

**JUDGE CASTILLO'S VIDEO DEPOSITION RULES --  
EFFECTIVE FOR ALL PENDING CASES AS OF  
JUNE 19, 2002**

**RULE NO. 1:**

If a party taking a deposition intends to do so by videotape, the notice or subpoena pursuant to which that deposition will be conducted shall state that the deposition will be videotaped. In the event that the notice of subpoena does not so indicate, the deposition may not proceed by videotape.

**RULE NO. 2:**

A stenographer shall be present at, and shall record stenographically, all videotaped depositions.

**RULE NO. 3:**

An opening statement shall be made on camera at the deposition specifying the videotape operator's name and business address; the name and business address of the operator's employer; the date, time and place of deposition; the title of the case; the name of the witness; the party on whose behalf the deposition is being taken; and any stipulations by the parties in connection with the conduct of the deposition.

**RULE NO. 4:**

At the deposition, the videotape operator must certify under oath that he or she is in no way related to the parties to the suit or in any way interested in the outcome thereof; that he or she has read and understands any Orders entered by this Court concerning the conduct of the videotaped depositions; and that the deposition proceedings have been recorded accurately, completely and in compliance with the terms of the Court's Order and that the videotape accurately reflects such recordation.

**RULE NO. 5:**

The deponent shall be first duly sworn on oath, on camera, by an officer authorized to administer oaths.

**RULE NO. 6:**

Deponents should be informed in writing (within the notice of deposition) and again orally during the deposition, that their videotaped testimony may be played in court during any relevant proceeding, including a potential jury trial.

**RULE NO. 7:**

The parties shall at all times endeavor to make the video deposition as comparable as possible to actual trial testimony. Witnesses and attorneys should therefore conduct themselves in trial demeanor.

**RULE NO. 8:**

A single camera shall be used to videotape the deposition, and that camera shall be focused on the witness. The camera shall not be used to record the witness's counsel, examining counsel, defending counsel, or other counsel or individuals present during the testimony or colloquy conducted in the deposition. However, at the request of the examining counsel, the camera may be switched or a split screen may be used to record charts, photographs or exhibits used during the examination.

**RULE NO. 9:**

The video operator shall not distort the appearance, demeanor or sound of the deponent or any other person attending the deposition by use of camera or sound-recording techniques. The party arranging the videotaped deposition shall make best efforts to ensure that the deposition is conducted in a room of good lighting and comfortable temperature. The video recording shall be made using color film or tape. The witness and the attorneys shall make best efforts not to speak at the same time.

**RULE NO. 10:**

Federal Rule of Civil Procedure 32(d)(3) shall govern which objections must be made at the deposition in order to be preserved, and which are preserved irrespective of whether they are made at the deposition. The parties expressly reserve any objections, without the need to object on the record at the deposition, to the staging, photographic or sound technique being used at the deposition.

**RULE NO. 11:**

If the length of the deposition requires the use of more than one videotape cassette or recording unit, the end of each cassette or unit and the beginning of each succeeding cassette or unit shall be announced on camera. In addition, at the beginning of the next cassette or unit, the video operator shall repeat his name and business address, the date time and place of the deposition, and the name of the deponent.

**RULE NO. 12:**

At the conclusion of the deposition a statement shall be made on camera that the deposition is concluded.

**RULE NO. 13:**

The videotape shall run during all portions of the deposition that are recorded on the stenographic transcript. At any time the parties elect to go off the stenographic record for any purpose, the videotape recording shall be turned off at that time and shall be resumed only when the stenographic record of the deposition resumes.

**RULE NO. 14:**

The party requesting that the deposition be videotaped shall bear the expense of arranging and recording the videotaped deposition, and shall bear the usual expenses with respect to stenographic recordation of the testimony and the original transcription of the stenographic record. Other parties shall bear the cost of obtaining any copies of the videotape they wish to obtain. The Court will defer to the end of the case the question of whether the cost of the videotape deposition of any particular deponent may be recoverable, in whole or part, as taxable costs.

**RULE NO. 15:**

The original videotape of the deposition shall be held in the custody of the party seeking the deposition. All unobjected videotaped depositions potentially to be used at trial, shall be designated in the parties' Final Pretrial Order. All videotaped depositions, potentially to be used at trial, which contain objections in need of Court rulings are governed by Rule 18.

**RULE NO. 16:**

Any party may designate all or part of a videotape recording of a deposition to be protected as confidential under the same terms of the Protective Order as governs designation of stenographic transcripts of depositions as confidential.

**RULE NO. 17:**

The parties shall confer in an attempt to agree to those portions of the videotaped deposition that may be used at trial. To the extent that the parties cannot reach agreement, the Court will rule on any objections to the use of videotaped depositions in whole or part. The party wishing to present a deposition at trial is responsible for ensuring that any portions of testimony or other materials in the videotaped deposition that the Court rules inadmissible are expeditiously removed from the videotape recording so that the redacted deposition can be presented expeditiously and without delaying conduct of the trial. In the event that the videotape of a deposition cannot be conformed to meet the Court's rulings or is not ready for use without delaying the trial, the stenographic transcript shall be used instead.

**RULE NO. 18:**

Any video deposition that a party wishes to use at trial must be so identified and filed with the trial court no later than fourteen (14) days prior to trial if there are potential designations which contain objections in need of court rulings. Failure to comply with this Rule may lead to the exclusion of the proposed video testimony.

**RULE NO. 19:**

Good cause must be established to play any video deposition at trial which lasts more than three (3) hours. The parties should endeavor to respect the time of the trier of fact when making designations of videotaped testimony.

**RULE NO. 20:**

Any variation to these rules will require either a stipulation of the parties or leave of Court upon exercise of its sound discretion.

**ENTER:**

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**Judge Ruben Castillo**  
**United States District Court**

**June 19, 2002**