

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Public Notice Regarding the Local Rules
of the
United States District Court
for the
District of Massachusetts

The United States District Court for the District of Massachusetts is considering, and is publishing for comment a modification of **Local Rule 83.3**, which would, if modified, be retitled "Photographing, Recording and Transmitting."

The modification of Local Rule 83.3 is designed to update the rule generally and specifically to authorize individual judges of the court to permit - subject to certain specified limitations - the transmission of court proceedings on a case by case basis, under the supervision of the responsible judicial officer, both by broadcast and by internet. The rule modification is proposed in response to a recent decision of the United States Court of Appeals for the First Circuit, *In Re Sony BMG Music Entertainment*, 564 F.3d 1 (1st Cir. 2009), and in accordance with the procedures emphasized in a recent decision of the Supreme Court. *Hollingsworth v. Perry*, 130 S.Ct. 705 (2010).

Copies of the proposed rule are available for inspection in the Offices of the Clerk: in Suite 2300 of the John Joseph Moakley United States Courthouse, 1 Courthouse Way, Boston, Massachusetts; on the 1st floor of the United States Courthouse, 300 State Street, Springfield, Massachusetts; and on the 5th floor of the Harold D. Donohue Federal Building, 595 Main Street, Worcester, Massachusetts. It may also be found on the court's web site at **www.mad.uscourts.gov**.

Those wishing to comment on these proposed amendments to the Local Rules for the District of Massachusetts may do so in writing. All comments must be received on or before April 16, 2010 and should be addressed to:

Honorable F. Dennis Saylor IV
Chairman, Rules Committee
c/o Helen M. Costello, Operations Manager
United States District Court
United States Courthouse - Suite 2-300
Boston, MA 02210

February 17, 2010

Sarah Allison Thornton
Clerk of Court

Rule 83.3 Photographing, Recording and

~~Broadcasting~~Transmitting

(a) ~~Recording and Broadcasting Prohibited~~General
Prohibition. Except as specifically provided in these rules or by order of the court, no person shall take any photographs, make any recording, or ~~make~~undertake any ~~broadcast~~transmission by radio, television, internet, 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~~third, fifth and seventh floors of the John ~~W. McCormack Post Office and~~Joseph Moakley United States Courthouse ~~Building~~ in Boston ~~and~~, the fifth floor of the ~~Courthouse Building~~Harold D. Donahue Federal Building and Courthouse in Worcester and the third floor of the United States Courthouse 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) Specific Permission. The presiding judicial officer ultimately responsible for a proceeding or case, after notice and an opportunity to interested persons or entities to be heard, may permit:

(1) the use of electronic or photographic means for the preservation of evidence or the perpetuation of a record, ~~and~~ i

(2) the ~~broadcasting, televising~~ photographing, recording, or ~~photographing~~ transmitting of investitive, ceremonial, or naturalization proceedings. ~~(d)~~ and

(3) the photographing, recording, or transmission of any civil proceeding.

(d) Discretion of Judicial Officer

(1) Initial Capture of Sound and Images. The presiding judicial officer granting specific permission for the photographing, recording or transmitting of any proceeding or case may place such limitations and restrictions as deemed appropriate in the sole

discretion of the judicial officer to insure that such capture of sound and/or images is done in a manner consistent with the legitimate interests of the parties, jurors, witnesses, spectators and the general public; will not unduly distract participants in the proceeding and will not otherwise interfere with the fair and orderly administration of justice.

(2) Use or Dissemination. The presiding judicial officer granting specific permission for the photographing, recording or transmitting of each case or proceeding may impose such limitations and restrictions on the use or further dissemination of recordings or images to insure that any use or further dissemination of recordings or images is conducted in the manner consistent with subsection (1).

(e) Specific Limitations

(1) Jury Images. No image of a jury or any potential or actual juror may be photographed, recorded or transmitted.

(2) Witness or Party Images. Each witness or party shall be informed by the presiding judicial officer of his or her right to object, and no witness or party who expresses any prior objection to the presiding judicial officer shall be subject to

photographing, recording, or transmission of that person's recognizable images.

(3) Attorney, Client and Side-Bar Communications.

No photographing, recording, or transmitting shall be permitted of communications between attorneys and their clients, among co-counsel, or between counsel and the presiding judicial officer at side-bar.

(f) Clerk's Office. The use of dictation—
equipment, telephones or internet access is permitted
in the clerk's officess of this court by persons
reviewing files ~~in that office~~, subject to the
direction of the clerk.