

1 **Rule 4-401.01 Electronic media coverage of court proceedings.**

2 Intent:

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

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

8 Applicability:

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

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

12 Statement of the Rule:

13 (1) Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56 (2)(D) Any reasons found sufficient to prohibit or restrict electronic media coverage
57 shall relate to the specific circumstances of the proceeding rather than merely reflect
58 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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