

Rule 4-401.01 Electronic media coverage of court proceedings.

Intent:

To establish uniform standards and procedures for electronic media coverage of court proceedings.

To permit electronic media coverage of proceedings while protecting the right of parties to a fair trial, personal privacy and safety, the decorum and dignity of proceedings, and the fair administration of justice.

Applicability:

This rule applies to the courts of record and not of record.

This rule governs electronic media coverage of proceedings that are open to the public.

Statement of the Rule:

(1) Definitions.

(1)(A) "Judge" as used in this rule means the judge, justice, or court commissioner who is presiding over the proceeding.

(1)(B) "Proceeding" as used in this rule means any trial, hearing, or other matter that is open to the public.

(1)(C) "Electronic media coverage" as used in this rule means recording or transmitting images or sound of a proceeding.

(1)(D) "News reporter" as used in this rule means any publisher, editor, reporter or other similar person who gathers, records, photographs, reports, or publishes ~~gathering~~ information for the primary purpose of disseminating news ~~and information~~ to the public, and any newspaper, magazine, or other periodical publication, press association or wire service, radio station, television station, satellite broadcast, cable system or other organization with whom that person is connected.

(2) Presumption of electronic media coverage; restrictions on coverage.

(2)(A) Other than for case types classified as private under rule 4-202.02(4)(B), ~~¶~~ there is a presumption that electronic media coverage by a news reporter shall be permitted in public proceedings. The judge may prohibit or restrict electronic media

coverage only if the judge finds that the reasons for doing so are sufficiently compelling to outweigh the presumption.

(2)(B) When determining whether the presumption of electronic media coverage has been overcome and whether such coverage should be prohibited or restricted beyond the limitations in this rule, a judge shall consider some or all of the following factors:

(2)(B)(i) whether there is a reasonable likelihood that electronic media coverage will prejudice the right of the parties to a fair proceeding;

(2)(B)(ii) whether there is a reasonable likelihood that electronic media coverage will jeopardize the safety or well-being of any individual;

(2)(B)(iii) whether there is a reasonable likelihood that electronic media coverage will jeopardize the interests or well-being of a minor;

(2)(B)(iv) whether there is a reasonable likelihood that electronic media coverage will constitute an unwarranted invasion of personal privacy of any ~~party or witness~~ person;

(2)(B)(v) whether electronic media coverage will create adverse effects greater than those caused by media coverage without recording or transmitting images or sound;

(2)(B)(vi) the adequacy of the court's physical facilities for electronic media coverage;

(2)(B)(vii) the public interest in and newsworthiness of the proceeding;

(2)(B)(viii) potentially beneficial effects of allowing public observation of the proceeding through electronic media coverage; ~~and~~

(2)(B)(ix) whether the predominant purpose of the electronic media coverage request is something other than journalism or dissemination of news to the public; and

(2)(B)(x) any other factor affecting the fair administration of justice.

(2)(C) If the judge prohibits or restricts electronic media coverage, the judge shall make particularized findings orally or in writing on the record. Any written order denying a request for electronic media coverage shall be made part of the case record.

(2)(D) Any reasons found sufficient to prohibit or restrict electronic media coverage shall relate to the specific circumstances of the proceeding rather than merely reflect generalized views or preferences.

59 (2)(E) A judge may permit electronic media coverage by a news reporter in the case
60 types classified as private under rule 4-202.02(4)(B). In deciding whether to permit
61 coverage, the judge shall consider the factors in paragraph (2)(B).

62 (3) Duty of news reporters to obtain permission; termination or suspension of
63 coverage.

64 (3)(A) Unless otherwise ordered by the court, news reporters shall file a written
65 request for permission to provide electronic media coverage of a proceeding at least
66 one business day before the proceeding. The request shall be filed on a form provided
67 by the Administrative Office of the Courts. Upon a showing of good cause, the judge
68 may grant a request on shorter notice.

69 (3)(B) A judge may terminate or suspend electronic media coverage at any time
70 without prior notice if the judge finds that continued electronic media coverage is no
71 longer appropriate based upon consideration of one or more of the factors in Paragraph
72 (2)(B). If permission to provide electronic media coverage is terminated or suspended,
73 the judge shall make the findings required in Paragraphs (2)(C) and (2)(D).

74 (4) Conduct in the courtroom; pool coverage.

75 (4)(A) Electronic media coverage is limited to one audio recorder and operator, one
76 video camera and operator, and one still camera and operator, unless otherwise
77 approved by the judge or designee. If more than one news reporter has requested
78 permission to provide electronic media coverage, it is the responsibility of news
79 reporters to determine who will participate at any given time, how they will pool their
80 coverage, and how they will share audio, video or photographic files produced by pool
81 coverage. The pool equipment operators shall use equipment that is capable of sharing
82 audio, video or photographic files to pool recipients in a generally accepted format. The
83 pooling arrangement shall be reached before the proceedings without imposing on the
84 judge or court staff. Neither the judge nor court staff shall be called upon to resolve
85 disputes concerning pool arrangements.

86 (4)(B) News reporters shall designate a representative with whom the court may
87 consult regarding pool coverage, and shall provide the court with the name and contact
88 information for such representative.

(4)(C) Tripods may be used, but not flash or strobe lights. Normally available courtroom equipment shall be used unless the judge or a designee approves modifications, which shall be installed and maintained without court expense. Any modifications, including microphones and related wiring, shall be as unobtrusive as possible, shall be installed before the proceeding or during recess, and shall not interfere with the movement of those in the courtroom.

(4)(D) The judge may position news reporters, equipment, and operators in the courtroom. Proceedings shall not be disrupted. Equipment operators and news reporters in the courtroom shall:

(4)(D)(i) not use equipment that produces loud or distracting sounds;

(4)(D)(ii) not place equipment in nor remove equipment from the courtroom nor change location while court is in session;

(4)(D)(iii) conceal any identifying business names, marks, call letters, logos or symbols;

(4)(D)(iv) not make comments in the courtroom during the court proceedings;

(4)(D)(v) not comment to or within the hearing of the jury or any member thereof at any time before the jury is dismissed;

(4)(D)(vi) present a neat appearance and conduct themselves in a manner consistent with the dignity of the proceedings;

(4)(D)(vii) not conduct interviews in the courtroom except as permitted by the judge; and

(4)(D)(viii) comply with the orders and directives of the court.

(5) Violations. In addition to contempt and any other sanctions allowed by law, a judge may remove from the proceeding anyone violating this rule or the court's orders and directives and terminate or suspend electronic media coverage.

(6) Limitations on electronic media coverage. Notwithstanding an authorization to conduct electronic media coverage of a proceeding, and unless expressly authorized by the judge, there shall be no:

(6)(A) electronic media coverage of a juror or prospective juror until the person is dismissed;

(6)(B) electronic media coverage of the face of a person known to be a minor;

(6)(C) electronic media coverage of an exhibit or a document that is not part of the official public record;

(6)(D) electronic media coverage of proceedings in chambers;

(6)(E) audio recording or transmission of the content of bench conferences; or

(6)(F) audio recording or transmission of the content of confidential communications between counsel and client, between clients, or between counsel.

(7) Except as provided by this rule, recording or transmitting images or sound of a proceeding without the express permission of the judge is prohibited. This rule shall not diminish the authority of the judge conferred by statute, rule, or common law to control the proceedings or areas immediately adjacent to the courtroom.