

Exhibit 8



**JUDICIAL COUNCIL OF THE NINTH CIRCUIT
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**



James R. Browning United States Courthouse
95 Seventh Street
San Francisco, California 94103

Cathy A. Catterson
Circuit & Court of Appeals Executive

(415) 355-8299

May 7, 2009

Honorable John R. Tunheim
Chair
U.S. Judicial Conference Committee on
Court Administration & Case Management
13E United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Re: *Cameras in the Courtroom*

Dear Judge Tunheim:

I write on behalf of the Judicial Council of the Ninth Circuit to ask that the Committee on Court Administration and Case Management consider the resolution approved at the July 2007 Ninth Circuit Judicial Conference recommending that the Judicial Conference of the United States (JCUS) change its policy "to permit photographing, recording and broadcasting non-jury, civil cases before the district courts." The Ninth Circuit Judicial Council considered the resolution at a number of meetings following the 2007 Conference but deferred action to await possible developments at the national level. The Council recently concluded that it is appropriate to forward the resolution now and ask that it be considered by your Committee at its June meeting.

Enclosed please find the materials that were considered by the Judicial Council. Please let me know if you have any questions or wish to receive any additional materials. Thank you.

Sincerely,


Cathy A. Catterson

c: Ninth Circuit Judicial Council

2007 Ninth Circuit Judicial Conference

RESOLUTION

Recommending a change to the Judicial Conference of the United States' policy to permit photographing, recording and broadcasting non-jury, civil cases before the district courts.

Should the Ninth Circuit encourage the Judicial Conference of the United States to reconsider its position and permit circuits to adopt a rule allowing photographing, recording, and broadcasting non-jury, civil proceedings before the District Courts?

Judges			Lawyers			Overall		
<i>Yes</i>	<i>No</i>	<i>No Vote</i>	<i>Yes</i>	<i>No</i>	<i>No Vote</i>	<i>Yes</i>	<i>No</i>	<i>No Vote</i>
90	63	0	81	33	0	171	96	0

RESOLUTION 1

INSTITUTING A CIRCUIT RULE PERMITTING PHOTOGRAPHING, RECORDING AND BROADCASTING IN NON-JURY, CIVIL CASES BEFORE THE DISTRICT COURTS

WHEREAS, a study conducted by the Federal Judicial Center from July 1, 1991, to June 30, 1993, using the guidelines approved by the Judicial Conference of the United States, resulted in a recommendation that district judges be allowed to permit photographing, recording, and broadcasting of civil proceedings consistent with those guidelines; and

WHEREAS, the Judicial Conference of the United States has authorized each court of appeal to decide for itself whether to permit the taking of photographs and radio and television coverage of appellate arguments since 1996, but specifically urged each circuit judicial council to adopt an order to prohibit such electronic coverage in the United States District Courts; and

WHEREAS, the Judicial Council of the Ninth Circuit voted to adopt the policy of the Judicial Conference of the United States regarding the use of cameras in courtrooms on May 24, 1996; and

WHEREAS, the Chief Judge of the Ninth Circuit issued an Order in June 1996 to allow photographing, recording and broadcasting in its appellate courtrooms, subject to the discretion of the presiding judges, and under guidelines approved by the Judicial Conference of the United States, but specifically prohibited similar electronic coverage in the United States District Courts; and

WHEREAS, Ninth Circuit panels have permitted electronic coverage more than 130 times between 1991 and 2005 in appellate proceedings; and

WHEREAS, an overwhelming majority of the Ninth Circuit judges who have allowed photographing, recording and broadcasting of their proceedings have had a positive experience with such coverage; and

WHEREAS, significant technological advances have been made to allow electronic coverage of courtroom proceedings with minimally invasive equipment since the Ninth Circuit last considered whether to permit electronic coverage in the United States District Courts; and

WHEREAS, it is recognized that providing the public with greater access to the working of the courts through electronic coverage of civil court proceedings would promote greater public understanding of the role and function of the federal judiciary; and

WHEREAS, the Lawyer Representatives Coordinating Committee ("LRCC") supports a rule that would permit the photographing, recording and broadcasting of non-jury, civil proceedings before the District Courts of the Ninth Circuit, subject to the discretion of the presiding judge and under guidelines similar to those approved by the Judicial Conference.

Now, therefore, be it **RESOLVED**:

- 1) The Ninth Circuit should encourage the Judicial Conference of the United States to reconsider its prior position concerning the photographing, recording, and broadcasting of non-jury, civil proceedings before District Courts, and to the extent permitted by Judicial Conference procedures, this Circuit should adopt a Rule that would allow the photographing, recording, and broadcasting of non-jury, civil proceedings before the District Courts in the Ninth Circuit.
- 2) The proposed Rule would apply guidelines consistent with those already in place and used by the Ninth Circuit in its appellate proceedings.
- 3) Before the next Circuit Conference, a committee should be appointed by the Chief Judge of the Ninth Circuit to prepare a presentation to the Judicial Conference of the United States setting forth this position and recommendation for change.

Exhibit 9

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Vaughn R. Walker, Chief Judge

Kristin Perry, et al.,)	
)	
Plaintiffs,)	
)	
VS.)	NO. C 09-2292 VRW
)	
Arnold Schwarzenegger, et)	
al.,)	
)	
Defendants.)	
)	

San Francisco, California
Friday, September 25, 2009

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

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(APPEARANCES CONTINUED ON FOLLOWING PAGE)

REPORTED BY: Kelly L. Bryce, CSR No. 13476
Court Reporter Pro Tem

Computerized Transcription By Eclipse

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25

1 **THE COURT:** Ordinarily, Counsel, this is something
2 we just discuss off the record; but given this case, I thought
3 we better have it on the record in case anybody asks what we're
4 talking about.

5 I wanted to alert you. There has obviously been a
6 lot of public interest in this case. I was, therefore, pleased
7 to see a rather sparse turnout in the courtroom this morning.
8 I suppose discovery disputes don't generate the kind of
9 interest that we've had in the past.

10 **MR. COOPER:** I actually thought I was in the wrong
11 place.

12 **THE COURT:** But I don't think we can count on that
13 going forward. And what we have done in similar situations
14 where there has been more interest in the case than there are
15 seats in the courtroom, is to set up an arrangement whereby the
16 images of counsel, the witness, and the judge can be relayed
17 into another courtroom. We use the ceremonial courtroom on the
18 19th floor of this building, which has a substantial amount of
19 seating capacity.

20 So we can accommodate a lot more people in a case
21 that has widespread public interest, and that proves to be of
22 some value and interest to the media as well because they're
23 able to come and go a lot more readily than they can in a
24 courtroom where the proceedings are actually transpiring.

25 You saw in the courtroom today three cameras and

1 they aren't positioned where they would be, but they were
2 approximately where they would be. I assume that none of you
3 have any objection to that procedure.

4 **ALL:** No objection. None at all.

5 **THE COURT:** I appreciate that.

6 And we've also received some inquiries, although I
7 have not responded to these inquiries, about projecting this
8 image even beyond an overflow courtroom, and you might consider
9 what your position is with respect to that.

10 I haven't acted on that in any way. I haven't even
11 responded, but you might consider whether you have a concern
12 about that, or you don't object to it, what limitations, if
13 any, you think ought to be placed on it.

14 The case is going to generate the kind of attention
15 that this case has already generated, will generate, is
16 something that we ought to be aware of. So give it some
17 thought, confer amongst yourselves.

18 Obviously, what we do is open and public and should
19 be, but we want to do it in a way that's consistent with the
20 rights of the parties and the appropriate decorum and dignity
21 of the judicial process.

22 So, anyway, that's what I wanted to talk to you
23 about.

24 **MR. DUESSEAU:** Thank you, Your Honor.

25 How would you like us to get back to you on our

1 thoughts about that?

2 **THE COURT:** I suspect you can confer amongst
3 yourselves and either get back to me in writing, a joint
4 letter; or, perhaps, if you have separate positions, you can do
5 that.

6 And maybe you don't need to. Maybe if you're
7 perfectly happy with what I've told you about the overflow
8 courtroom and you don't have any concern about, say, this image
9 being broadcast beyond that, then you don't have to respond. I
10 just wanted to give you a heads up. I didn't want you to be
11 surprised.

12 **MR. COOPER:** Your Honor, may I ask you --

13 **THE COURT:** Sure.

14 **MR. COOPER:** -- what the display of the image beyond
15 the overflow courtroom might contemplate? A public broadcast?

16 **THE COURT:** The image itself would be counsel, the
17 witness, and the judge on a split screen, and that's what would
18 be shown in the overflow courtroom; and if it extended beyond
19 that, that's what would be shown.

20 **MR. COOPER:** I see. And do you contemplate that it
21 might be shown on a public television station or something like
22 that? I mean --

23 **THE COURT:** I certainly received an inquiry about
24 that.

25 **MR. COOPER:** Okay. No surprise.

