

**PROPOSED AMENDMENTS TO THE
UNIFORM RULES FOR SUPERIOR COURT,
APPROVED FOR FIRST READING, JANUARY 21, 2016**

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Uniform Superior Court Rule 22. Electronic and Photographic News Coverage of Judicial Proceedings

(a) Purpose. Unless otherwise authorized by rule of the Supreme Court or law, this rule specifies the permitted and prohibited uses of electronic devices in a courthouse and comports with the standards provided in O.C.G.A. § 15-1-10.1 for determining how the use of an electronic device would impact the public interest and the rights of the parties in open judicial proceedings. A court must use reasonable means to advise courthouse visitors of the provisions of this rule. A violation of this rule may be punishable as contempt. Violators may be removed from the courthouse or courtroom.

(b) Definitions. The following definitions apply in this rule:

(1) An “electronic device” is a device capable of electronically storing, accessing, or transmitting information. The term encompasses, among other things, a transportable computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone, or other wireless phone; a camera and other audio or video recording devices; a personal digital assistant (PDA); other devices that provide internet access; and any similar items.

(2) “Coverage” means photographing, recording, retention, broadcasting or dissemination.

(c) Jurors and witnesses. The following restrictions apply to use of electronic devices by jurors, including prospective jurors, and by witnesses.

(1) Jurors: Jurors must turn off their electronic devices while present in a courtroom and while present in a jury room during the jury's deliberations and discussions concerning a case. Jurors may use their devices for allowable purposes during breaks or as allowed by the Judge. Jurors may not photograph, record, retain, broadcast, or disseminate proceedings.

(2) Witnesses: A witness must silence any electronic device while in a courtroom, and may use a device while testifying only with permission of a judge. Witnesses may not photograph, record, retain, broadcast, or disseminate proceedings.

(d) Attorneys. The following provisions apply to use of electronic devices in a courtroom by attorneys. Any allowed use of an electronic device under this paragraph is subject to the authority of a judge to terminate activity that is disruptive or distracting to a court proceeding, or that is otherwise contrary to the administration of justice.

(1) Allowed uses: Attorneys may use a portable electronic device in a courtroom to retrieve or to store information, to access the Internet, and to send and receive text messages or information.

(2) Prohibited uses: An electronic device may not be used, without permission of the court, to make or to receive telephone calls or for other audible functions while court is in session. No visual or audio recording, broadcasting, or dissemination function may be used on any electronic device by an attorney without first filing a written timely request with the Judge involved in the hearing or trial and receiving approval (form attached as Exhibit “A”). Attorneys must silence portable electronic devices while in the courtroom.

(e) Members of the Press, Public, and Parties. An electronic device may not be used, without permission of the court, to make or to receive telephone calls or for other audible functions while court is in session. No visual or audio recording, broadcasting, or dissemination function may be used on any electronic device without first filing a written timely request with the Judge involved in the hearing or trial and receiving approval (form attached as Exhibit “A”). Electronic devices while in the courtroom must be turned off at all times.

(f) Use of an electronic device outside a courtroom; limitations. Except as provided in paragraphs (c), (d) and (e) of this rule, a person may use an electronic device in a courthouse, subject to the authority of judges, Clerks of the Court, or court administrators to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.

(g) Photography and audio or video coverage. Photography, audio recording, and video recording in a courthouse are permitted, but the following restrictions apply:

(1) In a courtroom: In a courtroom, no one may use an electronic device to take photographs or for audio or video coverage unless that person has filed a timely written request (form attached as Exhibit “A”) with the Judge involved prior to the hearing or trial specifying the particular calendar/case or proceedings for which calendar/case or proceeding for which coverage is intended and the type of equipment to be used.

(2) Outside a courtroom: In areas of a courthouse other than courtrooms, no one may photograph or record an individual without that individual's express consent.

(h) Requests to record a proceeding

(1) Requirements for submission of a request: The person must submit the request to the judge who will conduct the proceeding, or to an office of the court authorized to receive requests under

this rule. A person who submits a request to cover a proceeding has standing on the request, but the submission of a request does not confer upon that person the status of a party to the case.

(2) Time limit for submission of a request: A person must submit a request sufficiently in advance of the proceeding to allow the judge to consider it in a timely manner.

(3) Court action upon receiving a request: The court will notify the parties of its receipt of a request for coverage. The judge will promptly hold a hearing if the judge intends to deny the request or a portion of the request, or if a party objects to a request.

(4) Time for a party to object to a request: A party waives an objection to a request for coverage of a proceeding if the party does not object to the request in writing or on the record no later than the start of the proceeding.

(5) Time for a victim or witness to object to a request: Victims or witnesses may object to coverage of their appearance or testimony at any time. The prosecutor's office is responsible for notifying victims and the prosecutor's witnesses of coverage and their right to object, prior to the victims' appearances or the witnesses' testimony at the proceeding. Other parties who call witnesses to testify are responsible for notifying their witness of coverage and the witness's right to object, prior to the witness's testimony.

(i) Denial or limitation of coverage. A properly submitted request for coverage should generally be approved, but a judge may deny or may limit the request as provided in this paragraph. A judge's decision on a coverage request, or on an objection to coverage is reviewable as provided by law.

(1) Denial of coverage. A judge on his or her own motion may deny a request for coverage, or may sustain a party's objection, only after making specific, on-the-record findings that there is a likelihood of harm arising from one or more of the following factors, and that the harm outweighs the benefit of coverage to the public:

(A) The nature of the particular proceeding at issue;

(B) The consent or objection of the parties or witnesses whose testimony will be presented in the proceedings;

(C) Whether the proposed coverage will promote increased public access to the courts and openness of judicial proceedings;

(D) The impact upon the integrity and dignity of the court;

(E) The impact upon the administration of the court;

(F) The impact upon due process and the truth finding function of the judicial proceeding;

(G) Whether the proposed coverage would contribute to the enhancement of or detract from the ends of justice;

(H) Any special circumstances of the parties, victims, witnesses, or other participants such as the need to protect children or factors involving the safety of participants in the judicial proceeding; and

(I) the impact of coverage upon the right of any party to a fair hearing or trial;

(J) the impact of coverage upon the right of privacy of any participant in the proceeding;;

(K) the impact of coverage upon the safety and well-being of any participant in the proceeding;
(L) the likelihood that coverage would distract participants or that coverage would disrupt or detract from the dignity of a proceeding;
(M) the adequacy of the physical facilities of the court;
(N) the timeliness of the request;
(O) whether the person making the request is engaged in the dissemination of news to a broad community; and
(P) any other factors affecting the administration of justice or which the court may determine to be important under the circumstances of the case.

(2) *Limitation of coverage:* Upon his or her own motion or upon the request of a party, victim, or witness, a judge may allow coverage as requested or may, after making specific, on-the-record findings based on the factors in paragraph (d)(1), impose limitations as follows:

- (A) order that no one may photograph or record or retain, broadcast, or disseminate images or recordings of a criminal defendant, a law enforcement officer, witness, or a victim in the courtroom;
- (B) order that video coverage must effectively obscure the face and identity of that party, victim, or witness, or that there be only audio coverage of the testimony of a party, victim, or witness;
- (C) prohibit coverage of the testimony of that witness upon a determination that coverage would have a substantial adverse impact upon that witness or his or her testimony.

(j) Manner of coverage. The judge will preserve the dignity of the proceeding by designating the placement of equipment and personnel for covering the proceeding, and all equipment and personnel will be restricted to the designated area. Recording devices may not be moved about the courtroom while court is in session. All persons and affiliated individuals engaged in the coverage must avoid conduct or dress that may disrupt or detract from the dignity of the proceeding. The judge may order a restriction or cessation of coverage during a proceeding in furtherance of the interests of justice.

(k) Equipment. A person must not install, move, or take recording equipment, other than a personal recorder, from the courtroom during a proceeding. A person must hide wiring as much as possible, and wiring must not cause an inconvenience or a hazard. A person may connect equipment used to provide coverage to an existing courtroom electronic system, if possible, but a person must not connect equipment to a court's digital recording system without the judge's express approval. A person must not bring flash devices, strobe lights, or other artificial lights of any kind into the courtroom. If a person wishes to use additional standard light fixtures or higher wattage light bulbs, additional microphones, or other modifications or improvements concerning lighting or sound, the person must submit this information in the request. The judge may direct whatever modifications or improvements are deemed necessary, but the judge may not require use of public funds to make or to maintain any such modifications or improvements. Microphones, cameras, and other equipment used for coverage must be as unobtrusive as recording devices in general use in

the community where the courtroom is located, and must not produce distracting sounds or otherwise disrupt the proceeding.

(l) Number of recording devices; pooling. A request submitted may ask the judge to approve audio coverage, video camera coverage, or coverage by still camera. The presumptive limits are one microphone and recording device for audio coverage, or one video camera and one still camera, but the judge conducting the proceeding has discretion to approve a person's request to use additional recording devices. If a judge approves requests by more than one person to cover a proceeding, those persons must pool their resources to limit recording devices in the courtroom to the number approved by the judge. Those persons have the responsibility to settle their own disputes, to facilitate pooling as necessary, and to implement procedures that meet the approval of the assigned judge prior to any coverage broadcasting and without disruption to the court.

(m) Approving use of a recording device for celebratory or ceremonial proceedings, or while court is not in session. Notwithstanding other provisions of this rule, a person may verbally request, and a judge may verbally approve, use of a recording device in a courtroom to photograph or to record a celebratory or ceremonial proceeding. If a person wishes to use a recording device in any courtroom when that courtroom is not in session, prior to using the device, the person must obtain the express permission of the presiding judge of that jurisdiction or an office of the court authorized by the presiding judge to approve requests under this paragraph.

(n) Recording not admissible as evidence. No video, photograph, or audio reproduction of a judicial proceeding that is obtained pursuant to this rule may be used to modify or supplement the official court record of that proceeding without express permission of the Judge.

(o) Prohibitions. A person is not permitted to photograph, record, or broadcast a proceeding in the following circumstances:

(1) No use of recording devices while the judge is off the bench: A person may use a recording device in a courtroom only when the judge is on the bench, and use of a recording device must terminate when the judge leaves the bench, except as provided in paragraph (m).

(2) No jurors: Cameras must be placed to avoid showing jurors in any manner. Audio recordings or broadcasts of jurors' statements or conversations are also prohibited, except that the jury foreperson's announcement of the verdict or questions to the judge may be covered and that a juror may expressly consent to an interview after the jury has been discharged.

(3) No attorney conferences: Audio recordings or broadcasts of bench conferences between a judge and counsel, or off-the-record conferences between attorneys and their clients, or between attorneys, anywhere in the courthouse are prohibited.

~~Unless otherwise provided by rule of the Supreme Court or otherwise ordered by the assigned judge after appropriate hearing (conducted after notice to all parties and counsel of record) and findings, representatives of the print and electronic public media may be present at and unobtrusively make written notes and sketches pertaining to any judicial proceedings in the superior courts. However, due to the distractive nature of electronic or photographic equipment,~~

~~representatives of the public media utilizing such equipment are subject to the following restrictions and conditions:~~

~~(A) — Persons desiring to broadcast/record/photograph official court proceedings must file a timely written request (form attached as Exhibit "A") with the judge involved prior to the hearing or trial, specifying the particular calendar/case or proceedings for which such coverage is intended; the type equipment to be used in the courtroom; the trial, hearing or proceeding to be covered; and the person responsible for installation and operation of such equipment.~~

~~(B) — Approval of the judge to broadcast/record/photograph a proceeding, if granted, shall be granted without partiality or preference to any person, news agency, or type of electronic or photographic coverage, who agrees to abide by and conform to these rules, up to the capacity of the space designated therefor in the courtroom. Violation of these rules will be grounds for a reporter/technician to be removed or excluded from the courtroom and held in contempt.~~

~~(C) — The judge may exercise discretion and require pooled coverage which would allow only one still photographer, one television camera and attendant, and one radio or tape recorder outlet and attendant. Photographers, electronic reporters and technicians shall be expected to arrange among themselves pooled coverage if so directed by the judge and to present the judge with a schedule and description of the pooled coverage. If the covering persons cannot agree on such a schedule or arrangement, the schedule and arrangements for pooled coverage may be designated at the judge's discretion.~~

~~(D) — The positioning and removal of cameras and electronic devices shall be done quietly and, if possible, before or after the court session or during recesses; in no event shall such disturb the proceedings of the court. In every such case, equipment should be in place and ready to operate before the time court is scheduled to be called to order.~~

~~(E) — Overhead lights in the courtroom shall be switched on and off only by court personnel. No other lights, flashbulbs, flashes or sudden light changes may be used unless the judge approves beforehand.~~

~~(F) — No adjustment of central audio system shall be made except by persons authorized by the judge. Audio recordings of the court proceedings will be from one source, normally by connection to the courts central audio system. Upon prior approval of the court, other microphones may be added in an unobtrusive manner to the court's public address system.~~

~~(G) — All television cameras, still cameras and tape recorders shall be assigned to a specific portion of the public area of the courtroom or specially designed access areas, and such equipment will not be permitted to be removed or relocated during the court proceedings.~~

~~(H) — Still cameras must have quiet functioning shutters and advancers. Movie and television cameras and broadcasting and recording devices must be quiet running. If any equipment is determined by the judge to be of such noise as to be distracting to the court proceedings, then such equipment can be excluded from the courtroom by the judge.~~

~~(I) — Pictures of the jury, whether by still, movie, or television cameras, shall not be taken except where the jury happens to be in the background of other topics being photographed. Audio recordings of the jury foreperson's announcement of the verdict, statements or questions to the judge may be made. Photographs and televising of the public and the courtroom are allowed, if done without disruption to the court proceedings.~~

~~(J) — Reporters, photographers, and technicians must have and produce upon request of court officials credentials identifying them and the media company for which they work.~~

~~(K) — Court proceedings shall not be interrupted by a reporter or technician with a technical or an equipment problem.~~

~~(L) — Reporters, photographers, and technicians should do everything possible to avoid attracting attention to themselves. Reporters, photographers, and technicians will be accorded full right of access to court proceedings for obtaining public information within the requirements of due process of law, so long as it is done without detracting from the dignity and decorum of the court.~~

~~(M) — Other than as permitted by these rules and guidelines, there will be no photographing, radio or television broadcasting, including videotaping pertaining to any judicial proceedings on the courthouse floor where the trial, hearing or proceeding is being held or any other courthouse floor whereon is located a superior court courtroom, whether or not the court is actually in session.~~

~~(N) — No interviews pertaining to a particular judicial proceeding will be conducted in the courtroom except with the permission of the judge.~~

~~(O) — All media plans heretofore approved by the Supreme Court for superior courts are hereby repealed.~~

~~(P) — A request for installation and use of electronic recording, transmission, videotaping or motion picture or still photography of any judicial proceeding shall be evaluated pursuant to the standards set forth in OCGA § 15-1-10.1.~~

(Form omitted)

Rule 36.1. Preparation of Documents

Except as authorized or directed by a judge, ~~t~~To the extent practical, all materials presented for filing in any superior court shall be typed, legibly written or printed on one side only in blue or black ink suitable for reproduction, on opaque white paper measuring 8 1/2" x 11", of a good quality; grade and weight. Manuscript covers and backings shall be omitted wherever practical. [In State Court, see State Court Rule 36.1]