



---

12-1-2006

## Courting the Stars: Why the Legal System Needs New(s) Thinking for Overpowering Celebrity Trials

Craig Matsuda

Follow this and additional works at: <https://digitalcommons.lmu.edu/llr>



Part of the [Law Commons](#)

---

### Recommended Citation

Craig Matsuda, *Courting the Stars: Why the Legal System Needs New(s) Thinking for Overpowering Celebrity Trials*, 39 Loy. L.A. L. Rev. 1223 (2006).

Available at: <https://digitalcommons.lmu.edu/llr/vol39/iss4/4>

This Symposium is brought to you for free and open access by the Law Reviews at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles Law Review by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact [digitalcommons@lmu.edu](mailto:digitalcommons@lmu.edu).

# COURTING THE STARS: WHY THE LEGAL SYSTEM NEEDS NEW(S) THINKING FOR OVERPOWERING CELEBRITY TRIALS

*Craig Matsuda\**

Orenthal Julius Simpson proved the case. Kobe Bryant made it a slam dunk. And Michael Jackson, of course, Robert Blake, Phil Spector, Winona Ryder, Halle Berry, Robert Downey Jr., Christian Slater, Hugh Grant, and others only constitute an injudicious piling on.<sup>1</sup>

California, it is clear, needs a Celebrity Court. If Delaware can recognize and create a booming legal niche for business litigation among corporations with its Court of Chancery,<sup>2</sup> if North Carolina can launch a Business Court for complex litigation,<sup>3</sup> if the federal

---

\* Senior editor, staff development, the *Los Angeles Times*. B.S.J. 1977, Northwestern University, Evanston, Ill., M.S.J., 1978, Northwestern. Intern, reporter, or editor for the *Detroit Free Press*, *Chicago Tribune*, *Houston Chronicle*, *Miami Herald*, *Denver Post*, and *Time Magazine*. At the *Times*, Mr. Matsuda has held the following positions: assistant features editor, acting deputy features editor, acting features editor, assistant foreign editor, special assignment to the Editor, acting associate editor of the Editorial Pages.

1. The *Los Angeles Times* has carried extensive coverage of each of these highly publicized cases, but leave it to USA Today to offer, in print and especially online, a concise list highlighting some of the many celebrity cases. César G. Soriano, *Celebrities Have Their Days in Court*, USA TODAY, June 13, 2005, [http://www.usatoday.com/life/people/2005-06-13-other-celeb-trials\\_x.htm](http://www.usatoday.com/life/people/2005-06-13-other-celeb-trials_x.htm).

2. For an excellent explanation of the history and workings of the Court of Chancery, see generally WILLIAM T. QUILLEN & MICHAEL HANRAHAN, A SHORT HISTORY OF THE DELAWARE COURT OF CHANCERY 1792–1992, available at <http://courts.delaware.gov/Courts/Court of Chancery/?history.htm> (last visited Apr. 8, 2006).

3. To read about the North Carolina Business Court, see generally About the North Carolina Business Court, <http://www.ncbusinesscourt.net/New/>

system can run successful specialized operations like the U.S. Court of Federal Claims<sup>4</sup> or the now notorious Foreign Intelligence Surveillance Act (FISA) secret intelligence chambers,<sup>5</sup> why should the Golden State not deal in innovative fashion with several of its multibillion-dollar endeavors and their unique and demanding legal needs?

The courts confront a conundrum when celebrity cases come before them. Of course, the judicial system's highest duty is to preserve the rights of parties, particularly in criminal proceedings, where our society demands the utmost protections for the presumed innocent. Attorneys, plaintiffs, and defendants in non-criminal matters also deserve the best from the system. But so too does the public. Ordinary American citizens must believe without a shadow of a doubt that our country runs the planet's most open, transparent, and fair courts. Celebrity cases will inevitably arise, they will sorely test the system's mettle, and there will be huge and indisputable interest in them. This is exactly the time for the courts to show themselves and their processes at their best—and not to be arcane, secretive, stumbling or fumbling.

I have my own interests in celebrity cases as a member of the working press. No matter what we do, journalists are stuck, along with our legal colleagues, in the midst of the maelstrom created by celebrity proceedings. We cannot make them go away and we cannot ignore them. Our audiences demand this coverage, so we struggle to make it the best we can. Some additional caveats here: I write on behalf of no one but myself and express no opinion

---

aboutcourt/ (last visited Apr. 8, 2006). The author takes "judicial notice" of the relative newness of this venue—1996. *Id.*

4. For a summary of the U.S. Court of Federal Claims' history and practices, see generally *The History of the United States Court of Federal Claims*, <http://www.uscfc.uscourts.gov/USCFChistory.htm> (last visited Apr. 8, 2006).

5. 50 U.S.C § 1803 (West 2000). With the FISA court so often in the headlines at the end of 2005 and into 2006, it is worth noting that its activities have been discussed by many institutions. *See, e.g.*, Federation of American Scientists, Foreign Intelligence Surveillance Court 2005 Membership, <http://www.fas.org/irp/agency/doj/fisa/court2005.html> (last visited Mar. 5, 2006) (listing the 2005 membership of the FISA Court); FISA (PL 95-511) Summary, <http://www.loyola.edu/dept/politics/intel/FISA-Summary.html> (last visited Mar. 5, 2006) (summarizing the purpose and scope of the FISA).

connected with my employ. I have covered courts over the years, labored as a university journalism adjunct and sent aspiring members of my craft to cover the legal system, and served as a longtime observer and participant in various press-bar roles. I also have done my duty, with regularity, as a juror. As a result, I have my biases about media, celebrity, the law and the courts.<sup>6</sup>

But above all, I consider myself a concerned citizen who looks with abhorrence, as many of my legal colleagues do, at the spectacle that surrounds celebrity appearances in our courts. While others may disagree, I argue that the corporatized modern press, in large measure, has grown surprisingly sober and compliant with courts' attempts to maintain decorum, even in celebrity cases.<sup>7</sup> The scale of media and their variety, of course, makes this judgment variable. At the same time, I can see that judges and counsel routinely tie themselves in knots to ensure equal treatment for parties at the bar. A host of decisions, going up and down our legal system, demonstrate that the earnest, commendable hope of legal practitioners is to maintain dignified courts with decorum and unimpeachable integrity. These practitioners view courts as places where facts may be calmly and clearly sorted; we want, above all, for our courts to be fair and impartial. Instead, as others have noted, the

---

6. For example, I wrote an article for the *Loyola of Los Angeles Entertainment Law Review*, countering Professor Gary Williams, in which I decried the notion that celebrities should enjoy enhanced, special, or unique protections in privacy law. Craig Matsuda, *An Editor's Dissent to Professor Gary Williams's Privacy Plan for A Priori, Statutory Curbs on Press Scrutiny of Key Information About Public Figures*, 19 LOY. L.A. ENT. L. REV. 363 (1999). In that piece, I argued that celebrity status has become sweeping, endemic, and powerful—so much so that it is worth considering whether titans of industry, movie stars, rock stars, and athletes enjoy more sway over society than elected officials. *See id.* at 364.

7. This assertion is based on my almost two decades of work in Los Angeles and more than two decades in a business that thrives on chattering among its members about itself. If modern journalism is truly so disruptive to the legal process, why do we not see more contempt citations or other legal sanctions for journalistic conduct, especially in the court or its environs? While contempt orders are becoming distressingly common for reporters, most of these seem to fall in one category: journalists disinclined to reveal sources to the court. *See Adam Liptak, Reporter from Time is Held in Contempt in C.I.A. Leak Case*, N.Y. TIMES, Aug. 10, 2004, at A1.

presence of celebrities—whether from pop music, movies, sports, or elsewhere—has distorted the rational orderly system.

Certainly, as a Fall 2005 Judicial Council of California public survey underscored, one of the biggest concerns of Californians, and no doubt more broadly of all Americans, is that the courts make decisions in an open, clear way and “through processes that are fair.”<sup>8</sup> Judicial circuses, embarrassing legal disclosure, unfathomable precedent at law, and an overall air of tawdriness, as has surrounded many of the succession of celebrity “trials of the century” of late,<sup>9</sup> do not meet this test. They tarnish lawyers, judges, and the media. They leave the criminally accused and the combatants in civil cases subject to public suspicion.

There is a better way, for all parties, if the courts recognize that different arrangements must be made to protect all the interests involved in celebrity cases. These arrangements do not become necessary because celebrities are inherently magical, special, or elevated in the eyes of the law or society. Over the years, courts have grappled with how to protect the criminally accused and litigating parties from the harm of publicity and notoriety, especially as the reach and influence of mass media have grown.<sup>10</sup> In the case of contemporary celebrities, however, is this not naively seeking to shut that proverbial barn door? The Celebrity Court would simply deal with the reality that cases involving wildly prominent people will pose unique demands and require different protocols, at the risk of otherwise debasing and debilitating the legal system.

So, instead, let there be a mechanism for prosecutors and defen

---

8. DAVID B. ROTTMAN, NAT'L CTR. FOR STATE COURTS, TRUST AND CONFIDENCE IN THE CALIFORNIA COURTS: A SURVEY OF THE PUBLIC AND ATTORNEYS 6 (2005), available at [http://www.courtinfo.ca.gov/reference/documents/4\\_37pubtrust1.pdf](http://www.courtinfo.ca.gov/reference/documents/4_37pubtrust1.pdf). The report further states: “Self-rated familiarity with the California courts is low . . . Knowledge of the courts increases with exposure to court information in newspapers, the Internet, televised trials, and, most importantly, the court itself.” *Id.* at 3.

9. See generally Laurie L. Levenson, *Symposium on Trials of the Century: Cases of the Century*, 33 LOY. L.A. L. REV. 585 (2000) (providing an excellent overview of so-called “trials of the century.”).

10. See Blake D. Morant, *Resolving the Dilemma of the Televised Fair Trial: Social Facilitation and the Intuitive Effects of Television*, 8 VA. J. SOC. POL'Y & L. 329, 338 (2001) (discussing the impact of televised trials on judicial fairness); see also *infra* notes 25–28 and accompanying text.

dants, as well as parties in civil litigation, to petition the Chief Justice of the California Supreme Court to transfer a case to the ad hoc Celebrity Court, which also could accept cases from jurisdictions outside California. Importantly, the parties involved would *choose* to move their cases to this venue, recognizing its advantages to both sides to ensure a fair, swift trial. If courts can sort out a definition of “public figures” for the sake of libel law,<sup>11</sup> it should not be difficult to determine what level of glamour, notoriety, or prominence would let parties into Celebrity Court.

Additionally, the Celebrity Court would not be a standing, regular venue. Rather, it would leap into existence as needed. If a defense lawyer does not want to see an actor shrink in so mighty a spotlight for minor matters such as a solicitation arrest or a minor marijuana bust, then let those matters remain in their regular venue. However, if a civil or criminal case involving a personage of note will run for a considerable period, threatens to have its legal issues grow and multiply, and involves grave matters, it ought to transfer to this new court.

Lest naysayers immediately dismiss this proposal, consider no less a voice than Justice Brandeis:

To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country. . . . If we would guide by the light of reason, we must let our minds be bold.<sup>12</sup>

So, *arguendo*, let the proposed court operate in the celebrity capital, Los Angeles, which can be both appropriately blasé and riveted by star power, no matter its manifestation. Los Angeles has the most diverse potential jury pool on earth,<sup>13</sup> so parties need not

---

11. See *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 351–52 (1974).

12. *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).

13. See PUB. POLICY INST. OF CAL., *JUST THE FACTS, LOS ANGELES COUNTY* (2005), available at [http://www.ppic.org/content/pubs/jtf/JTF\\_LaCountyJTF.pdf](http://www.ppic.org/content/pubs/jtf/JTF_LaCountyJTF.pdf).

fret about finding a suitable citizenry to weigh cases. Unlike small, distant burghs, this metropolis has ample populations of—you name the quality—rich, poor, black, white, brown, yellow, educated or not, adherents of a spectrum of personal, religious and political beliefs. For parties at the bar, so ample and diverse a pool makes Los Angeles what they seek—a level and impartial venue. The city is so huge and sprawling that jurors need not find themselves objects of undue focus, by their peers or by the press.

With proper *voir dire*, the court could eliminate concerns about juror bias regarding celebrity cases, while the city's size also tends to cancel out another oft-cited woe: worry about whether publicity poisons not just the present, but the potential and subsequent, jury pool.<sup>14</sup> While the Constitution and the courts have recognized the importance of conducting criminal trials, in particular, in the place where the offending incident occurred,<sup>15</sup> venue changes are possible.<sup>16</sup> Furthermore, moving a case to a place like Los Angeles would counterbalance the calumny that a celebrity case can cause for all parties concerned.

As to the operational details, the court's chief administrator could be appointed by the California Supreme Court's Chief Justice, in consultation with the disputing parties. The candidates likely should come from Los Angeles, as will be discussed below, to know how the city can accommodate a significant trial.

Instead of indisposing any of the existing courts or their sitting jurists, let three names of retired and volunteer judges be brought forward to preside in any designated case sent to the Celebrity Court. These would be highly qualified, distinguished, and retired practitioners no longer burdened by worries about the effect of

---

14. See, e.g., *Gannett Co. v. DePasquale*, 443 U.S. 368, 441 (1979) (5–4 decision) (Blackmun, J., concurring in part and dissenting in part) (noting that publicity-based harm to a party in a civil suit will usually “involve a showing of the impact on the jury pool”).

15. See, e.g., *United States v. McKinney*, 53 F.3d 664, 673 (5th Cir. 1995) (“The Sixth Amendment requires that a criminal trial be held in the district in which the alleged crime occurred.”).

16. See *Groppi v. Wisconsin*, 400 U.S. 505, 511 (1971) (holding that “under the Constitution a defendant must be given an opportunity to show that a change of venue *is* required in *his* case” due to the likelihood of a prejudiced jury).

celebrity cases on their careers. They could, as happens in other specialized courts, devote time to amass knowledge of the applicable law. They would be involved early and could speed matters along with their full attention. These judges might even match some of the celebrity power of the parties involved; imagine a rambunctious actor arguing with the likes of Judge Judy or a pajama-clad defendant clambering from an attack by Judge Wapner for dressing down.

If the reality will be that television or the Internet can deliver an audience for gavel-to-gavel coverage of a celebrity case, so be it. It would take an entire, separate law journal volume to argue the issues surrounding cameras in the courts. But suffice it to say that technology and thoughtful construction of a kind that would be little challenge to Hollywood set designers could remedy crucial concerns about wider access to major trials involving public personages. Instead of trying to adapt a standard courtroom and wrestling with the problems that would likely arise, let one be built or be at the ready for Celebrity Court—in the midst of an already large seating area and with high-tech equipment.<sup>17</sup> It could have multiple hidden cameras so parties in the court would be clueless as to when they were on or off, blocking any attempts to showboat for the audience. The interior of the court could retain its calm, order, and dignity with standard décor, as far as participants would observe. In fact, because the need for space behind the bar for the audience would be reduced, the courtroom might even be smaller and more controllable. It could have partitions at the ready that could be designed to be moved in and out, so as to screen witnesses or jurors from view at appropriate times from what could be a sizable viewing audience. Indeed, the

---

17. If readers think high-tech court facilities are the author's sci-fi fantasy, please see the online facilities' descriptions for law schools in Los Angeles, such as: Loyola Law School, Los Angeles, Southwestern Law School, or the University of California at Los Angeles (UCLA). See DAN WEISS, LOYOLA LAW SCH., TECHNOLOGY RESOURCE GUIDE TO GIRARDI ADVOCACY CENTER TECHNOLOGY (2003), <http://intranet.lls.edu/im/staff/GAC-technology-guide.pdf>; Southwestern Law School, Julian C. Dixon Courtroom Features, <http://www.swlaw.edu/campus/dixon/features> (last visited Apr. 8, 2006); 2003–2004 UCLA School of Law Bulletin and Application, <http://www.law.ucla.edu/administration/publications/bulletin/bulletin20032004.html#enhancing> (last visited Apr. 8, 2006).



courtroom itself could be built with walls of one-way glass, allowing a larger surrounding audience to view proceedings, as if in a surgical theater, while the court conducted its business in stately calm. Put it on the floor of the Los Angeles Sports Arena.<sup>18</sup> Use the Forum in Inglewood or even the Los Angeles Coliseum.<sup>19</sup> Conduct the trial at USC or UCLA in any of their myriad appropriate halls or event centers.<sup>20</sup> Would any of the many law schools in this region not want a high-profile case conducted on its campus and in its facilities, if only for the edification of its faculty and students?

All of these venues, besides increased seating, have additional facilities, or at least the capacity to expand, so as to eliminate the scenes that have surrounded recent notorious celebrity trials. There would be plenty of parking, bathrooms, and open space where, if they so desire, audiences could gather, under control and without causing traffic headaches and public calamity. Why let lawyers in celebrity cases jam court halls, create pandemonium on courthouse steps or nearby, or make others in the legal system wade through heavy and cramping security, when trial-related functions can be set up more easily at other kinds of public venues? Why inconvenience an entire courthouse with fleets of satellite broadcast trucks, camera crews, elevated platforms and hovering helicopters, when, frankly,

---

18. The Los Angeles Sports Arena can accommodate approximately 16,000 people, Los Angeles Sports Arena, <http://hockey.ballparks.com/NHL/LosAngelesKings/oldindex.htm> (last visited Apr. 8, 2006).

19. The Great Western Forum can also seat approximately 16,000 people. Great Western Forum, <http://hockey.ballparks.com/NHL/LosAngelesKings> (last visited Apr. 8, 2006). For an even larger audience, the Coliseum can seat over 100,000 people. The Los Angeles Memorial Coliseum, <http://www.lacoliseum.com> (follow the "General Info" hyperlink under "Coliseum Info," then follow the "Coliseum Information" hyperlink, then select "Coliseum Facts & Figures") (last visited Apr. 8, 2006).

20. Even smaller halls, such as Bovard Auditorium at USC (1,235 seats), Bovard Auditorium, Frequently Asked Questions, <http://www.usc.edu/student-affairs/bovardauditorium/index.php?page=faq> (last visited Apr. 8, 2006), or the auditorium in the Annenberg School for Communication at USC (220 seats), About USC, Annenberg Auditorium, [http://www.usc.edu/about/visit/upc/event\\_venues/annenberg.html](http://www.usc.edu/about/visit/upc/event_venues/annenberg.html) (last visited Apr. 8, 2006), easily can handle bigger audiences than most courtrooms. UCLA also has multiple facilities that can be rented out for events. UCLA Live, Theatre Rental & Facility Information, [http://www.uclalive.org/about\\_rentals.htm](http://www.uclalive.org/about_rentals.htm) (last visited Apr. 8, 2006).

these “distractions” are no big deal at public spots better suited for audiences, even crowds? Many come equipped with state-of-the-art broadcast capacities.<sup>21</sup> They have overflow spaces to accommodate satellite trial-viewing areas, as well as room for appropriate, publicly conducted commentary by court participants or legal experts.<sup>22</sup> These sites could be set up with Wi-Fi for instant filing by bloggers, Internet journalists, and reporters. The courts, of course, can turn away this kind of popular demand. They can say they are protecting the rights of the accused or the litigating parties. They can view the courthouse and the courtroom as an inviolable shrine. They also can stand on the shore and command the ocean tide not to roll in.

Let us also not strain the overburdened and, perhaps, Luddite legal system with demands for court papers in celebrity cases. Instead of grimacing over disturbing gaffes in document disclosures, post the materials on the Celebrity Court’s Web site. The wise minds in the judicial system long ago, forthrightly and correctly, grasped that the vital way to preserve public trust in legal transactions requires maximal, not minimal, transparency,<sup>23</sup> and access not only to the process, but to the underlying documents of the courts, criminal or civil.<sup>24</sup> Let modern technology respond to crushing demand. Why charge ghastly fees and impose unnecessary delays to produce public records in celebrity cases if these documents can be posted for many with the same amount of court staff time and energy as once was demanded by a few? Take out the ridiculous titillation factor in too many celebrity trials of faux scoops and breathless, incomplete filings by just releasing documents in a thoughtful, complete, and expeditious fashion.

One might wonder who pays for all this and how it will operate. Summon some movie studio chiefs, recording industry czars, media moguls, university chancellors, law school deans, court adminis-

---

21. *See, e.g.*, Welcome to STAPLES CENTER Website!, About Us-TV/Video Production, <http://www.staplescenter.com/content/default.sps?iType=6969&icustompageid=13422> (last visited Apr. 8, 2006).

22. *See, e.g.*, Welcome to STAPLES CENTER Website!, Events—Meeting Room Service, <http://www.staplescenter.com/content/default.sps?iType=6969&icustompageid=10757> (last visited Apr. 8, 2006).

23. *See* Press-Enter. Co. v. Superior Court, 464 U.S. 501, 508–09 (1984).

24. *See* Copley Press, Inc. v. Superior Court, 7 Cal. Rptr. 2d 841, 844 (Ct. App. 1992).

trators, prosecutors, defense lawyers, litigators, justices and judges. Call in the terrific and talented counsel representing the media. Let them all ponder, before the fact and not with acrimonious regret, the immeasurable cost to the legal system of circus-like celebrity trials. Also consider that news organizations like the *Los Angeles Times* already pay tens of thousands of dollars to cover these events, especially when they move to distant, remote places that lack sensible options for hotels and motels. What would the educational and societal value be if these kinds of cases could be superbly conducted?

Moreover, the Celebrity Court might pay for itself. First, parking fees, though not admission, could be collected. Additionally, vendors of all kinds of high-tech equipment such as Web-based posting services, computer document handling systems, and Internet broadcast operations would be pleased to see them showcased in a high-profile situation like a celebrity trial, and would likely give commensurate discounts. Once the judicial system gets the Celebrity Court up and operational, coffee and fast-food companies would likely even pay to get a slice of business from the controlled and suddenly comfortable audiences at these events. Ask the operators of Staples Center or Dodger Stadium whether they make their greatest profit from admission ticket sales or from parking and concessions.

What is the harm in testing the idea? Parts of it might ultimately improve the courts in the all-important areas of public access, public visibility, and applications of the latest technology.

With Celebrity Court, what looks to be a practical and procedural menace, instead, could be a boon to all, with a change of view and practice. Look over the mountain of cases on media and public access and the courts and the issues they tend to focus on: inflammatory crimes, such as homicide,<sup>25</sup> especially with elements of race and sexuality involved;<sup>26</sup> sexual assault or sex crimes;<sup>27</sup> or

---

25. See, e.g., *Neb. Press Ass'n v. Stuart*, 427 U.S. 539 (1976) (overturning press restrictions in a multiple murder case).

26. See, e.g., *Press-Enter. Co.*, 464 U.S. 501 (ruling that the *voir dire* proceedings at a rape/murder trial must be open to the public in the absence of some overriding governmental interest).

27. See, e.g., *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982) (overturning a mandatory closure rule in a rape trial in which the alleged

situations involving public affront (e.g., allegations of large-scale fraud or public corruption or controversy).<sup>28</sup> There is a history of combat between the media, claiming to act as the surrogate for the public, and the legal system over access to, publication about, and broadcast of, criminal and civil proceedings in their various phases. Ultimately, the case law trends point to public openness, media access, and transparency in procedures and documents. The brief description of where we sit in 2006 is that most parts of criminal and civil proceedings, and their underlying documents and procedures, should be open to the public and press, with limits—and the courts need to spell out the exceptions.<sup>29</sup> Still, there is a nagging sense that legal practitioners—lawyers, judges, and those who run the courts—find the media, and more importantly, the public, to be an inimical, rather than an intrinsic part of the system and the process.

Since *Estes v. Texas*, courts have conjured worst-case scenarios about public spectacle in connection with cases involving great media attention, notoriety and well-known defendants.<sup>30</sup> The courts

---

victims were minors).

28. *See, e.g.,* *Estes v. Texas*, 381 U.S. 532 (1965) (overturning the conviction of swindler and Lyndon Baines Johnson confidant, Billy Sol Estes, because of extensive pre-trial publicity and the presence of television cameras and broadcast journalists in the courtroom). One Justice wryly noted that this was no routine criminal case. *Id.* at 587 (Harlan, J., concurring). Nor was *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589 (1978), an ordinary request for court materials.

29. For an excellent summary of this topic by Kelli Sager, a brilliant Los Angeles media lawyer, see Memorandum from Kelli L. Sager, Partner, Davis Wright Tremain, LLP, to Alan Carlson, President, The Justice Mgmt. Inst. (May 13, 2002), *available at* <http://ctl.ncsc.dni.us/publicaccess/legalwritings/sager2002.pdf>. Sager has represented my employer. This posting is part of the groundbreaking work by the National Center for State Courts, and, in particular, its work on public access, privacy and technology issues, and the courts. *See* National Center for State Courts Home Page, Public Access to Court Records, <http://www.courtaccess.org/index.html> (last visited Apr. 8, 2006).

30. *See, e.g.,* *United States v. Simon*, 664 F. Supp. 780, 792–93 (S.D.N.Y. 1987) (finding that the defendants might be deprived of a fair trial due to the sensational nature of the case, the egregious pattern of grand jury leaks, involvement of two elected public officials, and extensive publicity, all of which make it difficult to erase prejudice from the minds of prospective jurors); *United States v. Anderson*, 356 F. Supp. 1311, 1313 (D.N.J. 1973)

recoil at klieg-light coverage and the notion that rightfully solemn and crucial decisions about individuals' lives, liberties, and capacity for happiness will be decided frivolously, as if trials were to be an entertainment akin to Major League Baseball, or more specifically, the Yankees.<sup>31</sup> Though the courts have rejected the notion, for example, that the mere presence of a broadcast camera automatically is legally prejudicial and ought to be banned,<sup>32</sup> the idea that the legal system can and should make itself even more open to broad audiences seems anathema. In defending a Los Angeles Superior Court judge's closure of a civil trial involving Hollywood notable Clint Eastwood, then-assistant county counsel Frederick Bennett, in the wake of the Simpson homicide trial, made public statements decrying "modern press and broadcast mania" in select cases, such as Simpson's "circus-like trial."<sup>33</sup> He told one reporter that a line should be drawn between private, civil matters, where disclosure could imperil a fair trial, and "things that affect the public broadly."<sup>34</sup> Bennett further contended that if the public had no more than a "curious interest," the courts should be allowed to shut themselves from public view.<sup>35</sup>

The California Court of Appeal and the California Supreme Court disagreed,<sup>36</sup> both with Bennett and the Superior Court judge, who, as published accounts of trial transcripts showed, simply found it inconvenient to deal with the pressure of media scrutiny.<sup>37</sup> Instead, the California Supreme Court, upholding the appellate court

---

("Because of the widespread publicity surrounding this trial . . . this Court finds a reasonable likelihood that a fair trial by an impartial jury will not result unless appropriate steps to avoid a 'carnival atmosphere' are taken.").

31. See *Estes*, 381 U.S. at 595 (Harlan, J., concurring).

32. See, e.g., *Press-Enter Co. v Superior Court*, 464 U.S. 501 (1984); *NBC Subsidiary (KNBC-TV) Inc. v. Superior Court*, 980 P.2d 337 (Cal. 1999).

33. Ted Rohrlich, *Special Report: As L.A. Judges Seek to Limit Media Access to Civil Trials, Journalists Argue They Are Infringing on Rights of the Public. It Comes Down to a Question of . . . Guaranteeing Free Press and Fair Trials*, L.A. TIMES, Oct. 11, 1998, at B1.

34. Greg Mitchell, *Any Which Way But Public: NBC Affiliate Fights for Press Access to Civil Proceedings*, THE RECORDER, May 6, 1999.

35. *Id.*

36. See *NBC Subsidiary*, 980 P.2d at 340-41; *NBC Subsidiary (KNBC-TV) Inc. v. Superior Court*, 56 Cal. Rptr. 2d. 645, 656 (Ct. App. 1996).

37. See Rohrlich, *supra* note 33.

decision, set forth a key decision that the public has a right to be present in civil trials and outlined the limited circumstances in which jurists may conduct such proceedings in private.<sup>38</sup>

Perhaps Celebrity Court is one journalist's ridiculous response to an admittedly inept ramble through a complicated, difficult patch of law and legal practice. As part of a six-month investigation on some ghastly child abuse cases, however, I had to sit through long hours in Florida's open family courts, which still do much of their business in a confidential manner to protect juveniles.<sup>39</sup> As mentioned, I have served regularly as a Los Angeles juror and I have gone back to trials on account of reporting and teaching duties. One will be struck, in any such visit, by the crushing caseloads, the generally superb efforts by all involved, and the paucity of ordinary interest in an extraordinary aspect of American democracy. Citizens should see what happens in the courts.

It is sad but true that we live in such a blessed land where so many things work well and right that we take note of them only in their aberration—which often times is called “news.” Of late, we are led to them by the mere presence of a personage, also known as a “celebrity,” who, for example, headlines charity fund-raisers and focuses attention on legislative hearings for various causes. While the media has a role in shaping wider opinion, in the case of the courts, much of the public will see the legal system only through the handling of a celebrity case.

Still, if no less a figure than the President, his Cabinet members, members of the U.S. Senate, and sitting U.S. judges may be adjudicated in impeachment proceedings involving several hundred individuals amid an avalanche of coverage, courts should not flinch at large-scale, open and public trials. This is especially true when the system needs the widest and best exposure it can obtain. The Judicial Council of California reports that, in the Golden State alone, there are some 2,000 judicial officers,<sup>40</sup> 19,000 court employees,<sup>41</sup>

---

38. *NBC Subsidiary*, 980 P.2d at 340, 364–65.

39. FLA. FAM. L.R.P. 12.400 cmt. to 1995 adoption (2005) (stating that judicial proceedings and records should not be made public when there are substantial compelling circumstances, for example, “to protect the interests of minor children from offensive testimony and to protect children in a divorce proceeding”).

40. JUDICIAL COUNCIL OF CAL., CORNERSTONES OF DEMOCRACY:

and 8.8 million annual court filings.<sup>42</sup> The pace of legal action and need only grows. The California court system, in its last report, current almost two years ago, sought 150 new judges—less than half of what was needed,<sup>43</sup> and struggled on a \$1.7 billion budget.<sup>44</sup>

Given such a behemoth mission and with ever-increasing demands on the tax dollar and public attention, the courts should have favorable attention lavished on them. Given the outsized lives of celebrities today, it is just a matter of time before, unfortunately, there is some new public outrage involving such a personage.

Oyez, oyez—get the Celebrity Court ready. Listen to Justice Marshall as he underscores an excellent policy reason for it. Marshall was discussing why prolonged, but public, *voir dire* was an admirable, not a questionable, practice.<sup>45</sup> His point, though, is fully applicable to establishing a Celebrity Court to show that the court system can be wide open, welcoming, calm, full of decorum, and fair:

In a situation of this sort, the public's response to the use of unusually elaborate procedures to protect the rights of the accused might well be, not lessened confidence in the courts, but rather heightened respect for the judiciary's unshakeable commitment to the ideal of due process even for persons accused of the most serious of crimes.<sup>46</sup>

---

CALIFORNIA COURTS ENTER A NEW ERA OF JUDICIAL BRANCH INDEPENDENCE 35 (2005), available at <http://www.courtinfo.ca.gov/reference/documents/ar2005.pdf>.

41. *Id.*

42. *Id.* at 23.

43. *Id.* at 25.

44. *Id.* at 29.

45. See *Press-Enter. Co. v. Superior Court*, 464 U.S. 501, 522 (1984) (Marshall, J., concurring).

46. *Id.*