

Minutes of the Meeting
Rules Committee of the Superior Court
Monday, December 13, 2021

On December 13, 2021, the Rules Committee met using Microsoft Teams from 2:02 p.m. to 3:09 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. BARBARA N. BELLIS
HON. SUSAN QUINN COBB
HON. JOHN B. FARLEY
HON. TAMMY T. NGUYEN-O'DOWD
HON. SHEILA M. PRATS
HON. ANTHONY D. TRUGLIA, JR.

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, and Lori Petruzzelli, Assistant Counsel to the Rules Committee. Judge Anthony D. Truglia joined the meeting during discussion of RC ID # 2021-023. Judges Holly Abery-Wetstone and Alex V. Hernandez were absent.

1. The Committee approved the minutes of the meeting held on November 15, 2021, with no revisions.

2. The Committee considered a proposal from Natasha M. Pierre, State Victim Advocate, to amend several rules and sections to advise crime victims of rights and to provide notice to victims and the opportunity for victims to provide statements (RC ID # 2019-004).

Judge Gold and Attorney Pierre were present and addressed the Committee regarding this matter. They continue their efforts to address these issues using court procedures and technology rather than rules changes and will discuss with the Chief State's Attorney's office.

After discussion, the Committee tabled this matter indefinitely.

3. The Committee considered a proposal from Chief Justice Robinson for a new rule eliminating peremptory challenges based on race or ethnicity, as recommended by the Jury Selection Task Force (RC ID # 2021-015).

Chief Justice Richard Robinson, Judge David Gold, Attorney Daniel Krisch, Professor Neil Feigenson, Attorney Chase Rogers, Attorney Charleen Merced, Chief Public Defender Christine Rapillo, Jury Administrator Esther Harris, Attorney Joette Katz, and Attorney Preston Tisdale were present and addressed the committee regarding this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal from Chief Justice Robinson for a new rule eliminating peremptory challenges based on race or ethnicity, as recommended by the Jury Selection Task Force, as set forth in Appendix A, attached to these minutes.

4. Committee reconsidered a proposal from Judge Conway to amend Sections 27-1A and 27-4A regarding the nonjudicial handling of certain delinquency cases to implement recommendations of the IOYouth Task Force. (RC ID # 2021-011).

At the November meeting, the Committee voted unanimously to submit to public hearing the revised proposal from Judge Westbrook, however, members were not aware of new comments from Chief State's Attorney Richard Colangelo.

After brief discussion, the Committee voted unanimously to reconsider the revised proposal from Judge Westbrook, as set forth in Appendix B of the meeting of the Rules Committee of the Superior Court, Monday, November 15, 2021, and tabled this matter until the January meeting to give Judge Westbrook and others the opportunity to review the additional comments from Chief State's Attorney Colangelo.

5. The Committee considered a proposal from Judge Noble to revise the standard premises liability interrogatories (Practice Book Form 203) and requests for production (Practice Book Form 206) to include whether there was an agreement for snow and ice removal and the existence of a contract for the same (RC ID # 2021-014).

Judge Cesar Noble was present and addressed the Committee on this matter.

After discussion and minor revisions, the Committee voted unanimously to submit to public hearing the proposal from Judge Noble to revise the standard premises liability interrogatories (Practice Book Form 203) and requests for production (Practice Book Form 206) to include whether there was an agreement for snow and ice removal and the existence of a contract for the same, as set forth in Appendix B, attached to these minutes.

6. The Committee considered a proposal by Judge Dawne A. Westbrook, Chief Administrative Judge, Juvenile Division, to revise Section 35a-1 (b) to remove the written requirement for nolo pleas (RC ID # 2021-019).

Judge Westbrook was present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal from Judge Westbrook to revise Section 35a-1 (b) to remove the written requirement for nolo pleas, as set forth in Appendix C, attached to these minutes.

7. The Committee considered a proposal from legal aid organizations to amend Practice Book Sections 7-10 and 7-11 regarding retention and destruction of summary process records (RC ID # 2021-023).

Attorneys Giovanna Shay and Rafie Podolsky were present and addressed the Committee on this matter.

After discussion, the Committee tabled this proposal and referred it to the Office of the Chief Court Administrator and the Judges Advisory Committee on E-Filing for review

of the proposal and to submit comments to the Rules Committee for its January meeting, if possible.

8. The Committee considered a proposal by the Reporter of Judicial Decisions to amend Sections 2-8 and 2-55A to add reference to 2-13A, Military Spouse Temporary Admission, to account for this additional avenue to allow one so qualified to practice law in Connecticut (RC ID # 2021-024).

Attorney Petruzzelli was present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal to amend Sections 2-8 and 2-55A, as set forth in Appendix D.

9. The Committee considered a proposal from the Connecticut Bar Association to amend Practice Book Section 2-44A and Rule 5.5 of the Connecticut Rules of Professional Conduct to provide that remote practice from Connecticut by attorneys licensed and in good standing in other jurisdictions is not the unauthorized practice of law (RC ID # 2021-025).

Attorney Marcy Stovall was present and addressed the Committee on this matter.

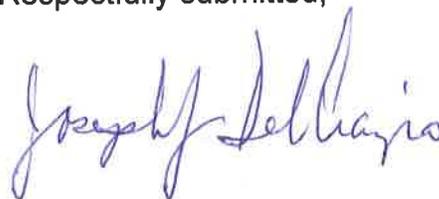
After discussion, the Committee tabled this proposal and referred it to the Office of the Chief Disciplinary Counsel and the Statewide Bar Counsel/Statewide Grievance Committee for comments.

10. The Committee considered a proposal by the Chief Court Administrator, on behalf of the Judicial Media Committee, to amend Practice Book Sections 1-11A, 1-11B, and 1-11C regarding electronic media coverage and arraignments, civil proceedings, and criminal proceedings (RC ID # 2021-026).

Attorney Melissa Farley, Executive Director of External Affairs, was present and addressed the Committee on this matter.

After discussion, the Committee voted unanimously to submit to public hearing the proposal from the Chief Court Administrator to amend Practice Book Sections 1-11A, 1-11B, and 1-11C regarding electronic media coverage and arraignments, civil proceedings, and criminal proceedings, as set forth in Appendix E, attached to these minutes.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Joseph J. Del Ciampo". The signature is written in a cursive style with a large initial "J".

Joseph J. Del Ciampo
Counsel to the Rules Committee

APPENDIX A

(121321)

(NEW) **Sec. XX-XX Objection to the Use of a Peremptory Challenge**

(a) **Policy and Purpose.** The purpose of this rule is to eliminate the unfair exclusion of potential jurors based upon race or ethnicity.

(b) **Objection.** A party may object to the use of a peremptory challenge to raise a claim of improper bias. The court may also raise this objection on its own. The objection shall be made by simple citation to this rule, and any further discussion shall be conducted outside the presence of the prospective juror.

(c) **Response.** Upon objection to the exercise of a peremptory challenge pursuant to this rule, the party exercising the peremptory challenge shall articulate the reason that the peremptory challenge has been exercised.

(d) **Determination.** The court shall then evaluate from the perspective of an objective observer, as defined in subsection (e) herein, the reason given to justify the peremptory challenge in light of the totality of the circumstances. If the court determines that the use of the challenge against the prospective juror, as reasonably viewed by an objective observer, legitimately raises the appearance that the prospective juror's race or ethnicity was a factor in the challenge, then the challenge shall be disallowed and the prospective juror shall be seated. If the court determines that the use of the challenge does not raise such an appearance, then the challenge shall be permitted and the prospective juror shall be excused. The court need not find purposeful discrimination to disallow the peremptory challenge. The court must explain its ruling on the record. A party

whose peremptory challenge has been disallowed pursuant to this rule shall not be prohibited from attempting to challenge peremptorily the prospective juror for any other reason, or from conducting further voir dire of the prospective juror.

(e) **Nature of Observer.** For the purpose of this rule, an objective observer (1) is aware that purposeful discrimination, and implicit, institutional, and unconscious biases, have historically resulted in the unfair exclusion of potential jurors on the basis of their race, or ethnicity; and (2) is deemed to be aware of and to have given due consideration to the circumstances set forth in section (f) herein.

(f) **Circumstances considered.** In making its determination, the circumstances the court should consider include, but are not limited to, the following:

(1) the number and types of questions posed to the prospective juror including consideration of whether the party exercising the peremptory challenge failed to question the prospective juror about the alleged concern or the questions asked about it;

(2) whether the party exercising the peremptory challenge asked significantly more questions or different questions of the prospective juror, unrelated to his testimony, than were asked of other prospective jurors;

(3) whether other prospective jurors provided similar answers but were not the subject of a peremptory challenge by that party;

(4) whether a reason might be disproportionately associated with a race or ethnicity;

(5) if the party has used peremptory challenges disproportionately against a given race or ethnicity in the present case, or has been found by a court to have done so in a previous case;

(6) whether issues concerning race or ethnicity play a part in the facts of the case to be tried;

(7) whether the reason given by the party exercising the peremptory challenge was contrary to or unsupported by the record.

(g) **Reasons Presumptively Invalid.** Because historically the following reasons for peremptory challenges have been associated with improper discrimination in jury selection in Connecticut or maybe influenced by implicit or explicit bias, the following are presumptively invalid reasons for a peremptory challenge:

(1) having prior contact with law enforcement officers;

(2) expressing a distrust of law enforcement or a belief that law enforcement officers engage in racial profiling;

(3) having a close relationship with people who have been stopped, arrested, or convicted of a crime;

(4) living in a high-crime neighborhood;

(5) having a child outside of marriage;

(6) receiving state benefits;

(7) not being a native English speaker; and

(8) having been a victim of a crime.

The presumptive invalidity of any such reason may be overcome as to the use of a peremptory challenge on a prospective juror if the party exercising the challenge demonstrates to the court's satisfaction that the reason, viewed reasonably and objectively, is unrelated to the prospective juror's race or ethnicity and, while not seen by the court as sufficient to warrant excusal for cause, legitimately bears on the prospective juror's ability to be fair and impartial in light of particular facts and circumstances at issue in the case.

(h) **Reliance on Conduct.** The following reasons for peremptory challenges also have historically been associated with improper discrimination in jury selection: allegations that the prospective juror was inattentive, failing to make eye contact or exhibited a problematic attitude, body language, or demeanor. If any party intends to offer one of these reasons or a similar reason as a justification for a peremptory challenge, that party must provide reasonable notice to the court and the other parties so the behavior can be verified and addressed in a timely manner. A party who intends to exercise a peremptory challenge for reasons relating to those listed above in subsection (g) shall, as soon as practicable, notify the court and the other party in order to determine whether such conduct was observed by the court or that party. If the alleged conduct is not corroborated by observations of the court or the objecting party, then a presumption of invalidity shall apply but may be overcome as set forth in subsection (g).

(j) **Review Process.** The chief justice shall appoint an individual or individuals to monitor issues relating to this rule.

COMMENTARY: This new rule is intended to eliminate the unfair exclusion of potential jurors based upon race or ethnicity.

APPENDIX B

(121321)

Form 203

**Plaintiff's Interrogatories
Premises Liability Cases**

No. CV- :
(Plaintiff) :
VS. :
(Defendant) :

SUPERIOR COURT
JUDICIAL DISTRICT OF
AT
(Date)

The undersigned, on behalf of the Plaintiff, hereby propounds the following interrogatories to be answered by the Defendant, _____, under oath, within sixty (60) days of the filing hereof in compliance with Practice Book Section 13-2.

In answering these interrogatories, the Defendant(s) is (are) required to provide all information within their knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) Identify the person(s) who, at the time of the Plaintiff's alleged injury, owned the premises where the Plaintiff claims to have been injured.

(a) If the owner is a natural person, please state:

- (i) your name and any other name by which you have been known;
- (ii) your date of birth;
- (iii) your home address;
- (iv) your business address.

(b) If the owner is not a natural person, please state:

- (i) your name and any other name by which you have been known;
- (ii) your business address;
- (iii) the nature of your business entity (corporation, partnership, etc.);
- (iv) whether you are registered to do business in Connecticut;
- (v) the name of the manager of the property, if applicable.

(2) Identify the person(s) who, at the time of the Plaintiff's alleged injury, had a possessory interest (e.g., tenants) in the premises where the Plaintiff claims to have been injured.

(3) Identify the person(s) responsible for the maintenance and inspection of the premises at the time and place where the Plaintiff claims to have been injured. "Maintenance and inspection" includes, but is not limited to, snow and ice removal.

(4) State whether you received or prepared any invoices or records related to such maintenance and inspection for the 30 days prior to, or on, the date on which the Plaintiff claims to have been injured.

[(4)] (5) State whether you had in effect at the time of the Plaintiff's injuries any written policies, procedures or contracts that relate to the kind of conduct or condition the Plaintiff alleges caused the injury.

[(5)] (6) State whether it is your business practice to prepare, or to obtain from your employees, a written report of the circumstances surrounding injuries sustained by persons on the subject premises.

[(6)] (7) State whether any written report of the incident described in the Complaint was prepared by you or your employees in the regular course of business.

[(7)] (8) State whether any warnings or caution signs or barriers were erected at or near the scene of the incident at the time the Plaintiff claims to have been injured.

[(8)] (9) If the answer to the previous interrogatory is in the affirmative, please state:

- (a) the name, address and employer of the person who erected the warning or caution signs or barriers;
- (b) the name, address and employer who instructed the person to erect the warning or caution signs or barriers;
- (c) the time and date a sign or barrier was erected;
- (d) the size of the sign or barrier and wording that appeared thereon.

[(9)] (10) State whether you received, at any time within twenty-four (24) months before the incident described by the Plaintiff, complaints from anyone about the defect or condition that the Plaintiff claims caused the Plaintiff's injury,

[(10)] (11) If the answer to the previous interrogatory is in the affirmative, please state:

- (a) the name and address of the person who made the complaint;
- (b) the name, address and person to whom said complaint was made;
- (c) whether the complaint was in writing;
- (d) the nature of the complaint.

[(11)] (12) Please identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any person who obtained or prepared any and all recordings, by film, photograph, videotape, audiotape or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcript thereof which are in your possession or control or in the possession or control of your attorney, and state the date on which each such recordings were obtained and the person or persons of whom each such recording was made.

[(12)] (13) Are you aware of any photographs or any recordings by film, video, audio or any other digital or electronic means depicting the incident alleged in the Complaint, the scene of the incident, or any condition or injury alleged to have been caused by the incident alleged in the Complaint? If so, for each set of photographs or each recording taken, obtained or prepared of each such subject, please state:

- (a) the name and address of the person who took, obtained or prepared such photographs or recording, other than an expert who will not testify at trial;
- (b) the dates on which such photographs were taken or such recordings were obtained or prepared;

(c) the subject (e.g., "scene of incident," etc.);

(d) the number of photographs or recordings;

(e) the nature of the recording (e.g., film, video, audio, etc.).

[(13)-(23)] ~~(14)-(24)~~ (Interrogatories #1 (a) through (e), #2 through #5, #7, #8, #9, #12, #13 and #16 of Form 201 may be used to complete this standard set of interrogatories.)

PLAINTIFF,

BY _____

CERTIFICATION

I hereby certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

Signed (Signature of filer) Print or type name of person signing Date Signed

Mailing address (Number, street, town, state & zip code) or E-mail address, if applicable Telephone No.

Plaintiff's Requests for Production—Premises Liability

No. CV- :
(Plaintiff) :
VS. :
(Defendant) :

SUPERIOR COURT
JUDICIAL DISTRICT OF
AT
(Date)

The Plaintiff hereby requests that the Defendant provide counsel for the Plaintiff with copies of the documents described in the following requests for production, or afford counsel for said Plaintiff the opportunity or, if necessary, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorization shall take place at the offices of _____ on _____ (day), _____ (date) at _____ (time).

In answering these production requests, the Defendant(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

(1) A copy of the policies, [or] procedures, contracts, invoices, or records identified in response to Interrogatory #4 and #5.

(2) A copy of the report identified in response to Interrogatory #6.

(3) A copy of any written complaints identified in Interrogatory #10.

(4) A copy of declaration page(s) evidencing the insurance policy or policies identified in response to Interrogatories numbered _____ and _____.

(5) A copy of any nonprivileged statement, as defined in Practice Book Section 13-1, of any party in this lawsuit concerning this action or its subject matter,

(6) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph, videotape, audiotape or any other digital or electronic means, of any party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

(7) A copy of any photographs or recordings, identified in response to Interrogatory #12.

(8) A copy of any written lease(s) and any amendments or extensions to such lease(s) for the premises where the Plaintiff claims to have been injured in effect at the time of the Plaintiff's injury between you and the person or entity identified in Interrogatory #2.

(9) A copy of any written contract or agreement regarding the maintenance and inspection of the premises where the Plaintiff claims to have been injured in effect at the time of the Plaintiff's injury between you and the person or entity identified in Interrogatory #3.

(10) A copy of any invoice or report identified in response to Interrogatory #4.

PLAINTIFF,

BY _____

CERTIFICATION

I hereby certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (date) _____ to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

Signed (Signature of filer) Print or type name of person signing Date Signed

Mailing address (Number, street, town, state & zip code) or E-mail address, if applicable Telephone No.

APPENDIX C

(121321)

Sec. 35a-1. Adjudication upon Acceptance of Admission or [Written] Plea of Nolo Contendere

(a) Notwithstanding any prior statements acknowledging responsibility, the judicial authority shall inquire whether the allegations of the petition are presently admitted or denied. This inquiry shall be made of the parent(s) or guardian in neglect, abuse or uncared for matters, and of the parents in termination matters.

(b) An admission to allegations or a [written] plea of nolo contendere [signed by the respondent] may be accepted by the judicial authority. Before accepting an admission or plea of nolo contendere, the judicial authority shall determine whether the right to trial has been waived, and that the parties understand the content and consequences of their admission or plea. If the allegations are admitted or the plea accepted, the judicial authority shall make its adjudicatory finding as to the validity of the facts alleged in the petition and may proceed to a dispositional hearing. Where appropriate, the judicial authority may permit a noncustodial parent or guardian to stand silent as to the entry of an adjudication. The judicial authority shall determine whether a noncustodial parent or guardian standing silent understands the consequences of standing silent.

COMMENTARY: This revision removes the requirements that a plea of nolo contendere be in writing and signed by the respondent.

APPENDIX D

(121321)

Sec. 2-8. Qualifications for Admission

To entitle an applicant to admission to the bar, except under Section 2-13 or 2-13A of these rules, the applicant must satisfy the bar examining committee that:

(1) The applicant is a citizen of the United States or an alien lawfully residing in the United States, which shall include an individual authorized to work lawfully in the United States.

(2) The applicant is not less than eighteen years of age.

(3) The applicant is a person of good moral character, is fit to practice law, and has either passed an examination in professional responsibility which has been approved or required by the committee or has completed a course in professional responsibility in accordance with the regulations of the committee. Any inquiries or procedures used by the bar examining committee that relate to physical or mental disability must be narrowly tailored and necessary to a determination of the applicant's current fitness to practice law, in accordance with the Americans with Disabilities Act and amendment twenty-one of the Connecticut constitution, and conducted in a manner consistent with privacy rights afforded under the federal and state constitutions or other applicable law.

(4) The applicant has met the educational requirements as may be set, from time to time, by the bar examining committee.

(5) The applicant has filed with the administrative director of the bar examining committee an application to take the examination and for admission to the bar, all in accordance with these rules and the regulations of the committee, and has paid such application fee as the committee shall from time to time determine.

(6) The applicant has passed an examination in law in accordance with the regulations of the bar examining committee.

(7) The applicant has complied with all of the pertinent rules and regulations of the bar examining committee.

(8) As an alternative to satisfying the bar examining committee that the applicant has met the committee's educational requirements, the applicant who meets all the remaining requirements of this section may, upon payment of such investigation fee as the committee shall from time to time determine, substitute proof satisfactory to the committee that: (A) the applicant has been admitted to practice before the highest court of original jurisdiction in one or more states, the District of Columbia or the Commonwealth of Puerto Rico or in one or more district courts of the United States for ten or more years and at the time of filing the application is a member in good standing of such a bar; (B) the applicant has actually practiced law in such a jurisdiction for not less than five years during the seven year period immediately preceding the filing date of the application; and (C) the applicant intends, upon a continuing basis, actively to practice law in Connecticut and to devote the major portion of the applicant's working time to the practice of law in Connecticut.

COMMENTARY: The revision to this section recognizes that one should refer to Section 2-13A for the qualifications for temporary licensing as a military spouse instead of Section 2-8.

Sec. 2-55A. Retirement of Attorney—Permanent

(a) An attorney who is admitted to the bar in the state of Connecticut and is not the subject of any pending disciplinary investigation may submit a written request on a form approved by the Office of the Chief Court Administrator to the statewide bar counsel for permanent retirement under this section. Upon receipt of the request, the statewide bar counsel shall review it and, if it is found that the attorney is eligible for retirement under this section, shall grant the request and notify the attorney and the clerk for the judicial district of Hartford. Retirement shall not constitute removal from the bar or the roll of attorneys, but it shall be noted on the roll of attorneys kept by the clerk for the judicial district of Hartford. If granted, the attorney shall no longer be eligible to practice law as an attorney admitted in the state of Connecticut.

(b) An attorney who has retired pursuant to this section shall thereafter be exempt from the registration requirements set forth in Sections 2-26 and 2-27 (d) and from payment of the client security fund fee set forth in Section 2-70 (a).

(c) An attorney who has retired pursuant to this section and thereafter wishes to be eligible to practice law again in the state of Connecticut must apply for admission to the bar pursuant to Section[s] 2-8, [or] 2-13 or 2-13A.

(d) Retirement pursuant to this section shall not be a bar to the initiation, investigation and pursuit of disciplinary complaints filed on or subsequent to the date of retirement.

COMMENTARY: The revision to this section acknowledges that a retired attorney who is a military spouse may apply for temporary licensing under Section 2-13A.

APPENDIX E

(121321)

Sec. 1-11A. Media Coverage of Arraignments

(a) The broadcasting, televising, recording, or taking photographs by media in the courtroom during arraignments may be authorized by the judicial authority presiding over such arraignments in the manner set forth in this section, as implemented by the judicial authority.

(b) Any media representative desiring to broadcast, televise, record or photograph an arraignment shall send an e-mail request for electronic coverage to a person designated by the chief court administrator to receive such requests. Said designee shall promptly transmit any such request to the administrative judge, presiding judge of criminal matters, arraignment judge, clerk and the supervising marshal. The administrative judge shall ensure that notice is provided to the state's attorney and the attorney for the defendant or, where the defendant is unrepresented, to the defendant. Electronic coverage shall not be permitted until the state's attorney and the attorney for the defendant, or the defendant if he or she has no attorney, have had an opportunity to object to the request on the record and the judicial authority has ruled on the objection. If a request for coverage is denied or is granted over the objection of any party, the judicial authority shall articulate orally or in writing the reasons for its decision on the request and such decision shall be final.

(c) Broadcasting, televising, recording or photographing of the following are prohibited:

(1) any criminal defendant who has not been made subject to an order for electronic coverage and, to the extent practicable, any person other than court personnel or other participants in the arraignment for which electronic coverage is permitted;

(2) conferences involving the attorneys and the judicial authority at the bench or communications between the defendant and his or her attorney or other legal representative;

(3) close ups of documents of counsel, the clerk or the judicial authority;

(4) the defendant while exiting or entering the lockup;

(5) to the extent practicable, any restraints on the defendant;

(6) to the extent practicable, any judicial marshals or Department of Correction employees escorting the defendant while he or she is in the courtroom; and

(7) proceedings in cases transferred from juvenile court prior to a determination by the adult court that the matter was properly transferred.

(d) Only one (1) still camera, one (1) television camera and one (1) audio recording device, which do not produce a distracting sound or light, shall be employed to cover the arraignment, unless otherwise ordered by the judicial authority.

(e) The operator of any camera, television or audio recording equipment shall not employ any artificial lighting device to supplement the existing light in the courtroom.

(f) All personnel and equipment shall be situated in an unobtrusive manner within the courtroom. The location of any such equipment and personnel shall be determined by

the judicial authority. The location of the camera, to the extent possible, shall provide access to optimum coverage. Once the judicial authority designates the position for a camera, the operator of the camera must remain in that position and not move about until the arraignment is completed.

(g) Videographers, photographers and equipment operators must conduct themselves in the courtroom quietly and discreetly, with due regard for the dignity of the courtroom.

(h) If there are multiple requests to broadcast, televise, record or photograph the same arraignment, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the judicial authority. The judicial authority shall not mediate any disputes among the media regarding pooling arrangements.

(i) On camera reporting and interviews shall only be conducted outside of the courthouse.

COMMENTARY: The change to subsection (b) clarifies that the person to whom the media e-mails a request for electronic coverage is the person designated by the Chief Court Administrator to receive the request.

The change to subsection (h) makes it clear that the judicial authority shall not mediate any disputes among the media regarding pooling arrangements. There is similar language in subsection (m) of Section 1-11B and subsection (o) of Section 1-11C. This new language provides consistency among all of the rules concerning camera coverage of proceedings.

Sec. 1-11B. Media Coverage of Civil Proceedings

(a) The broadcasting, televising, recording or photographing of civil proceedings and trials in the Superior Court by news media should be allowed, subject to the limitations set forth herein and in Section 1-10B.

(b) A judicial authority shall permit broadcasting, televising, recording or photographing of civil proceedings and trials in courtrooms of the Superior Court except as hereinafter precluded or limited. As used in this rule, the word “trial” in jury cases shall mean proceedings taking place after the jury has been sworn and in nonjury proceedings commencing with the swearing in of the first witness.

(c) Any party, attorney, witness or other interested person may object in advance of electronic coverage of a civil proceeding or trial if there exists a substantial reason to believe that such coverage will undermine the legal rights of a party or will significantly compromise the safety of a witness or other interested person or impact significant privacy concerns. To the extent practicable, notice that an objection to the electronic coverage has been filed, and the date, time and location of the hearing on such objection shall be posted on the Judicial Branch website. Any person, including the media, whose rights are at issue in considering whether to allow electronic coverage of the proceeding or trial, may participate in the hearing to determine whether to limit or preclude such coverage. When such objection is filed by any party, attorney, witness or other interested person, the burden of proving that electronic coverage of the civil proceeding or trial should be limited or precluded shall be on the person who filed the objection.

(d) The judicial authority, in deciding whether to limit or preclude electronic coverage of a civil proceeding or trial, shall consider all rights at issue and shall limit or preclude such coverage only if there exists a compelling reason to do so, there are no reasonable alternatives to such limitation or preclusion, and such limitation or preclusion is no broader than necessary to protect the compelling interest at issue.

(e) If the judicial authority has a substantial reason to believe that the electronic coverage of a civil proceeding or trial will undermine the legal rights of a party or will significantly compromise the safety or significant privacy concerns of a party, witness or other interested person, and no party, attorney, witness or other interested person has objected to such coverage, the judicial authority shall schedule a hearing to consider limiting or precluding such coverage. To the extent practicable, notice that the judicial authority is considering limiting or precluding electronic coverage of a civil proceeding or trial, and the date, time and location of the hearing thereon shall be given to the parties and others whose interests may be directly affected by a decision so that they may participate in the hearing and shall be posted on the Judicial Branch website.

(f) Objection raised during the course of a civil proceeding or trial to the photographing, videotaping or audio recording of specific aspects of the proceeding or trial, or specific individuals or exhibits will be heard and decided by the judicial authority, based on the same standards as set out in subsection (d) of this section used to determine whether to limit or preclude coverage based on objections raised before the start of a civil proceeding or trial.

(g) The trial judge in his or her discretion, upon the judge's own motion or at the request of a participant, may prohibit the broadcasting, televising, recording or photographing of any participant at the trial. The judge shall give great weight to requests where the protection of the identity of a person is desirable in the interests of justice, such as for the victims of crime, police informants, undercover agents, relocated witnesses, juveniles and individuals in comparable situations. "Participant" for the purpose of this section shall mean any party, lawyer or witness.

(h) The judicial authority shall articulate the reasons for its decision on whether or not to limit or preclude electronic coverage of a civil proceeding or trial and such decision shall be final.

(i) No broadcasting, televising, recording and photographic equipment shall be placed in or removed from the courtroom while the court is in session. Television film magazines or still camera film or lenses shall not be changed within the courtroom except during a recess or other appropriate time in the trial.

(j) Only still camera, television and audio equipment which does not produce distracting sound or light shall be employed to cover the trial. The operator of such equipment shall not employ any artificial lighting device to supplement the existing light in the courtroom without the approval of the trial judge and other appropriate authority.

(k) Except as provided by these rules, broadcasting, televising, recording and photographing in areas immediately adjacent to the courtroom during sessions of court or recesses between sessions shall be prohibited.

(l) The conduct of all attorneys with respect to trial publicity shall be governed by Rule 3.6 of the Rules of Professional Conduct.

(m) [The judicial authority in its discretion may require pooling arrangements by the media. Pool representatives should ordinarily be used for video, still cameras and radio, with each pool representative to be decided by the relevant media group. Participating members of the broadcasting, televising, recording and photographic media shall make their respective pooling arrangements, including the establishment of necessary procedures and selection of pool representatives, without calling upon the judicial authority to mediate any dispute as to the appropriate media representative or equipment for a particular trial. If any such medium shall not agree on equipment, procedures and personnel, the judicial authority shall not permit that medium to have coverage at the trial.] If there are multiple requests to broadcast, televise, record or photograph the same civil proceeding or trial, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the judicial authority. The judicial authority shall not mediate any disputes among the media regarding pooling arrangements.

(n) Unless good cause is shown, any media or pool representative seeking to broadcast, televise, record or photograph a civil proceeding or trial shall, at least three days prior to the commencement of the proceeding or trial, [submit a written notice of media coverage to the administrative judge of the judicial district where the proceeding is to be heard or the case is to be tried] send an e-mail request for media coverage to a person designated by the chief court administrator to receive such requests. [A notice of media coverage submitted on behalf of a pool shall contain the name of each news

organization seeking to participate in that pool.] The [administrative judge] designee shall inform the administrative judge, presiding judge of civil matters, judicial authority who will hear the proceeding or who will preside over the trial, clerk, and the supervising marshal of the [notice] request, and the judicial authority shall allow such coverage except as otherwise provided in this section. [Any news organization seeking permission to participate in a pool whose name was not submitted with the original notice of media coverage may, at any time, submit a separate written notice to the administrative judge and shall be allowed to participate in the pool arrangement.]

(o) To evaluate and resolve prospective problems where broadcasting, televising, recording or photographing of a civil proceeding or trial will take place, and to ensure compliance with these rules during the proceeding or trial, the judicial authority who will hear the proceeding or preside over the trial may require the attendance of attorneys and media personnel at a pretrial conference. At such conference, the judicial authority shall set forth the conditions of coverage in accordance herewith.

COMMENTARY: The change to subsection (m) simplifies the rule requiring the media to make pooling arrangements among themselves and reiterates that the judicial authority shall not mediate any disputes.

The changes to subsection (n) make the following changes to the camera rules impacting civil proceedings: 1) clarifies that the media must e-mail their requests only to a person designated by the Chief Court Administrator to receive such requests rather than the respective Administrative Judge; 2) removes the requirement that the pool media organization provide a list of all news organizations seeking to participate in the pool; 3)

clarifies that the person designated by the Chief Court Administrator will inform the following people of the request: Administrative Judge, Presiding Judge of civil matters, judicial authority who will hear the proceeding or who will preside over the trial, clerk and the supervising marshal; and 4) removes the requirement for news organizations whose names were not originally included in the pool arrangement to submit a request to the Administrative Judge to be included in the pool. The requirement for the pool media organization to provide a list of all news organizations seeking to participate in the pool is obsolete. Current practice is that the new organizations work out all of the pooling logistics among themselves.

Sec. 1-11C. Media Coverage of Criminal Proceedings

(a) Except as authorized by Section 1-11A regarding media coverage of arraignments, the broadcasting, televising, recording or photographing by media of criminal proceedings and trials in the Superior Court shall be allowed except as hereinafter precluded or limited and subject to the limitations set forth in Section 1-10B.

(b) Except as provided in subsection (q) of this section, no broadcasting, televising, recording or photographing of trials or proceedings involving sexual offense charges shall be permitted.

(c) As used in this rule, the word “trial” in jury cases shall mean proceedings taking place after the jury has been sworn and in nonjury proceedings commencing with the swearing in of the first witness. “Criminal proceeding” shall mean any hearing or testimony, or any portion thereof, in open court and on the record except an arraignment subject to Section 1-11A.

(d) Unless good cause is shown, any media or pool representative seeking to broadcast, televise, record or photograph a criminal proceeding or trial shall, at least three days prior to the commencement of the proceeding or trial, [submit a written notice of media coverage to the administrative judge of the judicial district where the proceeding is to be heard or the case is to be tried] send an e-mail request for media coverage to a person designated by the chief court administrator to receive such requests. [A notice of media coverage submitted on behalf of a pool shall contain the name of each news organization seeking to participate in that pool.] The [administrative judge] designee shall inform the administrative judge, presiding judge of criminal matters, judicial authority who

will hear the proceeding or who will preside over the trial, clerk, and the supervising marshal of the [notice] request, and the judicial authority shall allow such coverage except as otherwise provided.

(e) Any party, attorney, witness or other interested person may object in advance of electronic coverage of a criminal proceeding or trial if there exists a substantial reason to believe that such coverage will undermine the legal rights of a party or will significantly compromise the safety of a witness or other person or impact significant privacy concerns. In the event that the media request camera coverage and, to the extent practicable, notice that an objection to the electronic coverage has been filed, the date, time and location of the hearing on such objection shall be posted on the Judicial Branch website. Any person, including the media, whose rights are at issue in considering whether to allow electronic coverage of the proceeding or trial, may participate in the hearing to determine whether to limit or preclude such coverage. When such objection is filed by any party, attorney, witness or other interested person, the burden of proving that electronic coverage of the criminal proceeding or trial should be limited or precluded shall be on the person who filed the objection.

(f) The judicial authority, in deciding whether to limit or preclude electronic coverage of a criminal proceeding or trial, shall consider all rights at issue and shall limit or preclude such coverage only if there exists a compelling reason to do so, there are no reasonable alternatives to such limitation or preclusion, and such limitation or preclusion is no broader than necessary to protect the compelling interest at issue.

(g) If the judicial authority has a substantial reason to believe that the electronic coverage of a criminal proceeding or trial will undermine the legal rights of a party or will significantly compromise the safety or privacy concerns of a party, witness or other interested person, and no party, attorney, witness or other interested person has objected to such coverage, the judicial authority shall schedule a hearing to consider limiting or precluding such coverage. To the extent practicable, notice that the judicial authority is considering limiting or precluding electronic coverage of a criminal proceeding or trial, and the date, time and location of the hearing thereon shall be given to the parties and others whose interests may be directly affected by a decision so that they may participate in the hearing and shall be posted on the Judicial Branch website.

(h) Objection raised during the course of a criminal proceeding or trial to the photographing, videotaping or audio recording of specific aspects of the proceeding or trial, or specific individuals or exhibits will be heard and decided by the judicial authority, based on the same standards as set out in subsection (f) of this section used to determine whether to limit or preclude coverage based on objections raised before the start of a criminal proceeding or trial.

(i) The judge presiding over the proceeding or trial in his or her discretion, upon the judge's own motion or at the request of a participant, may prohibit the broadcasting, televising, recording or photographing of any participant at the trial. The judge shall give great weight to requests where the protection of the identity of a person is desirable in the interests of justice, such as for the victims of crime, police informants, undercover agents, relocated witnesses, juveniles and individuals in comparable situations. "Participant" for the purpose of this section shall mean any party, lawyer or witness.

(j) The judicial authority shall articulate the reasons for its decision on whether or not to limit or preclude electronic coverage of a criminal proceeding or trial, and such decision shall be final.

(k) (1) Only one television camera operator, utilizing one portable mounted television camera, shall be permitted in the courtroom. The television camera and operator shall be positioned in such location in the courtroom as shall be designated by the trial judge. Microphones, related wiring and equipment essential for the broadcasting, televising or recording shall be unobtrusive and shall be located in places designated in advance by the trial judge. While the trial is in progress, the television camera operator shall operate the television camera in this designated location only.

(2) Only one still camera photographer shall be permitted in the courtroom. The still camera photographer shall be positioned in such location in the courtroom as shall be designated by the trial judge. While the trial is in progress, the still camera photographer shall photograph court proceedings from this designated location only.

(3) Only one audio recorder shall be permitted in the courtroom for purposes of recording the proceeding or trial. Microphones, related wiring and equipment essential for the recording shall be unobtrusive and shall be located in places designated in advance by the trial judge.

(l) Only still camera, television and audio equipment which does not produce distracting sound or light shall be employed to cover the proceeding or trial. The operator of such equipment shall not employ any artificial lighting device to supplement the existing

light in the courtroom without the approval of the judge presiding over the proceeding or trial and other appropriate authority.

(m) Except as provided by these rules, broadcasting, televising, recording and photographing in areas immediately adjacent to the courtroom during sessions of court or recesses between sessions shall be prohibited.

(n) The conduct of all attorneys with respect to trial publicity shall be governed by Rule 3.6 of the Rules of Professional Conduct.

(o) [The judicial authority in its discretion may require pooling arrangements by the media. Pool representatives should ordinarily be used for video, still cameras and radio, with each pool representative to be decided by the relevant media group. Participating members of the broadcasting, televising, recording and photographic media shall make their respective pooling arrangements, including the establishment of necessary procedures and selection of pool representatives, without calling upon the judicial authority to mediate any dispute as to the appropriate media representative or equipment for a particular trial. If any such medium shall not agree on equipment, procedures and personnel, the judicial authority shall not permit that medium to have coverage at the proceeding or trial.] If there are multiple requests to broadcast, televise, record or photograph the same criminal proceeding or trial, the media representatives making such requests must make pooling arrangements among themselves, unless otherwise determined by the judicial authority. The judicial authority shall not mediate any disputes among the media regarding pooling arrangements.

(p) To evaluate and resolve prospective problems where broadcasting, televising, recording or photographing by media of a criminal proceeding or trial will take place, and to ensure compliance with these rules during the proceeding or trial, the judicial authority who will hear the proceeding or preside over the trial may require the attendance of attorneys and media personnel at a pretrial conference.

(q) In a homicide case involving sexual assault, the broadcasting, televising, recording or photographing by the media of the trial may be permitted by the judicial authority, provided that the victim's family affirmatively consents to such coverage, that no member of the victim's family objects to such coverage, and that the victim's family have been notified. As used in this section, "victim's family" shall mean a person's spouse, parent, grandparent, stepparent, aunt, uncle, niece, nephew, child, including a natural born child, stepchild and adopted child, grandchild, brother, sister, half brother or half sister or parent of a person's spouse.

COMMENTARY: The changes to subsection (d) make the following changes to the camera rules impacting criminal proceedings: 1) clarifies that the media must e-mail their requests only to a person designated by the Chief Court Administrator to receive such requests rather than the respective Administrative Judge; 2) removes the requirement that the pool media organization provide a list of all news organizations seeking to participate in the pool; and 3) clarifies that the person designated by the Chief Court Administrator will inform the following people of the request: Administrative Judge, Presiding Judge of criminal matters, judicial authority who will hear the proceeding or who will preside over the trial, clerk and the supervising marshal. The requirement for the pool media organization to provide a list of all news organizations seeking to participate in the

pool is obsolete. Current practice is that the new organizations work out all of the pooling logistics among themselves.

The change to subsection (o) simplifies the rule requiring the medica to make pooling arrangements among themselves and reiterates that the judicial authority shall not mediate any disputes.