

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

2 Intent:

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

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

12 Statement of the Rule:

13 (1) Definitions.

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

16 (1)(B) “Proceeding” as used in this rule means any trial, hearing, or other
17 matter that 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 a publisher, editor,
21 reporter or other similar person who gathers, records, photographs, reports, or
22 publishes information for the primary purpose of disseminating news to the
23 public, and any newspaper, magazine, or other periodical publication, press
24 association or wire service, radio station, television station, satellite broadcast,
25 cable system or other 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-~~
28 ~~202.02(4)(B),~~ There is a presumption that electronic media coverage by a
29 news reporter shall be permitted in public proceedings where the predominant
30 purpose of the electronic media coverage request is journalism or
31 dissemination of news to the public. The judge may prohibit or restrict
32 electronic media coverage in those cases only if the judge finds that the
33 reasons for doing so are sufficiently compelling to outweigh the presumption.

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

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

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

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

44 (2)(B)(iv) whether there is a reasonable likelihood that electronic media
45 coverage will constitute an unwarranted invasion of personal privacy of any
46 person;

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

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

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

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

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

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

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

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

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

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

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

78 (3)(B) A judge may terminate or suspend electronic media coverage at any
79 time without prior notice if the judge finds that continued electronic media

80 coverage is no longer appropriate based upon consideration of one or more of
81 the factors in Paragraph (2)(B). If permission to provide electronic media
82 coverage is terminated or suspended, the judge shall make the findings
83 required in Paragraphs (2)(C) and (2)(D).

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

85 (4)(A) Electronic media coverage is limited to one audio recorder and
86 operator, one video camera and operator, and one still camera and operator,
87 unless otherwise approved by the judge or designee. ~~If more than one news~~
88 ~~reporter has requested permission to provide electronic media coverage, i~~ All
89 requests to provide electronic media coverage shall be made to the court's
90 public information office. The news reporter whose request is granted by the
91 court will provide pool coverage.

92 (4)(B) It is the responsibility of news reporters to determine who will
93 participate at any given time, how they will pool their coverage, and how they
94 will share audio, video or photographic files produced by pool coverage. The
95 pooling arrangement shall be reached before the proceedings without
96 imposing on the judge or court staff. Neither the judge nor court staff shall be
97 called upon to resolve disputes concerning pool arrangements.

98 ~~(4)(C) The pool~~ The approved news reporter operators shall use equipment
99 that is be capable of sharing audio, video or photographic files to with other
100 ~~pool recipients~~ news reporters in a generally accepted format. The pooling
101 ~~arrangement shall be reached before the proceedings without imposing on the~~
102 ~~judge or court staff. Neither the judge nor court staff shall be called upon to~~
103 ~~resolve disputes concerning pool arrangements.~~ News reporters providing
104 pool coverage shall promptly share their files with other news reporters. News
105 reporters must be willing and able to share their files to be approved to
106 provide coverage.

107 (4)(~~BD~~) News reporters shall designate a representative with whom the
108 court may consult regarding pool coverage, and shall provide the court with
109 the name and contact information for such representative.

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

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

120 (4)(~~DG~~)(i) not use equipment that produces loud or distracting sounds;

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

123 (4)(~~DG~~)(iii) conceal any identifying business names, marks, call letters,
124 logos or symbols;

125 (4)(~~DG~~)(iv) not make comments in the courtroom during the court
126 proceedings;

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

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

131 (4)(~~DG~~)(vii) not conduct interviews in the courtroom except as permitted by
132 the judge; and

133 (4)(~~DG~~)(viii) comply with the orders and directives of the court.

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

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

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

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

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

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

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

149 or

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

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