the personal supervision of his or her supervisor:

(1) represent any client including federal, state or local governmental bodies, if the client on whose behalf the certified student is appearing has consented in writing to that appearance and the supervising lawyer has given written approval of that appearance;

(2) represent a client in any criminal, civil or administrative matter; however, the court retains the authority to limit a student's participation in any individual case;

(3) in connection with matters in this court, engage in other activities on behalf of the client in all ways that a licensed attorney may, under the general supervision of the supervising lawyer; however, a student shall make no binding commitments on behalf of a client absent prior client and supervisor approval, and in any matters, including depositions, in which testimony is taken the student must be accompanied by the supervising lawyer. Documents or papers which are filed shall be read, approved, and co-signed by the supervising lawyer. The court retains the authority to establish exceptions to such activities; and

(4) prior to oral participation by a certified student in a hearing or trial, the supervising attorney shall provide the court with a written statement of the scope of participation anticipated on the part of the certified student.

Rule 83.3

CHANGE OF ADDRESS

All attorneys and pro se parties must notify the court in writing within ten (10) days of any change of address. Failure to notify the court in a timely manner of an address change may result in dismissal of the action or the imposition of such other relief that the court deems just and proper.

Rule 83.4

RELEASE OF INFORMATION TO NEWS MEDIA

(a) **Court Personnel.** All court personnel, including but not limited to, the marshal and deputy marshals and office personnel, the clerk and deputy clerks and office personnel, probation officers and office personnel, bailiffs, court reporters, and the judges' and magistrate judges' office personnel, are prohibited from disclosing to any person, where it can reasonably be expected to be disseminated by means of public communication, without authorization of the court, information relating to any pending matter, civil or criminal, that has not been filed as a part of the public records of the court. This proscription applies to the divulgence of any information concerning arguments and hearings held in chambers or otherwise outside the presence of the jury or the public.

(b) **Copies of Public Records.** The members of the news media and others may obtain copies of all public records from the clerk upon payment of copying fees as prescribed by the Judicial Conference of the United States.

Rule 83.5

CORRESPONDENCE

Correspondence addressed to the court shall indicate that copies have been transmitted to all other parties and failure to transmit the same to all other parties may result in sanctions by the court. Such correspondence shall not become a part of the record in the case.

Rule 83.6

PHOTOGRAPHING AND REPRODUCING COURT PROCEEDINGS

The taking of photographs, broadcasting or recording of proceedings in any form in the courtroom, court offices or in the corridors immediately adjacent thereto, during judicial proceedings or during any recess of the court is prohibited except as set forth below. The taking of photographs, broadcasting or recording of ceremonial proceedings, such as naturalization proceedings, the administration of oaths of office to officers of the court, presentation of portraits and other ceremonial occasions may be allowed with the permission of the presiding judge and under the supervision and control of the court.

Rule 83.7

PURPOSE OF DISCIPLINARY RULES

The court, in furtherance of its inherent power and responsibility to supervise attorneys who practice or appear before it, adopts these rules of disciplinary enforcement.

Rule 83.7a

ATTORNEYS CONVICTED OF CRIMES

(i) **Filing of Judgment of Conviction.** Upon the filing with the clerk of a certified copy of a judgment of conviction stating that an attorney admitted to practice before the court has been convicted in any Court in the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined, this court may enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of the disciplinary proceeding to be commenced in accord with the provision of Rule 83.7e. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice to do so.

(ii) **Definition of Serious Crime.** The term serious crime shall include any felony and other lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt conspiracy or solicitation of another to commit a serious crime.

(iii) **Certified Copy of Judgment Conclusive Evidence.** A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in a disciplinary proceeding instituted against that attorney based upon such conviction.

(iv) **Suspension and Referral.** Upon the filing with the clerk of a certified copy of a judgment of conviction of an attorney for a serious crime, the court may in addition to suspending that attorney in accordance with the provisions of Rule 83.7a(i), also refer the matter to counsel for the institution of a disciplinary proceeding before the court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all direct appeals from the conviction are concluded.

(v) **Conviction of Non-Serious Crime.** Upon the filing with the clerk of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the court; provided, however, that the court may in its discretion make no referral with respect to convictions for minor offenses.

(vi) **Reinstatement.** An attorney suspended under the provisions of this Rule 83.7a will be reinstated immediately upon the filing with the clerk of a certificate demonstrating that the underlying conviction has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the court on the basis of all available evidence pertaining to both guilt and the extent of the discipline to be imposed.

LOCAL CIVIL RULES



UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Phil Lombardi, Clerk of Court
Effective Date: January 9, 2006

LCvR39.2 Courtroom Decorum.

Each judge will direct parties, either orally or by written statement, regarding appropriate and proper courtroom decorum.

LCvR39.3 Use of Electronic Devices, Photographs or Tape Recorders.

- (a) The taking of photographs and operation of tape recorders and radio or television broadcasting in the courthouse during the progress of or in connection with judicial proceedings, including proceedings before a magistrate judge, whether or not Court is actually in session, is prohibited.
- (b) A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings.
- (c) The Court prohibits the use of cellular telephones, pagers, or other electronic communication devices in the courtroom. Such devices may be carried on the person within a courtroom only if the device is turned off.

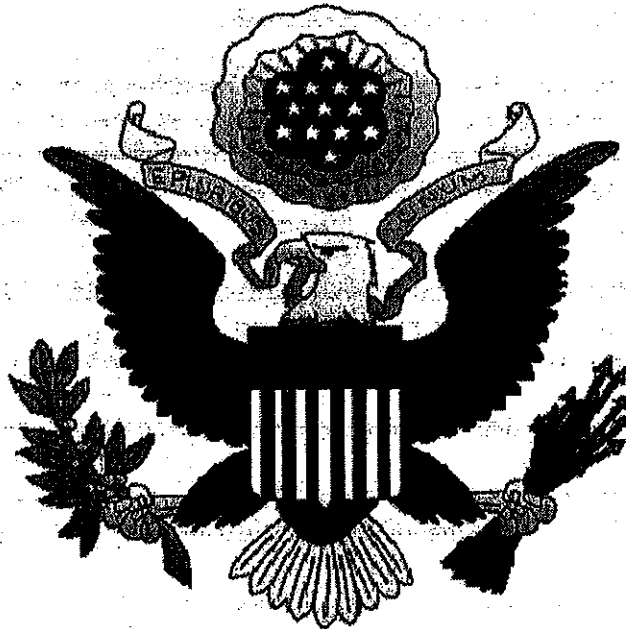
LCvR39.4 Use of Exhibits at Trial.

- (a) **Marking and Disclosure.** All exhibits and documents which are to be introduced in evidence are to be marked for identification, which shall include the case number, and exhibited to opposing counsel at least three (3) calendar days before submission of the Pretrial Order.
- (b) **Withdrawal.** Unless otherwise ordered by the Court, all exhibits introduced in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The Court may order the party introducing exhibits which are bulky, heavy, firearms or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.
- (c) **Photographs for Appeal.** Exhibits, diagrams, charts and drawings may, under the supervision of the Court, be photographed for use on appeal or otherwise.

LCvR40.1 Assignment and Distribution of Cases.

- (a) **Random Assignment of District Judges.** Criminal and civil cases shall be assigned to district judges according to a system based on random selection both for initial assignment and for

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA



LOCAL RULES OF CIVIL PROCEDURE

June 2, 2008

[www. paed.uscourts.gov](http://www.paed.uscourts.gov)

forms by the parties and for filing such forms with the Clerk of Court. Unless otherwise ordered by the district judge to whom the case is assigned, consent forms may be filed at any time prior to trial. No consent form will be made available nor will its contents be made known to any judge or magistrate judge, unless all parties have consented to the reference to a magistrate judge.

(3) **Reference.** After consent forms have been executed and filed, the clerk shall transmit them to the judge to whom the case has been assigned for approval and possible referral of the case to a magistrate judge.

IV. Reconsideration and Appeal in Civil Matters.

(a) Reconsideration of Non-Dispositive Matters - 28 U.S.C. 636(b)(1)(A).

Any party may object to a magistrate judge's order determining a motion or matter under 28 U.S.C. 636(b)(1)(A), within ten (10) days after issuance of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. Such party shall file with the Clerk of Court, and serve on the magistrate judge and all parties, a written statement of objections which shall specifically designate the order, or part thereof, subject to the objections and the basis for such objection.

(b) Review of Case-Dispositive Motions and Prisoner Litigation - 28 U.S.C. 636(b)(1)(B).

Any party may object to a magistrate judge's proposed findings, recommendations or report under 28 U.S.C. 636(b)(1)(B), and subsections 1(c) and (d) of this Rule within ten (10) days after being served with a copy thereof. Such party shall file with the Clerk of Court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. Any party may respond to another party's objections within ten (10) days after being served with a copy thereof.

(c) All issues and evidence shall be presented to the magistrate judges, and unless the interest of justice requires it, new issues and evidence shall not be raised after the filing of the Magistrate Judge's Report and Recommendation if they could have been presented to the magistrate judge.

Rule 83.3 Broadcasting, Filming and Recording in Courtrooms and Appurtenant Areas

(a) No Judicial proceedings may be broadcast by radio or television, or filmed by still or motion-picture camera, except that investitive, naturalization or other ceremonial proceedings may be broadcast, or filmed, subject to the supervision of the Clerk, and pursuant to regulations formulated by the Clerk, with the approval of the Chief Judge, which regulations are calculated to insure that the solemnity of such proceedings is not jeopardized.

(b) No cameras, broadcasting mechanisms, or related apparatus may be brought into, or retained or operated within, any district court courtroom or any hall on the same floor as such courtroom, except when no non-ceremonial judicial proceedings are in session on such floor of the courthouse. The bringing of cameras, broadcasting mechanisms, or related apparatus into any vacant courtroom or

its appurtenant hallways, and the retention or operation of such apparatus therein, are subject to the supervision of the Clerk, pursuant to regulations formulated by the Clerk with approval of the Chief Judge.

(c) No person not employed in such office may bring any cameras, broadcasting mechanisms, or related apparatus into the Clerk's office, the Marshal's office, the Probation office, the Office of Pre-Trial Services, or any other office which is an administrative component of the district court, except as permitted and supervised by the chief of that office or an authorized designee thereof.

(d) No cameras, broadcasting mechanisms, or related apparatus may be operated within 50 feet of the elevator bay on the ground floor of the Courthouse.

Rule 83.5 Admission to Practice

(a) Any attorney who is a member in good standing of the bar of the Supreme Court of Pennsylvania may, by a verified application and upon motion of a member of the bar of this Court, make application to be admitted generally as an attorney of the Court. A fee established by this court shall be assessed for all such admissions. No admission shall be effective until such time as the fee has been paid.

(b) The petition for admission shall aver, under oath, all pertinent facts. The Court may admit the petitioner upon such petition and motion or may require that the petitioner offer satisfactory evidence of present good moral and professional character.

(c) Upon admission the petitioner shall take and subscribe to the following oath or affirmation:

"I do swear (or affirm) that I will demean myself as an attorney of this Court uprightly and accordingly to law and that I will support and defend the Constitution of the United States."

(d) Upon appropriate motion and the taking of the oath prescribed in subparagraph (c), any attorney admitted to the limited practice provided by Subchapter C of the Pennsylvania Bar Admission Rules may be admitted to a similar limited practice before this court as to all causes in which the defender association or legal services program with which that attorney is affiliated acts as counsel.

1. The right to practice under this rule shall terminate upon termination of admission to practice under Subchapter C of the Pennsylvania Bar Admission Rules.

2. The roll of attorneys maintained by the Clerk of this Court shall be specially noted to show those admitted under the provisions of this subparagraph.

(e) Any attorney who is a member in good standing of the bar of the highest court of any state, territory, or the District of Columbia may, without being admitted generally as an attorney of this Court, act as an attorney in this Court on behalf of the United States Government or any of its departments or agencies.

(f) An attorney applying for first-time admission to the bar of this court must simultaneously inform

LOCAL RULES
FOR THE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA



Effective November 25, 2008

LOCAL CIVIL RULE 83.3**PHOTOGRAPHING, BROADCASTING, AND TELEVISIONING
IN COURTROOM AND ENVIRONS**

(A) **General:** The taking of photographs and operation of tape recorders in the a courtroom or its environs, and radio or television broadcasting from a courtroom or its environs during the progress of or in connection with judicial proceedings, including proceedings before a magistrate judge or bankruptcy judge, whether or not Court is actually in session, is prohibited. A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record; and (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings. Environs, as used in this Local Rule, shall include any floor on which any courtroom or hearing room is located, including all hallways, stairways, windows, and elevators immediately adjacent to any such floor.

(B) **Exception:** With permission of the party or parties to be photographed, pictures may be taken by any permanent occupant of any office within the environs aforesaid when the Court is not in session.



Rules - Local Rules

Search:

[Printer Friendly Version](#)

CIVIL RULES TABLE OF CONTENTS

1.1	Definitions
3.1	Filing Complaint by Electronic Means
3.2	Filing Complaint on Paper
4.1	Proof of Service or of Waiver of Service
4.2	Marshal's Fees [Repealed 9-1-04]
5.1	Filing and Serving Pleadings, Motions, or Other Papers
5.2	Filing Discovery Materials [LR 5.2a and LR 5.2b Repealed 12-1-00]
5.3	Prisoner's Civil Rights Complaints
5.4	Post-Conviction Relief
6.1	Time Deemed Filed
7.1	Motion Practice
7.2	Briefs
7.3	Confirmation of Informal Leave of Court
7.4	Certificate of Interested Parties
9.1	Social Security and Black Lung Cases
10.1	Required Form
11.1	Electronic Signature
12.1	Motion for More Definite Statement (Repealed 9-01-06)
15.1	Motions to Amend
16.1	Exemptions from Pretrial Scheduling and Management
16.2	Authority of Magistrate Judges as to Scheduling Orders
16.3	Settlement
16.4	Pretrial Order
23.1	Complaint
23.2	Motion for Certification; Briefs
23.3	Class Notice Responses
26.1	Initial Disclosures Not Required [Repealed 12-1-00]
26.2	Exchanging Exhibits, Exhibit Lists, and Witness Lists; Designating Deposition Excerpts
40.1	Motion for Continuance
41.1	Order of Dismissal [Repealed]
42.1	Motions to Consolidate

LR 83.18 Photographs, Broadcasting, Recording, and Television Forbidden

No person may photograph, electronically record, televise, or broadcast a judicial proceeding. This rule shall not apply to ceremonial proceedings or electronic recordings by an official court reporter or other authorized court personnel.

LOCAL RULES

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA



Published 5/31/06

RULE 4.11 PHOTOGRAPHS; BROADCASTING OR TELEVISION; USE OF COMPUTERS AND COMMUNICATION DEVICES

(a)(1) As approved by the Judicial Conference of the United States at its March, 1979 meeting, the taking of photographs and the recording or taping of ceremonies for the investing of judicial officers and of naturalization proceedings and the possession of necessary equipment therefor is authorized in courtrooms of this Court and the environs thereof. At least three (3) hours prior notice of the use of recording or television equipment shall be given to the presiding judge who may control the placement of such equipment in the courtroom.

(a)(2) Otherwise, the taking of photographs, the operation of recording or transmission devices, and the broadcasting or televising of proceedings in any courtroom or hearing room of this Court, or the environs thereof, either while the Court is in session or at recesses between sessions when Court officials, attorneys, jurors, witnesses or other persons connected with judicial proceedings of any kind are present, are prohibited.

(b) In order to facilitate the enforcement of subsection (a)(2) of this rule, no photographic, broadcasting, television, sound or recording equipment of any kind (except that of Court personnel and as authorized by subsection (a)(1) hereof) will be permitted in that part of any building where federal judicial proceedings of any kind are usually conducted in this District, as is designated by the resident judges of the Division in which such building is located. Such designation shall be made by order, filed in the office of the Clerk in such division. Except that of Court personnel, cellular telephones and computer equipment are likewise prohibited in that part of any building where federal judicial proceedings of any kind are usually conducted in this District, as designated by the resident judges in the manner set forth in the preceding sentence, unless otherwise permitted by the judicial officer before whom the particular case or proceeding is pending. This rule does not prohibit the possession of telephonic pagers in such locations, provided that such pagers are either switched off or placed in a silent activation mode while in such locations.

(c) Employees of other federal agencies resident within the security perimeters of buildings in this District housing federal courts or proceedings, with valid agency identification, are permitted to transport any of the equipment identified above through security checkpoints for the purpose of using same, in their official capacities, within areas of such buildings not covered by subsection (b) of this rule. Said equipment shall be subject to inspection by the United States Marshals Service.

LOCAL RULES

of the

UNITED STATES DISTRICT COURT

for the

NORTHERN DISTRICT OF INDIANA

Effective Date: September 29, 2008

L.R. 83.3

Courtroom and Courthouse Decorum

At its March 1979 meeting the Judicial Conference of the United States amended its March 1962 resolution pertaining to courtroom photographs to read as follows:

“RESOLVED, That the Judicial Conference of the United States condemns the taking of photographs in the courtroom or its environs in connection with any judicial proceedings, and the broadcasting of judicial proceedings by radio, television, or other means, and considers such practices to be inconsistent with fair judicial procedure and that they ought not be permitted in any federal court. A judge may, however, permit the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.”

In the Northern District of Indiana the term “environs” means all areas upon the same floor of the building on which a courtroom, jury assembly room, grand jury room or clerk’s office is located.

Consistent with the Resolution of the Judicial Conference of the United States, and this court’s interpretation of the term “environs,” taking of photographs, sound recording (except by the official court reporters in the performance of their duties), broadcasting by radio, television, telephone, or other means, in connection with any judicial proceeding on or from the same floor of the building on which a courtroom is located are prohibited. *Provided*, however, that incidental to investiture, ceremonial or naturalization proceedings, a judge of this court may, in his or her discretion, permit the taking of photographs, broadcasting, televising, or recording. *And provided further*, that video depositions may be taken in the environs of the court upon written approval by a judge of this court.

Cellular telephones, any device containing a cellular telephone, including Personal Digital Assistants (PDAs), and pagers are permitted in the federal courthouses in the Northern District of Indiana, but must be deposited, and only used at, the Court Security station at the front entrance of each building. Building personnel and federal law enforcement officers may have cellular telephones in the district courthouses subject to the following:

- (a) Building personnel shall not be allowed to bring cellular telephones into any courtroom in this district.
- (b) The United States Marshal and all Deputy Marshals shall be allowed to bring cellular telephones into the courtrooms, provided the cellular telephones are switched to a vibrate (rather than an audible) mode prior to entry.

- (c) Visiting federal law enforcement personnel who have been approved by the United States Marshal's Service to carry cellular telephones are authorized to carry them directly to and from the agency office they are visiting, but must deposit them there for the duration of their visit.

L.R. 83.4**Broadcasting and Publicity**

At its March 1979 meeting the Judicial Conference of the United States amended its March 1962 resolution pertaining to courtroom photographs to read as follows:

"RESOLVED, That the Judicial Conference of the United States condemns the taking of photographs in the courtroom or its environs in connection with any judicial proceedings, and the broadcasting of judicial proceedings by radio, television, or other means, and considers such practices to be inconsistent with fair judicial procedure and that they ought not be permitted in any federal court. A judge may, however, permit the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings."

In the Northern District of Indiana the term "environs" means a courtroom, jury assembly room, grand jury room or clerk's office and all common areas on the same floor. The taking of photographs, sound recording (except by the official court reporters in the performance of their duties), and broadcasting by radio, television, or other means within these areas, are prohibited. *Provided*, however, that incidental to investitive, ceremonial or naturalization proceedings, a judge of this court may permit the taking of photographs, broadcasting, televising, or recording.

**LOCAL RULES OF THE
UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF INDIANA**

WITH AMENDMENTS THROUGH JANUARY 1, 2009

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

District Judges

Chief Judge David F. Hamilton

Judge Sarah Evans Barker

Judge Larry J. McKinney

Judge Richard L. Young

Judge William T. Lawrence

Magistrate Judges

Magistrate Judge William G. Hussmann, Jr.

Magistrate Judge Tim A. Baker

Magistrate Judge Jane Magnus-Stinson

Magistrate Judge Debra McVicker Lynch

Recalled Magistrate Judge Kennard P. Foster

Clerk of Court Laura A. Briggs

Local Rule 83.3 - Courtroom and Courthouse Decorum

At its March 1979, meeting the Judicial Conference of the United States amended its March 1962 resolution pertaining to Courtroom photographs to read as follows:

"RESOLVED, That the Judicial Conference of the United States condemns the taking of photographs in the Courtroom or its environs in connection with any judicial proceedings, and the broadcasting of judicial proceedings by radio, television, or other means, and considers such practices to be inconsistent with fair judicial procedure and that they ought not be permitted in any federal Court. A Judge may, however, permit the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings."

In the Southern District of Indiana the term "environs" has been generally interpreted to mean all areas upon the same floor of the building on which a Courtroom is located.

Consistent with the Resolution of the Judicial Conference of the United States, and this Court's interpretation of the term "environs," the taking of photographs, sound recording (except by the official Court reporters in the performance of their duties), broadcasting by radio, television, or other means, in connection with any judicial proceeding on or from the same floor of the building on which a Courtroom is located are prohibited. Provided, however, that incidental to investitive, ceremonial or naturalization proceedings, a Judge of this Court may, in his/her discretion, permit the taking of photographs, broadcasting, televising, or recording.

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN



LOCAL RULES (Current as of December 1, 2008)

Bernard A. Friedman
Chief Judge

United States District Court
Eastern District of Michigan

LR 83.31 Conduct in Federal Court Facilities

(a) Security.

(1) As used in this rule, "federal court facility" includes any facility occupied by the United States District Court or the United States Bankruptcy Court for the Eastern District of Michigan, or any temporary facility occupied by a judicial officer of the Eastern District of Michigan.

(2) All persons entering a federal court facility are required to pass through a magnetometer and have all belongings and packages subject to physical and/or x-ray examination by the United States Marshals Service.

(3) All mail and packages addressed to any office within a federal court facility are subject to physical and/or x-ray examination by the United States Marshals Service.

(A) Except as provided in (B), sealed envelopes brought by courier may not be delivered to any office within a federal court facility. They must be given to a court security officer for processing in that facility's mail room.

(B) Sealed filings authorized by statute, rule, or court order in accordance with LR 5.3 must have the court order or notice of filing under seal affixed to the top of the sealed envelope. Such filings may be delivered to the clerk's office.

(b) Soliciting, Loitering and Disruptive Behavior.

(1) The solicitation of business relating to bail bonds or to employment as counsel is prohibited.

(2) Loitering in or about federal court facilities is prohibited.

(3) Any behavior which impedes or disrupts the orderly conduct of the business of the court is prohibited. Cards, signs, placards, or banners may not be brought into any courtroom or its environs.

(c) Cameras and Recording Devices

(1) The taking of photographs in connection with any judicial proceeding and the recording or broadcasting of judicial proceedings by radio, television or other means is prohibited.

(A) As used in this rule, "judicial proceeding" includes proceedings before district, bankruptcy or magistrate judges, and sessions of the grand jury.

United States District Court
Eastern District of Michigan

(B) As used in this rule, "in connection with any judicial proceeding" includes all participants in a judicial proceeding while they are in a courtroom or its environs.

(2) A judicial officer may authorize, by written notice to the United States Marshal the use of electronic or photographic means for the presentation of evidence or for the perpetuation of the record.

(3) A district judge may authorize, by written notice to the United States Marshal:

(A) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings; and

(B) the radio or television broadcasting, audio or video recording or photographing of court proceedings pursuant to a resolution of the Judicial Conference of the United States.

(d) Firearms and Weapons.

(1) Firearms, knives, explosives, and other weapons are prohibited from federal court facilities and subject to confiscation:

(2) Exceptions to this rule may include:

(A) the United States Marshal, deputy marshals, court security officers, and employees of the Federal Protective Service in accordance with 18 U.S.C. § 930(d);

(B) federal law enforcement agencies having offices in a federal court facility are exempt from the provisions regarding the carrying of weapons while entering the building and while going to and from the floor where their offices are located; or

(C) state, county, and local law enforcement officers who are:

(i) escorting prisoners to and from court under the direction of the United States Marshals Service, or

(ii) assisting the Marshals Service by supporting or providing additional security, as directed, in and around federal court facilities.

(3) All other federal, state or local law enforcement officers are required to identify themselves and store their weapons at the office of the United States Marshal.

Local Rules of Procedure

United States District Court for the District of Montana

Effective January 1, 2009

- (B) an affidavit of counsel showing that:
- (i) a notice of intent to file a motion to withdraw was personally served on the client at least fourteen days prior to filing the motion to withdraw;
 - (ii) the client has been advised of its obligation immediately to retain new counsel or appear pro se if the motion to withdraw is granted; and
 - (iii) facts constituting good cause support withdrawal. A showing of good cause may be made by filing an ex parte affidavit separate from the affidavit addressing subsections (i) and (ii) above. An ex parte affidavit must be served on the client but need not be served on any other party.

83.10 PHOTOGRAPHING, TELEVISIONING, BROADCASTING.

(a) Pursuant to the direction of the Judicial Conference of the United States, the taking of photographs in the courtroom or its environs in connection with any judicial proceeding, including any person participating in a judicial proceeding, or the broadcasting of judicial proceedings by radio, television or other means is prohibited.

(b) Definitions.

- (1) As used herein, "judicial proceeding" means:
- (A) any trial, hearing, naturalization proceeding or ceremonial occasion in any United States District Court;
 - (B) any proceeding before any bankruptcy judge or magistrate judge;
 - (C) sessions of the Grand Jury and Petit Jury.
- (2) "Courtroom" of a United States District Court means the foyer, witness room, and all space behind the first set of double doors leading into the gallery. A courtroom of a magistrate judge or bankruptcy judge means any place where a judicial proceeding is conducted.

- (3) The "environs" of the courtroom of the United States District Court for the District of Montana and its magistrate judges and bankruptcy judges include the building or physical structure wherein judicial proceedings are conducted.

(c) With respect to a grand jury or other pending investigation of any criminal matter, an attorney participating in or associated with the investigation must refrain from making any extrajudicial statement that a reasonable person would expect to be disseminated by any means of public communication that goes beyond the public record, or that is not necessary to either inform the public that the investigation is underway, or to describe the general scope of the investigation, or to obtain assistance in the apprehension of a suspect, or to warn the public of any dangers, or otherwise to aid in the investigation.

(d) From the time of arrest, issuance of an arrest warrant or the filing of a complaint, information or indictment in any criminal matter until the commencement of trial or disposition without trial, any attorney, law firm or governmental agency associated with the prosecution or defense must not release or authorize the release of any extrajudicial statement that a reasonable person would expect to be disseminated by any means of public communication relating to that matter and concerning:

- (1) the prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the attorney or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, an attorney or law firm associated with the prosecution may release any information necessary to aid in the apprehension of the accused or to warn the public of any dangers the accused may present;
- (2) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
- (3) the performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
- (4) the identity, testimony, or credibility of prospective witnesses, except that the attorney or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;



United States District Court EASTERN DISTRICT OF MISSOURI



Clerk of Court
Jim Woodward
jim_woodward@moed.uscourts.gov

Main Phone:
St. Louis - (314) 844-7800
Cape Girardeau - (573) 331-8800

Local Rules

Judges

Clerks Office

Jury

Attorney

Self Help

Training

Options

CM/ECF

Forms

ADR

CJA

Financial

Court Tech

Naturalization

Community

Procurement

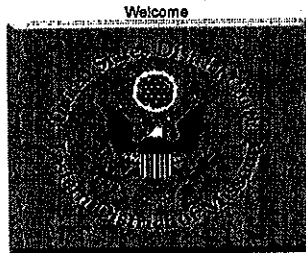
Employment

MDL Cases

Links

Copy Request

Click here for links to important information about PHASE II of the New I-64 highway construction and road closures that may affect your travel.



List Announcements

St. Louis
Thomas F. Eagleton Courthouse
111 S. 10th Street, Suite 3.300
St. Louis, MO 63102
Phone: (314)244-7800
Fax: (314)244-7808

Cape Girardeau
656 Independence Street
Cape Girardeau, MO 63703
Phone: (573)331-8800

Hannibal
801 Broadway
Hannibal, MO 63401
Phone: (573)221-9303
This is an unstaffed office, except when court is being held there.

- Login Register for filing PACER
- Filing Checklist
- Maritals
- Training Information
- Requirements
- Attorney Event List
- Written Opinions Report
- Virtual Press Box
- Downtime Log FAQ's
- Trouble Shooting CM/ECF
- Restricted Documents
- Customer Service Survey
- Contact the Help Desk
- Login Forms
- Registration Request
- Reimbursement Letter
- Case Removal
- Temporary Restraining Order
- Civil Check List
- Service Abroad
- Discovery Documents Not Accepted
- Local Rules
- Administrative Procedures
- Computer Based Training
- Class Registration
- Downloads
- Criminal Civil
- Civil Criminal CJA ADR
- Financial Pro Se General
- Qualifications
- ADR Local Rules
- ADR Fact Sheets
- Neutral List
- Room Schedule
- District Judges Procedures
- Magistrate Judges Procedures
- Forms
- Pro Bono Neutral Compensation
- ADR Satisfaction Survey Report
- Application Directions
- Worksheets Rates
- Training Forms
- Criminal Justice Act Plan for the Eastern District of Missouri
- Fees
- Post Judgement Interest Rates
- Payment Methods Bonds
- Registry Fund Investments
- Fine and Restitution Payments
- Garnishments
- Forfeiture of Collateral
- Schedule
- Transcript Rates
- Veterans Affairs
- Federal Protective Services
- National Parks Service
- Fish and Wildlife Service
- Courtroom Map
- Equipment
- Evidence Presentation Card

Rule 83 - 13.02. Use of Photographic and Recording Equipment.

All means of photographing, recording, broadcasting and televising are prohibited in any courtroom, and in areas adjacent to any courtroom, except when authorized by the judge presiding over an investiture, naturalization or other ceremonial proceeding. Nothing in this rule is intended to prohibit the use of electronic audio and visual devices for the presentation of evidence, for making the official record of a proceeding, for insuring Court security, or when authorized by the judge presiding as necessary to the administration of justice.



Local Rules

I. CIVIL RULES

- 1 General
- 3.1 Commencement of Action
- 3.2 Assignment and Reassignment of Cases
- 5.1 Service and Filing of Pleadings
- 5.2 Personal Data Identifiers
- 6 Time
- 7.1 Motions and Memoranda of Law
- 7.2 Corporate Disclosure Statement
- 9 Social Security Cases
- 10 Form of Pleadings
- 11 Signing of Pleadings
- 16 Pretrial Conferences; Scheduling; Management
- 26 Discovery
- 38 Demand for Jury Trial
- 39 Courtroom Practice
- 41 Dismissal of Actions
- 42 Consolidation
- 43 Taking of Testimony
- 44 Proof of Official, Public or Certified Records
- 47 Jurors
- 51 Instructions to Jury
- 54 Costs
- 55 Default
- 56 Summary Judgment
- 65.1 Injunctions
- 65.2 Bonds and Security
- 67 Deposit of Funds in Interest Bearing Accounts
- 72 Duties of United States Magistrate Judges
- 73 Assignment of Cases to United States Magistrate Judges
- 77.1 Office of the Clerk of Court
- 77.2 Bankruptcy
- 77.3 Communications with Judicial Officers
- 79 Custody of Papers and Records
- 83.1 Attorneys: Admission to the Bar
- 83.2 Law Student Practice
- 83.3 District Bar Examination
- 83.4 Attorneys: Appearances and Withdrawals
- 83.5 Attorneys: Disciplinary Rules and Enforcement
- 83.6 Security
- 83.7 Court Proceedings Release of Information
- 83.8 Complaints of Judicial Misconduct or Disability
- 83.9 Certificate of Appealability
- 83.10 Court-Annexed Mediation

II. ADMIRALTY RULES

- A. Authority and Scope
- B. Maritime Attachment and Garnishment
- C. Actions In Rem: Special Provisions
- D. Possessory, Petitory, and Partition Actions
- E. Actions In Rem and Quasi In Rem: General Provisions
- F. Limitation of Liability
- G. Special Rules

III. CRIMINAL RULES

RULE 83.6**SECURITY****(a) Courthouse Security**

- (1) **Screening and Search.** All persons entering federal courthouse facilities in this district and all items carried by them are subject to appropriate screening and search by a deputy U.S. Marshal, or any other designated law enforcement officer. Persons may be requested to provide identification and to state the nature of their business in the courthouse. Anyone refusing to cooperate with these security measures may be denied entrance to the courthouse.
- (2) **Firearms and Other Weapons.** All persons, including all law enforcement personnel not employed by the United States Marshals Service, shall deposit any firearm or other weapon with a deputy U. S. Marshal or any other law enforcement officer designated by the U. S. Marshal, directly upon entering federal courthouse facilities, unless otherwise specifically authorized by the United States Marshal.

No firearms or other weapons are permitted in any courtroom, except when carried by U. S. Marshals Service personnel or when used as exhibits. Upon entering the courthouse, the custodian of the firearm or other weapon exhibit must submit it to the United States Marshal's Office for a determination that the firearm or other weapon exhibit is inoperative to the Marshal's satisfaction.

(b) Photographing; Broadcasting; Televising; Recording

- (1) **Photographic, Broadcasting and Recording Equipment.** The taking of photographs and the use of radio, television or other recording or broadcasting equipment anywhere inside the Courthouses, or in any leased space, occupied by the district court, the bankruptcy court, the U.S. Probation Office, the U.S. Pretrial Services Office, or the United States Marshal, are strictly prohibited. For the purpose of this rule, the environs of the courtroom shall include the Judges' chambers, halls, passageways and stairways on those floors of the building on which court proceedings are conducted; elevators; the chambers of magistrate judges; the office of the Clerk of Court; the office of the United States Marshal, and all areas encompassed within the courthouse building communicating at the entrances to said building.

Photographing, recording (audio or video), broadcasting, transmission or televising of federal court proceedings is not allowed. This disposition is extensive to all attorneys and legal aides who may be using cellular telephones or any other electronic device (i.e., palm notepads) with built-in features allowing for the taking of photographs, audio or video recording and scanning documents.

- (2) Exceptions. However, a judge may authorize broadcasting, televising, recording or taking photographs in the courtroom or adjacent areas during naturalization, admissions to the bar or other ceremonial or special proceedings.

The use of electronic, photographic and recording equipment may be allowed in any courtroom as a means for presentation of evidence or for the perpetuation of the record of the proceedings in court, videoconferencing, electronic case filing and access, for security purposes, for purposes of judicial administration, or in accordance with any pilot program allowed by the Judicial Conference of the United States.

(c) Cellular Phones, Pagers, Tape or Digital Recorders, and Laptop Computers

- (1) Authorized Court Personnel. Only authorized Court personnel may possess cellular phones or pagers in court facilities. The United States Attorney and his/her assistants are authorized to possess cellular phones and pagers in Court facilities by virtue of their federal law enforcement status pursuant to 18 U.S.C. § 115(c)(1), in the discharge of their official government duties, upon a demonstrated need to the presiding judicial officer. However, such devices shall be switched to their "silent mode" when brought into or possessed in any courtroom or judge's chamber absent specific advance authorization to the contrary by a judicial officer. Likewise, such devices shall be switched to their "silent mode" when brought into or possessed in or during mediation sessions absent specific advance authorization to the contrary by the mediator in the proceedings.
- (2) Members of the Bar. Attorneys, and their assistants, when providing services to counsel, may be allowed to use laptop computers in the courtrooms upon counsel's certification to the presiding judicial officer that he/she will comply, and be responsible for his staff's compliance, with the Rules of this Court, specifically with the provisions under subsection (b)(1).
- (3) Other Persons. All other persons shall deposit any cellular phone, pager, laptop computer, personal digital assistant (PDA) or similar device, tape or digital recorders, with a deputy U. S. Marshal or any other law enforcement officer designated by the U. S. Marshal, directly upon entering the federal courthouse or courtroom facilities.

**Local Rules of the
United States District Courts for the
Southern and Eastern Districts of New York**

Effective April 15, 1997

**Includes Amendments
through April 11, 2008**

Local Civil Rule 1.7. Fees of Clerks and Reporters

(a) The clerk shall not be required to render any service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee for the particular service is paid to the clerk in advance or the court orders otherwise.

(b) Every attorney appearing in any proceeding who orders a transcript of any trial, hearing, or any other proceeding, is obligated to pay the cost thereof to the court reporters of the court upon rendition of the invoice unless at the time of such order, the attorney, in writing, advises the court reporter that only the client is obligated to pay.

[Source: Former Local General Rule 6.]

Local Civil Rule 1.8. Photographs, Radio, Recordings, Television

No one other than court officials engaged in the conduct of court business shall bring any camera, transmitter, receiver, portable telephone or recording device into any courthouse or its environs without written permission of a judge of that court.

Environs as used in this rule shall include the entire United States Courthouse property, including all entrances to and exits from the buildings.

[Source: Former Local General Rule 7.]

Local Civil Rule 1.9. Disclosure of Interested Parties - *REPEALED* March 3, 2003

[See Rule 7.1 of the Federal Rules of Civil Procedure]