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CUT! ARGUMENTS AGAINST TELEVISIONING TRIALS

by

Reginia Judge*

I. INTRODUCTION

Trials involving sensational facts or celebrity defendants garner a tremendous amount of media attention. They are often the focus of daily news reports, newspaper and Internet articles as well as blogs. Opinions differ as to whether the constant barrage of media attention helps or hinders a defendant's case. The broadcast of these trials, often called "trials of the century" or "high profile trials" is the center of much debate. Scholars, jurists and attorneys disagree as to the effects that videotaping of criminal trials has on the judicial process. There are as many opinions favoring the televising of trials as there are against it. This paper examines negative views of camera use and therefore it will highlight arguments opposing it.

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II. CASE LAW

*Estes v. Texas*¹ and *State v. Hauptmann*² provide us with early examples of why trials should not be videotaped. They illustrate the negative effects cameras have on courtroom participants, the obtrusiveness of the cameras themselves, their accompanying equipment, and their operators.

The United States Supreme Court considered the issue of cameras in the courtroom and whether they prejudiced defendant's rights in *Estes v. Texas*. This trial was held in Smith County Texas, 500 miles west of its original jurisdiction in Reeves County. The case had attained national notoriety generating eleven volumes of press clippings.³ The defendant, a well-known financier, was indicted for obtaining property by false pretenses. He was charged with inducing farmers to purchase nonexistent fertilizer tanks and equipment assigning him chattel mortgages on fictitious property.⁴ There was extensive media coverage before the trial began. The pretrial hearing determining whether the case would be televised was itself telecast and attended by a sizable audience. Oddly enough, also present during this procedure were prosecution witnesses as well as the original jury panel.⁵ Cables and wires snaked around the courtroom floor; microphones were placed on the judge's bench and the counsel tables.⁶ The hearing was carried live by both radio and television and the unedited tape recording was repeated later in the evening and seen by approximately 100,000 viewers.⁷ On one occasion the

videotape was rebroadcast in place of the late movie on one station and the “Tonight Show” on another.⁸ When the jury was finally impaneled, four of the jurors had seen all or part of the hearing or its broadcast.⁹

Upon denial of the motion to prevent the telecast, the trial court made preparation for filming by altering the courtroom to accommodate television cameras. A booth with an aperture to allow the lens of the cameras an unrestricted view of the courtroom was constructed. Although recording restrictions were delineated, disruptions ensued. All seats in the courtroom were full and observers stood in the aisles. Photographers roamed throughout the courtroom at will. As Chief Justice Warren later noted, even as defendant's counsel made his objection, one of the many photographers "wandered behind the judge's bench and snapped his picture."¹⁰ There is no doubt that the activities of the television crews and news photographers led to significant disturbance during the trial. Their actions resulted in a chaotic free-for-all that detracted from the administration of justice.

The Supreme Court identified several factors that adversely affected the *Estes* trial. It recognized that the mere presence of the cameras themselves caused distractions. “Human nature being what it is, not only will a juror's eyes be fixed on the camera, but his mind will be preoccupied with the telecasting rather than with the testimony.”¹¹ The Court also

expressed concern over the overall quality of the trial; particularly, the effect the cameras had on those involved in the proceedings. It took into account the effects felt by the witnesses, and its impact on their testimony by stating:

“The quality of the testimony in criminal trials will often be impaired. The impact upon a witness of the knowledge that he is being viewed by a vast audience is simply incalculable. Some may be demoralized and frightened, some cocky and given to overstatement; memories may falter, as with anyone speaking publicly, and accuracy of statement may be severely undermined. Embarrassment may impede the search for the truth, as may a natural tendency toward over-dramatization.”¹²

The justices also weighed the effect that a televised trial has on the defendant and his counsel. It noted that telecasting could deprive a defendant of effective counsel in an instance where the desire to film the defendant consulting with his lawyer could compromise the attorney-client relationship. In this situation, a confidential, private conversation might thereby become public. Broadcasting a trial might also create the temptation on the part of counsel to play to the public audience rather than focusing on his client.¹³

Finally, the Court commented that the heightened public clamor resulting from radio and television coverage would inevitably result in prejudice. It described the presence of cameras in the courtroom as a form of mental, if not physical, harassment resembling that of a police line-up or interrogation.¹⁴

The state argued that there was no showing of actual prejudice as a result of the cameras used in *Estes* and the defendant therefore suffered no harm.¹⁵ The Court determined that a showing of actual prejudice was not required. It emphasized that the high probability of prejudice in such an atmosphere was sufficient to persuade it to believe that the defendant's Fourteenth Amendment rights were violated.¹⁶ "Television in its present state and by its very nature, reaches into a variety of areas in which it may cause prejudice to an accused. Still one cannot put his finger on its specific mischief and prove with particularity wherein he was prejudiced."¹⁷ The high court therefore reversed *Estes*' conviction.

The chaos caused by the video equipment used in *Estes* would not have the same effect on a modern day trial. Advancements in technology has produced wireless cameras and microphones therefore, the physical equipment itself would not disturb a judicial proceeding; however, the effects felt by the trial participants persist. "The real threat lies not in the physical presence of the camera, but in the awareness of being televised and all that it represents."¹⁸ Aside from the natural human tendency to be self-conscious in front of a camera, there exists the possibility that "neither the judge, prosecutor, defense counsel, jurors or witnesses would be able to go through trial without considering the effect of their conduct on the viewing public."¹⁹

In 1935 Bruno Hauptmann was charged and convicted of the kidnapping and murder of Charles Augustus Lindbergh, Jr. There were approximately 275 spectators inside the courtroom, along with as many as 700 reporters and 129 photographers.²⁰ It was no surprise that the Hauptmann trial was disrupted due to the large number of media personnel involved. There is little evidence to suggest that the use of cameras was intrinsically disruptive, however the facts do bear witness that the violations of press photographers' and newsreel camera operators' agreements with the judge caused the most damage.²¹ The court allowed one cameraman to provide newsreel coverage and four photographers to take pictures during the trial. They could do so, however, only when court was not in session. This mandate was breached by photographers who took pictures of Mr. and Mrs. Lindbergh on the witness stand²² and by cameramen who recorded testimony, and later screened it in 14,000 movie theaters.²³

The pandemonium that accompanied the Hauptmann trial caused the American Bar Association (ABA) to adopt Judicial Canon 35 [later amended to 35A(7) which included television, audio and visual media recording].²⁴ This recommendation provided:

“Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the courtroom during sessions of the court or recesses between sessions, and the broadcasting of court proceedings are calculated to detract from the essential dignity of the proceedings,

degrade the court and create misconceptions with respect thereto in the minds of the public and should not be permitted.”²⁵

III. THE O.J. SIMPSON MURDER TRIAL

The People of the State of California v. Orenthal J. Simpson²⁶ provides further evidence that trials should not be televised. Simpson, a former professional football player, actor and spokesperson, was charged with the 1994 deaths of his ex-wife Nicole Brown Simpson and her friend Ronald Goldman. Camera presence seemingly transformed his trial from a fact-finding tribunal into a three ring circus that mocked the criminal justice system. “After the quality and behavior of police, prosecutors, defense attorneys, judges, juries, and forensic experts are examined,”²⁷ this trial illustrates what can go wrong when a camera’s lens is fixed on a criminal case.

The O.J. Simpson trial received an immense amount of attention from various media outlets and became a spectacle. The frenzy that accompanied it cast so much attention on its participants that they became instant celebrities. “[The case]

made media stars of a host of defense lawyers, prosecutors, police officers, and forensic experts.”²⁸ The public became immediately acquainted with Denise Brown, Fred Goldman and Al Cowlings as a result of the trial. At the conclusion of the litigation, Marcia Clark, Kato Kaelin and Mark Fuhrman obtained radio or television shows because of their notoriety.²⁹ Many others published books. It is evident that some of the focus of the trial shifted from the pursuit of justice to the pursuit of fame and fortune. The Simpson trial received international attention, and many seized upon the opportunities offered them as a result of their association with it.

“The Simpson case provides a telling example of how televising a high-profile case alters the behavior and experiences of all the trial's participants.”³⁰ The presence of the cameras during the proceedings affected the behavior of the media, jurors and attorneys; unfortunately for the worse. Several reporters were ejected from the courtroom because of disruptions.³¹ Rather than focus on the testimony, some jurors were inattentive. Others were secretly making book deals.³² The attorneys were constantly accused of playing to the camera and grandstanding.³³ “Many commentators suggested that no amount of advertising could buy the publicity that the defense and prosecuting attorneys in the Simpson case received daily, and that this exposure motivated the attorneys to show off...”³⁴ The defense team’s pandering to the media generated accusations that they selfishly acted on their own interests rather than on behalf of their client.³⁵

IV. ARGUMENTS AGAINST THE USE OF CAMERAS IN THE COURTROOM

A. Televising Criminal Trials Does Not Educate the Public

Some believe that gavel-to-gavel coverage of trials helps to educate the public about the judicial system. However, if one does not already have an understanding of the court system, simply watching a trial on television will not provide the education needed to fully comprehend the process. The viewer won't understand the legal terms used, why testimony is overruled or why evidence is inadmissible. "When the public sees a trial for itself, or through the lens of the camera, there's always a risk of misunderstanding: it may mistake zealous advocacy for obstruction of justice, or vice versa. A judge's impartial ruling, based on binding law, may seem arbitrary or even biased; when a defendant prevails on an obscure legal ground like immunity or jurisdiction, some will see injustice."³⁶ In order for one to obtain a full understanding of the criminal trial process, one must first learn general information concerning the law and legal concepts. It is helpful to learn among other things; legal definitions, roles of the parties involved, fundamental information about the Rules of Evidence, and the stages of the process. This, in conjunction with viewing a trial on television, serves to educate

the public. Watching a trial without a foundational basis only serves to confuse the viewer. Contrary to the claims of ex truTV (formerly known as Court TV) CEO Steve Brill, simply making criminal trials available to anyone who has cable television is not educating the public about the trial process.³⁷

A. The Goal of a Televised Trial is to Entertain

“Television is largely an entertainment medium, and viewers watch trials primarily for entertainment purposes. When network executives decide which trials to televise they look for those that will draw the most viewers. Televised trials often feature sex, violence, celebrities or a combination of these elements.³⁸ The trial of William Kennedy Smith involved a member of a well-known American family and a sexual assault accusation. Dr. Conrad Murray was prosecuted for the death of pop star Michael Jackson. The initial trials of Lyle and Eric Mendez involved allegations that they murdered their parents for their inheritance. The facts of all these cases are worthy of the scripts of blockbuster movies and thus worthy of telecasting. “Cameras in the courtroom have been accused of sensationalizing courtroom proceedings.”³⁹ This statement may be warranted when you view the underlying reason for televising trials. Many are broadcast because of their ability to acquire huge ratings for the network airing it. A dull, monotonous trial will not captivate an audience; however one surrounding a heinous crime and a famous defendant or victim certainly will entice viewers.

Unfortunately, televising actual trials causes the public to see them in the same light as those portrayed in television shows.⁴⁰ This unrealistic association can cause misperception. Television show trials are crafted for dramatic purposes. They are orchestrated to draw audiences and therefore generate huge ratings. Although they may contain hints of authenticity, they do not illustrate an precise view of a real trial. Their purpose is to excite and entertain; therefore, they cannot be completely accurate; inaccuracies breed misunderstanding.

B. Trials are Televised for Profit

Another argument against the televising of trials conveys that they convert legal proceeding into capitalistic ventures for practically everyone involved; particularly television networks and advertisers.⁴¹ Two longstanding American values, entertainment and capitalism, drive trial telecasts.⁴² Cases that will produce a large viewership are selected to air. truTV chooses to broadcast proceedings that arouse public interest and curiosity, those that generate the most profit.⁴³ Profit is realized through selling advertisement time and other products and services such as courtroom feeds and videotapes.⁴⁴

truTV, began broadcasting in 1991. Its goal was to educate the American public concerning the ins and out of judicial procedures. Although it had an educational goal as its basis at the outset, that goal has given way to one that emphasizes financial gain. Critics charge that the desire for high ratings

caused truTV to abandon its educational mission in order to expose its audience to trials with sensational facts primarily involving celebrities.⁴⁵ The bottom line is that truTV is a commercial venture like any other television network. Profitability dictates that it televises trials that will attract large audiences which result in increased ratings and advertising dollars.⁴⁶ When all is said and done, the goal of any television network is to make money.

Not only does the televising of high profile trials generate revenue for television networks, but spin-off shows achieve the same objective. “Highly publicized trials sometimes spawn evening shows featuring panels of legal experts discussing courtroom events of the day.” The advent of these shows allows the networks to retain the same audience and advertising it has gained from televising the original trial. It therefore remains profitable even after the trial has ended.

Television networks are not the only ones profiting from the televising of trials. Advertisers reap benefits in the form of the sale of products and services marketed in commercials aired during the course of the trial. Legal analyst and commentators that provide observation of trial events, and defense attorneys who receive both legal fees and free publicity during the course of the trial, gain as well. The trial judge who may be up for re-election also receives free publicity as he hands down judicial determinations before his constituents. Finally, jurors who sell their stories to tabloids or receive book deals after the trial concludes, also profit.⁴⁷

*C. Televising Trials Undermines
the Integrity of the Court*

Commentators contend that camera use during trials threatens the honor and integrity of the judicial system.⁴⁸ They assert that camera presence is inconsistent with the decorum of the courtroom. This is because their existence causes a shift in a trial's focus. The public's esteem for the court diminishes when its focus is no longer the swift administration of justice but on some other goal or purpose. It is feared that the desire for ratings results in the "tabloidization" of criminal trials.⁴⁹ When this exploitation occurs the courtroom takes on a circus-like atmosphere, reducing the seriousness of the judicial process.⁵⁰ Critics opposing videotaping, also express a concern that judges facing reelection will offer campaign speeches under the guise of legal rulings.⁵¹ Others surmise that the cameras will cause other trial participants to pander to cameras rather than concentrate on the case at hand.⁵² These examples illustrate some situations where the court's hallowed walls become the backdrop for drama and sensationalism and elicit negative criticism. Public confidence in the court system is weakened when it cannot trust it to satisfy its onus; seeking justice. The court's only mandate is to adjudicate fairly the determination of guilt or acquittal; not to educate and certainly not to entertain.

***D. Televising Trials Promotes Negative Behavior on
Behalf of Judicial Participants***

Arguments in opposition to the use of cameras in the courtroom emphasize the adverse effects they have on those involved in the trial. The presence of cameras in the courtroom can sometimes affect how witnesses, lawyers and even judges handle a case. Unfortunately, their reactions can be negative. “It does not take a behavioral scientist to recognize that people change their behavior when placed in front of a camera.”⁵³ The fact that court proceedings may be broadcast to hundreds of millions of people can only heighten this effect.⁵⁴ Chief Justice Warren commented, “...awareness that a trial is being televised to a vast, but unseen audience is bound to increase nervousness and tension.”⁵⁵

1. Witnesses:

Televising a trial may have an effect on witness testimony. “Testifying before a judicial tribunal might conjure butterflies in the stomachs of witnesses. Add the presence of a camera and the butterflies turn to nervousness.”⁵⁶ Witnesses who appear nervous in the presence of cameras appear unreliable and untrustworthy to the jury.⁵⁷ “Even the most subtle changes in a witness' mannerisms, inflections and body language can send confusing signals to the jury.”⁵⁸ Testifying before a

camera might, however, produce an opposite reaction in other witnesses. Rather than appearing nervous, they might seem overconfident or arrogant; impressions that can also cause them to appear unreliable and dishonest. Still others might bask in the attention received as a result of being a witness in a high profile case. "The presence of cameras can attract witnesses who are willing to "color or slant their testimony" for dramatic effect in the spotlight of national exposure."⁵⁹ Kato Kaelin, a witness in the O.J. Simpson murder trial, is a prime example. It is unknown whether he skewed the truth during his testimony, but it is evident that he received favorable exposure because of it. After testifying in the trial of the century, "[Kaelin] was able to improve his acting career, obtain a book deal, radio show, and a position on a touring comedy circuit."⁶⁰

There are some witnesses that might be deterred from testifying all together upon discovering that their testimony will be televised. "Witnesses may express hesitance towards testifying at all, knowing that they will be exposed to the nation via the camera."⁶¹

Another negative response seen in some witnesses testifying before a camera is the altering of testimony in order to be viewed positively by the public. The broadcasting of testimony leads to a loss of witness anonymity which makes it more likely that the witness will alter his or her testimony to conform to popular beliefs. This is done in an effort to avoid public ostracism.⁶² Others may be inclined to lie in order to protect

themselves and their families from media scorn.⁶³ By the same token, the presence of cameras may attract witnesses who are willing to exaggerate their testimony for dramatic effect and attention.”⁶⁴

The fact that their testimony will be televised for millions of people to see raises safety concerns for other witnesses.⁶⁵ Some fear harassment from persons who might see them on television. The Supreme Court has recognized this fear as a legitimate concern when considering the propriety of allowing cameras in the courtroom.⁶⁶ Similar fears have led judges to close trials to spectators as well as the electronic media.⁶⁷

Finally, televising trials makes it possible for witnesses to hear the testimony of other witnesses.⁶⁸ The familiar tactic of keeping a witness outside the courtroom while another testifies is lost if one can simply turn on the television and hear what another witness has testified. This action can thus affect the testimony the subsequent witness provides the court. He may change his testimony based on what he has heard and or perceives to be true.

2. Attorney:

The presence of cameras in the courtroom has an effect on the attorneys appearing on behalf of a case. The O.J Simpson trial proved that they not only affect the attorney’s demeanor, but their physical appearance as well. Prosecutor, Marcia

Clark, changed her hairstyle and Johnnie Cochran donned new suits during the course of trial.⁶⁹

Lawyer grandstanding provides an example of negative behavior on behalf of attorneys when the cameras roll.⁷⁰ A huge concern involves impairment of a defendant's Sixth Amendment right to effective assistance of counsel during a televised trial. The alarm is that lawyers may concentrate more on posturing to the cameras than effectively representing their client.⁷¹

Some critics argue that the presence of the television cameras had a major role in Prosecutor Christopher Darden's risky move of requesting that O.J. Simpson try on the bloody leather glove in front of the jury and television audience. It is believed that if the glove had fit it would have bolstered Darden's public image. Regrettably, the glove did not fit and Darden became known as the attorney who pursued an inquiry when he didn't know the outcome, which is akin to asking a question when one does not already know its answer.⁷²

3. Judges:

Cameras in the courts can produce adverse behavior on behalf of the judge presiding over a trial. The judge may be more concerned with his public image than with the

progression of the case.⁷³ He/she might attempt to appear stern and therefore make inappropriately harsh pronouncements. The opposite was true, however, for Judge Lance Ito, the jurist who presided over the Simpson murder case. His attempts to present a positive image led him to act overly cautious. His failure to control the court through his decision making power, most notably the cessation of extended attorney quarrels and prolonged witness testimony, led to negative public perceptions.⁷⁴

Unfortunately, some judges won't resist the opportunity to make themselves appear larger than life before the cameras in an effort to obtain attention. While presiding over the case determining the custody of Anna Nicole Smith's body, Judge Larry Seidlin gave lengthy personal monologues, and cried while delivering his judgment.⁷⁵ It is alleged that his actions were a ruse used to obtain a television show.⁷⁶

Another argument against cameras in the court concerns elected judges: if the judge can be immediately observed by the electorate, he may be inclined to focus on his career aspirations as opposed to the merits and intricacies of the case at hand.⁷⁷ [A judge] might therefore seize the opportunity to influence voters while the cameras roll.⁷⁸

4. Jurors:

Cameras may also have a negative effect on juries. Jurors might become distracted by the cameras when they should be focusing on the trial. “As jurors become preoccupied with the presence of the camera, their attention may be directed away from the testimony, thereby inhibiting their function in the trial process.”⁷⁹ In addition, because they are being scrutinized by so many people, “Jurors may make a decision that the public wants, and not what the law mandates.”⁸⁰ If the jury is aware of the public's disposition in a case, they may then try to decide in accordance with public opinion.⁸¹

Fear might also affect the decision-making of jurors. Routine footage of trial include panoramic shots of the jury. “[Some] may be afraid that they will be identified on television [they] could become the victims of a crime.”⁸² Others fear that the use of video footage by a defendant's allies will be used to identify jurors and seek retribution against them.⁸³

E. Televising Trials is Unfair to the Defendant:

The effect that a televised trial could have on a defendant is something that is often ignored. The fact is, a judge can allow the fate of one accused to be played before a worldwide audience, while another's is not. This act singles out some defendants, and exposes them to prejudices not encountered by others.⁸⁴

A defendant found not guilty after his televised trial might experience increased condemnation from the viewing public. This could become problematic as he attempts to integrate back into society.⁸⁵ An example of this is presented in the Casey Anthony case. Upon her acquittal and release, Anthony went into hiding for her own safety. The State of Florida went so far as to refrain from entering her information into its parolee's database to ensure her safety as well.⁸⁶

V. CONCLUSION

Televising trials shifts the focus from the court's purported purpose of finding the truth, into a three ring circus. It is not surprising that this environment is not only tolerated, but is welcomed by the network airing the trial since it produces increased ratings. "Cameras in the courtroom do two things that are bad. They not only adversely influence participants in the trial (including the lawyers, witnesses, and the judge), but they also taint the entire trial process by causing the public to confuse law with entertainment."⁸⁷ Many applaud the use of cameras in the courts as educational vehicles; however, the opposite of this sentiment is true. They bring out the worst in its participants and subvert the legal process. A prime example is the televising of the O.J. Simpson murder trial. If there is any educational value to be derived from the Simpson case, it is that the trial was a perfect example of how not to conduct a legal proceeding.⁸⁸

¹ *Estes v. Texas*, 381 U.S. 532 (1965).

² *State v. Hauptmann*, 180 A. 809 (N.J. 1935).

³ *Estes*, 381 U.S. at 547.

⁴ Christo Lassiter, *TV or Not TV--That is the Question*. 86.3 J. Crim. L. & Criminology 928, 939 (1996).

⁵ *Id.*

⁶ *Id.* at 535.

⁷ *Id.* at 556.

⁸ *Id.* n28 at 571.

⁹ *Id.* at 548.

¹⁰ Joshua Sarner, *Justice, Take Two: The Continuing Debate Over Cameras in The Courtroom*, 10 Seton Hall Const. L.J. 1053, 1068 (2000).

¹¹ *Estes*, 381 U.S. at 546.

¹² *Id.* n2 at 547.

¹³ *Estes*, 381 U.S. at 549.

¹⁴ *Id.* at 549.

¹⁵ *Id.* at 541.

¹⁶ *Id.* at 541.

¹⁷ *Id.* at 544.

¹⁸ Sarner at 1058.

¹⁹ *Id.*

²⁰ Jacob Marvelley, *Lights, Camera, Mistrial: Conflicting Federal Court Local Rules and Conflicting Theories on the Aggregate Effect of Cameras on Courtroom Proceedings*, 16 Suffolk J. Trial & App. Adv. 30, 36 (2011).

²¹ Daniel Stepniak, *A Comparative Analysis of First Amendment Rights and the Televising of Court Proceedings*, 40 Idaho L. Rev. 315, 330 (2004).

²² Stepniak at 319.

²³ Stephen D. Easton, *Cameras in Courtrooms: Contrasting Viewpoints: Whose Life is it Anyway?: A Proposal to Redistribute Some of the Economic Benefits of Cameras in the Courtroom from Broadcasters to Crime Victims*, 49 S.C. L. Rev. 1, 9 (1997).

²⁴ 62 A.B.A. Rep. 1134-35 (1937).

²⁵ Model Code of Judicial Ethics Canon 35 (1952).

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- ²⁶ People of the State of California v. Orenthal J. Simpson, No. BA097211 (Cal. Super. Ct. acquitted Oct. 3, 1995).
- ²⁷ Wayne J. Pitts, et al., *The Legacy of the O.J. Simpson Trial*, 10 Loy. J. Pub. Int. L. 199, 200, (2009).
- ²⁸ Id.
- ²⁹ Pitts n90 at 221.
- ³⁰ Peter Arenella, *People v. Simpson: Perspectives on the Implications for the Criminal Justice System*, 69 SCALR 1233, 1256 (1996).
- ³¹ S.L. Alexander, *The Trial of the Century*, 92 Judicature 245, 247 (2009).
- ³² Id.
- ³³ Id.
- ³⁴ Angelique M. Paul, *Turning the Camera on Court TV: Does Televising Trials Teach Us Anything about the Real Law?* 58 OHSLJ 655, 679 (1997).
- ³⁵ Andrew G.T. Moore, II, *The O.J. Simpson Trial--Triumph of Justice or Debacle?* 41 STLULJ 9, 22 (1996).
- ³⁶ Alex Kozinski & Robert Johnson, *Of Cameras and Courtrooms*, 20 Fordham Intell. Prop. Media & Ent. L.J. 1107, 1123 (2010).
- ³⁷ Paul at 664.
- ³⁸ Stephen D. Easton, *Cameras in Courtrooms: Contrasting Viewpoints: Whose Life Is It Anyway?* 49 S.C. L. Rev. 1, 22(1997).
- ³⁹ Kozinski at 1120.
- ⁴⁰ Richard K. Sherwin, *Symposium Law/Media/Culture: Legal Meaning in The Age Of Images: The Jurisprudence of Appearances*, 43 N.Y.L. Sch. L. Rev. 821, 826 (1999).
- ⁴¹ Jay C. Carlisle, *An Open Courtroom: Should Cameras be Permitted in New York State Courts?* 18 Pace L. Rev. 297, 306 (1998).
- ⁴² Easton at 20.
- ⁴³ Melissa A. Corbett, *Lights, Camera, Trial: Pursuit of Justice or The Emmy?* 27 Seton Hall L. Rev. 1542 1565 n108 and 109. (1997).
- ⁴⁴ Easton at 26.
- ⁴⁵ Angelique M. Paul, *Turning the Camera on Court TV: Does Televising Trials Teach Us Anything About the Real Law?* 58 Ohio St. L.J. 655, 668 & 9 n56 (1997).
- ⁴⁶ Paul n55 at 668.
- ⁴⁷ Easton at 27.
- ⁴⁸ Carlisle at 304.
- ⁴⁹ Moore at 39.
- ⁵⁰ Kozinski at 1128.
- ⁵¹ Arenella at 897.
- ⁵² Corbett at 1563.

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- ⁵³ Goldfarb n5 at 62.
⁵⁴ Sarnier at 1060.
⁵⁵ Estes, 381 U.S. at 569.
⁵⁶ Carlisle at 305.
⁵⁷ Corbett n1 at 1563.
⁵⁸ Winograde n39 at 37.
⁵⁹ Sarnier at 1063.
⁶⁰ Paul at 679.
⁶¹ Corbett at 1564.
⁶² Stacy R. Horth-Neubert, *In The Hot Box and on The Tube: Witnesses' Interests in Televised Trials*, 66 Fordham L. Rev. 165,179 (1997).
⁶³ Johnson at 147.
⁶⁴ Sarden at 1063.
⁶⁵ Horth-Neubert at 175.
⁶⁶ Id.
⁶⁷ Id. n66 at 175.
⁶⁸ Arenella at 903.
⁶⁹ Blake D. Morant, *Resolving The Dilemma of The Televised Fair Trial: Social Facilitation and The Intuitive Effects of Television*, 8 Vajspl 329, 368. (2001).
⁷⁰ Johnson at 147.
⁷¹ Sarder at 1064.
⁷² Morant at 383.
⁷³ Sarder at 1064.
⁷⁴ Morant at 386.
⁷⁵ Kozinski at 1111.
⁷⁶ Id.
⁷⁷ Marvelly n11 at 45.
⁷⁸ Sarder at 1065.
⁷⁹ Sarder at 1062.
⁸⁰ Johnson at 148.
⁸¹ Marvelley at 48.
⁸² Elizabeth A. Stawicki, *The Future of Cameras in the Courts: Florida Sunshine or Judge Judy*, 8 PGH. J. Tech. L. & Pol'y 4, 10 (2007).
⁸³ Marvelley n3 at 30.
⁸⁴ Corbett at 1559.

⁸⁵ Shelly Rosenfeld, *Will Cameras in the Courtroom Lead to More Law and Order?* 6 Crim. L. Brief 12, 16 (2010).

⁸⁶ Martin A. Holland, *Identity, Privacy and Crime: Privacy and Public Records in Florida*, 23 UFLJLPP 235, 238. 92012).

⁸⁷ Richard K. Sherwin, *Symposium Law/Media/Culture: Legal Meaning in The Age Oof Images: The Jurisprudence of Appearances*, 43 N.Y.L. Sch. L. Rev. 821, 825. (1999).

⁸⁸ Moore at 38.