



RULES FOR THE
EXPERIMENTAL
PROGRAM FOR
THE USE OF
PHOTOGRAPHIC
CAMERAS AND
AUDIOVISUAL
BROADCASTING
EQUIPMENT BY THE
MEDIA IN JUDICIAL
PROCEEDINGS

SUPREME COURT OF PUERTO RICO

**RULES FOR THE EXPERIMENTAL
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* Adopted through Resolution ER-2013-01 of April 19, 2013, *In re C. 15; Regl. Uso Cámaras Proc. Jud.*, 188 DPR 424 [88 PR Offic. Trans. 22] (2013), and amended by Resolution ER-2015-06 of July 15, 2015, *In re Enmdas. Regl. Uso Cámaras Proc. Jud.*, 193 DPR 475 [93 PR Offic. Trans. 33] (2015).

This is an official translation prepared by the Bureau of Translations of the Supreme Court of Puerto Rico. Revised October 2022.

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RULES FOR THE EXPERIMENTAL PROGRAM FOR THE USE OF PHOTOGRAPHIC CAMERAS AND AUDIOVISUAL BROADCASTING EQUIPMENT BY THE MEDIA IN JUDICIAL PROCEEDINGS

Rule 1. Title

These Rules shall be known as the Rules for the Experimental Program for the Use of Photographic Cameras and Audiovisual Broadcasting Equipment by the Media in Judicial Proceedings.

Rule 2. Legal Basis

These Rules are adopted pursuant to the authority granted to the Supreme Court by virtue of Article V, Section 7 of the Constitution of the Commonwealth of Puerto Rico to adopt rules for the administration of the courts and Canon 15 of Judicial Ethics of Puerto Rico, as amended.

Rule 3. Application

These Rules authorize, as a pilot project, the electronic coverage of judicial proceedings through the taking of photographs and the recording of audio and images and their reproduction and broadcast by the media. It shall only apply to the judicial proceedings held in the Extraordinary Remedies Courtrooms of the San Juan Judicial Center, in those additional courtrooms identified by the Supreme Court by Resolution, and where so authorized by the Supreme Court pursuant to the provisions of Rule 15 hereunder.

Rule 4. Definitions

The following terms shall have the following meaning:

(a) *Photographic cameras and audiovisual broadcast equipment*—includes any type of photographic camera, television camera, video or still image recording device, audio recorder, among other devices of a similar nature used for the purposes of recording, transmitting, reproducing, broadcasting, or taking pictures. This includes all manner of accessories, such as cables, microphones, tripods, and other similar equipment.

(b) *Electronic coverage*—encompasses obtaining information on judicial proceedings through the capturing of images or recording of audio by way of photographic cameras or audiovisual broadcast equipment by the media. Includes the taking of photographs, recording, reproduction, and broadcast of judicial proceedings.

(c) *Broadcast of proceeding*—the process of disclosure or dissemination of any recorded image, recorded audio, photograph, or information regarding the events that occur during the judicial proceeding. It

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includes the reproduction through the use of television cameras and radio waves, among other means of communication.

(d) *Additional electronic equipment*—includes laptop computers, smartphones, tablets, among other electronic devices or similar equipment used by the media in lieu of traditional information-gathering tools.

(e) *Designated official*—the person selected by the presiding judge to act as a representative of the court, coordinate the broadcast of the judicial proceeding with media representatives, and facilitate faithful compliance with the provisions of these Rules.

(f) *Presiding judge*—the judge of the court of first instance before whom the judicial proceeding to be broadcast has been brought.

(g) *Media*—all persons, organizations, or entities whose function is to obtain news to inform the public, whether in written, oral, visual, or graphic form. This includes news agencies, nationally circulated daily newspapers and weekly news magazines, radio and television stations, regional press, journals, specialized press, and the internet.

(h) *Parties*—the litigants named in the casefile.

(i) *Participant in the proceeding*—all parties, counselors, witnesses, expert witnesses, court officials, and the judge presiding the development of the judicial proceeding.

(j) *Judicial proceeding*—

(1) In civil matters, it shall extend, but is not limited to, status conferences, hearing arguments, pretrial conferences, and hearings on the merits on those matters or petitions assigned to the courtrooms to which these Rules apply pursuant to Rule 3.

(2) In criminal matters, it shall solely include bench trials, pronouncements of judgment, and sentencing hearings.

(k) *Media representative*—person authorized to photograph or record the judicial proceeding and who represents one or more of the following types of news outlets: television, digital (internet) press, and print media.

(l) *Designated media representative*—media representative, preferably chosen by consensus among the different petitioning media outlets, who acts as the liaison between the court and the media outlets represented.

Rule 5. General Principles

(a) The presiding judge shall allow the electronic coverage of the judicial proceedings before the court, provided the media satisfactorily comply with the provisions of these Rules.

(b) The presiding judge shall have discretion to revoke the authority granted and may limit, restrict, or prohibit the electronic coverage of the judicial proceeding before the court.

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(c) The media shall observe proper conduct in the courtroom such that an environment of decorum and solemnness prevails, without distracting the participants in the proceedings or interfering with the attainment of a fair and impartial trial.

(d) These Rules shall not limit or restrict the authority of the presiding judge to direct or manage the proceeding before the court or to determine whether noncompliance with any of the provisions of these Rules has occurred.

(e) No provision of these Rules shall restrict in any way the rights that the media currently enjoys to report on judicial proceedings.

(f) No provision of these Rules shall vary or modify in any way the provisions of the Canons of Professional Ethics and their interpretative caselaw, specifically, in relation to attorney conduct with respect to the publicity of pending cases.

(g) No proceeding shall be continued or suspended with the sole purpose of allowing the media to cover the judicial proceeding through the use of the privileges granted through these Rules.

(h) The presence of the media in a judicial proceeding shall in no way affect the decision of the court as entered by the presiding judge on a motion for continuance, motion for reassignment, or motion to transfer the case that a party or their legal counsel may legitimately bring.

(i) The privileges granted through these Rules shall not extend to parties or their legal counsel, except as it pertains to the use of audio recorders or similar equipment by counsel for the purposes of legal representation. The provisions of these Rules are inapplicable to strictly ceremonial occasions.

Rule 6. Request for Media Coverage

(a) Any media outlet that wishes to take photographs or record video and audio with the purpose of broadcasting a judicial proceeding must file a written request for the use of photographic cameras or audiovisual broadcast equipment in the courtroom. The request shall be filed with the Office of the Clerk of the San Juan Judicial Center using the form provided therefor, or sent via e-mail, at least ten days prior to the date scheduled on the court calendar for the commencement of the proceeding. In extraordinary cases, the request may be filed as soon as the media outlet becomes aware of the court date. The court may accept requests after the proceedings have commenced or where filed outside the term provided herein, for good cause shown.

(b) The Clerk of the Court shall notify the parties involved in the proceeding on the very day on which the request is filed and shall immediately bring it forth to the attention of the judge who will preside over said

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proceeding. Unless the judge orders otherwise, notice of the request shall be served on the parties by fax or email.

(c) The request must be directed to the presiding judge and must include the following information:

(1) Designation of the proceeding and the date and time it begins.

(2) Case number.

(3) Number and type of photographic cameras or audiovisual broadcast equipment to be used, including any analog, digital, or electronic device or apparatus, whether necessary or accessory.

(d) Media outlets must file a new request when the judicial proceeding has been continued on a later date, excluding regular recesses, weekends, and legal holidays.

Rule 7. Authorization

(a) The use of photographic cameras or audiovisual broadcast equipment shall not be permitted in any judicial proceeding unless the presiding judge, in the exercise of judicial discretion, authorizes it in writing. The decision to authorize shall be notified to all parties to the judicial action by fax or email.

(b) Any of the parties may file an objection to the request for coverage filed by any media outlet at least five days prior to the date scheduled on the calendar for the commencement of the proceeding, or as soon as the party becomes aware of the request filed. The court may be notified of the objection by fax or email. The court may receive objections after said term has expired for good cause. The [presiding] judge shall decide these objections at any time prior to the commencement of the judicial proceeding and shall take into consideration any obstacles that might reasonably prevent the attainment of a fair and impartial trial.

(c) Authorization or denial of the petition is subject to reconsideration. The decision of the court to authorize or deny the petition is not reviewable.

(d) Where the electronic coverage of a judicial proceeding has been authorized and one or more media outlets has filed a request in accordance with these Rules, the judge shall refer the request or requests to a court official who will comply with the provisions of Rule 11 and serve as the liaison with the media, such that they may reach agreements in compliance with the specifications of Rule 10 hereunder.

Rule 8. Restrictions

(a) Electronic coverage through the use of photographic cameras and audiovisual broadcast equipment shall be prohibited in all proceedings deemed confidential by law or by court order.

(b) The electronic coverage of a judicial proceeding, portions thereof, or of the testimony of a party, a witness, or an expert witness may be prohibited, concluded, or limited by the judge presiding over the proceeding on the court's initiative or on motion of a party. The judge shall render a decision considering the interest of justice in protecting the rights of the parties and witnesses, and to preserve the order and good behavior that must prevail throughout the judicial proceeding.

(c) Judges may order media outlets to, at any time, suspend the use of photographic cameras and audiovisual broadcast equipment, or may conduct the proceedings in chambers to avoid the dissemination of any confidential or sensitive document or testimony offered into evidence.

(d) No proceedings held in chambers may be authorized for electronic coverage, nor may close-up shots or photographs of any participant in a judicial proceeding being covered electronically be permitted.

(e) The live or direct broadcast of any stage of the hearings in a judicial proceeding by radio, television, or internet, or by any other analogous broadcast medium may only be permitted through the express authorization of the court upon a specific request therefor, and provided it does not affect the proceedings, the rights of the parties, or access by the public or officials to the courthouse.

(f) Broadcast interviews and photographs may not be performed or taken in the hallways adjacent to the entrance of the courtroom where the proceeding is taking place or where other judicial proceedings are being held. These will only be permitted within the areas designated therefor, which must be away from courtroom entrances (for example, in areas near elevators or at the ends of hallways), pursuant to the directive or administrative order that governs the matter.

Rule 9. Attorney Conferences; materials

In order to protect the attorney-client privilege and the rights of the parties to effective legal representation, taking photographs or recording or broadcasting images or audio during recesses called after a judicial proceeding has commenced or during conferences that take place in the courtroom or in chambers among the parties' legal counsel, among attorneys and their clients, among the legal representatives of the same client, or between an attorney and the judge at the bench shall not be permitted. Taking video or photos of the material or documents on said attorneys' desks is also prohibited.

Rule 10. Conduct and Technology

(a) *Technical equipment and personnel*

(1) The following shall be permitted in the courtroom:

(i) One (1) television camera or portable video recording device (with tripod) operated by one (1) camera operator. More than one camera or portable video recording device may be permitted at the discretion of the presiding judge.

(ii) Two (2) photographers with one (1) photographic camera each, with no more than two (2) lenses per camera. More than two (2) photographers with the same equipment may be allowed at the discretion of the presiding judge.

(2) In the case of video recording with sound, the use of only one audio system shall be permitted, preferably the system that already exists in the courtroom at the time of the proceeding. Should said system turn out to be inadequate, it shall be the responsibility of the media to install the microphones and the necessary wiring in the places the judge or the designated official may indicate prior to the commencement of the judicial proceeding.

The installation of the technical equipment or the audio system shall not interrupt, disturb, or obstruct the proceedings; for this reason, it must be approved by the [presiding] judge or the designated official prior to the commencement of the judicial proceeding. This shall be coordinated in advance with the official designated as liaison. The installation of this equipment shall not interfere with court calendars or with the times scheduled for the commencement of proceedings.

The media outlets interested in broadcasting the proceeding shall defray the expenses incurred in installing the technical equipment or audio systems.

(3) The use of portable audio recorders shall be permitted in the courtroom subject to their discreet and silent operation. Media outlets must request authorization pursuant to Rule 6 hereunder. Even where the electronic coverage of the proceeding through photographic cameras or audiovisual broadcast equipment has not been authorized, the [presiding] judge shall have the discretion to authorize the audio recording of the judicial proceeding without prior notice to the parties involved. The [presiding] judge shall have discretion to restrict or prohibit the use of portable audio recorders in cases where electronic coverage is also restricted or prohibited through other means.

(4) The media must not disturb or interrupt the judicial proceeding if they are having technical difficulties. Adjustments or repairs to the technical equipment must be put off until the judge has ordered a recess.

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(b) *Light and sound requirements*

(1) Media representatives may only use photographic cameras and audiovisual broadcast equipment that do not produce light or sound. No equipment may use any artificial illumination device or apparatus.

(2) Photographic cameras shall be programmed to operate silently, including the typical clicking sound they are known for.

(3) Media representatives have an affirmative duty to demonstrate to the [presiding] judge or designated official, prior to any judicial proceeding, that the equipment to be used complies with the light and sound requirements stated above. Failure to obtain said approval shall preclude the use of the equipment during the judicial proceeding. The [presiding] judge shall have discretion to restrict the use during the judicial proceeding of any equipment that, by its nature, is considered disruptive.

(4) The media must remain silent during the judicial proceeding. They must refrain from making comments or asking questions during the judicial proceeding.

(c) *Location of media representatives*

(1) Media representatives and the technical equipment they will use for the electronic coverage of the judicial proceeding shall be located in the place or places so assigned by the presiding judge or by the designated official. The identified areas shall provide reasonable access for capturing images of the judicial proceeding; therefore, provided that these withdrawn areas of the courtroom allow for reasonable access, media equipment and personnel shall be placed there. Any equipment that is not authorized by this rule must remain outside of the courtroom, except where the presiding judge has allowed it. All equipment must be in the assigned area and ready to operate no less than fifteen minutes prior to the commencement of the judicial proceeding.

(2) Media representatives must be in their assigned area. Once there, they must conduct themselves in a way such that they do not draw attention to their presence or to their actions. They must follow the same dress code that is demanded of the public in court.

(d) *Movement during a proceeding*

Equipment shall be placed in or removed from the courtroom each day either prior to the commencement of the proceedings, or during recesses, or at the end of the court session. Installing or changing devices or accessories (such as lenses, memory cards, rolls of film, or batteries) in the courtroom shall not be permitted, except during recesses.

The media may not move about the courtroom to take photographs, shoot video or record images or audio while the judicial proceedings are underway or during recesses. Photographers and camera operators may exit the courtroom while the judicial proceeding is taking place, but they must wait

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until a recess has been called to remove fixed photographic cameras, television cameras, or video recording devices.

(e) *Use of additional lighting*

Lighting in the courtroom may only be changed with the approval of the presiding judge. Such changes, where authorized, shall be installed, maintained, or removed without incurring any public expense. Interested media outlets shall defray any costs incurred as a result of said changes.

(f) *Additional electronic equipment for gathering and broadcasting information*

The use of additional electronic equipment such as laptop computers, smartphones, tablets, among other similar electronic devices or equipment, shall be permitted as a substitute for traditional tools for gathering information on what occurs inside the courtroom, provided their operation is silent and discreet.

Even where the electronic coverage of the proceeding through photographic cameras or audiovisual broadcast equipment has not been authorized, the [presiding] judge shall have discretion to authorize the use of additional electronic equipment for disseminating information on social media or a live blog, without prior notice to the parties to the proceeding.

Recording video, audio, or taking photographs through the use of additional electronic equipment shall not be permitted. The [presiding] judge shall have discretion to restrict or prohibit the use of additional electronic equipment in cases where electronic coverage is also restricted or prohibited through other means.

Rule 11. Designated Group and Agreements Among the Media

(a) *Liaison*

The presiding judge shall designate an official to act as a representative of the court. This person, jointly with the media outlets that have filed a request under Rule 6, shall coordinate all matters pertaining to the broadcast of the proceedings.

When deemed necessary, the designated official may request that the media select a representative, preferably by consensus, to serve as a liaison with the court and ensure all matters regarding the faithful compliance of the provisions of these Rules. In such cases, this media representative shall be responsible for complying with equipment and personnel limitations provided in these Rules.

(b) *Designated group*

The designated official must select the media representatives who will comprise the group designated to take photographs and record the judicial proceeding. Unless the [presiding] judge determines otherwise, the designated

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group shall be composed of a maximum of three members, representing the following types of news outlets: television, digital (internet) press, and print media. Each media representative shall be responsible for complying with the provisions of these Rules. A media company or organization may replace its media representative upon prior notice to the designated official.

The order in which requests were received shall be used as a criterion for designation, taking into account the date and time that the form was filed with the Office of the Clerk of the Judicial Center, unless the media reach an agreement to the satisfaction of the court. The designated official may consider other factors established through directive or regulation.

Media outlets that have not been selected to be part of the designated group may not use any technical equipment whatsoever to photograph or record images, nor may they bring technical equipment inside the courtroom.

No more than one representative per parent media organization or company—this shall include any subsidiaries, branches, or resulting corporations—may be included as a member of the designated group, unless the media reach an agreement to the satisfaction of the court.

Each representative in the designated group must ensure that the technical equipment to be used for electronic coverage has the capacity to reproduce the images and audio captured, so as to allow other interested media outlets to obtain images and audio of the judicial proceedings from this equipment without the need to seek authorization of the presiding judge. This means that, immediately after capturing the images or audio, designated media representatives must place the equipment used at the disposal of the other media outlets that so request it, such that they may record or capture images and audio from the judicial proceeding.

In high-profile cases or cases of great public interest where numerous requests have been filed, the designated official may convene a meeting with the petitioning media outlets for the purpose of reaching agreements that would allow for broader dissemination of the proceeding.

(c) *Resolution of controversies*

Neither the presiding judge nor the designated official shall intervene as mediators in the event that disputes arise regarding agreements among the media. Absent an agreement, the presiding judge shall exclude the media outlets in dispute.

Rule 12. Additional Rules and Guidelines

The Administrative Director of the Courts is hereby authorized to issue any administrative directive that may be necessary for the proper functioning of the experimental program hereby established and to take any steps or issue administrative orders with the purpose of enforcing these provisions.

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Rule 13. Unforeseen Matters

The presiding judge, in the exercise of their sound discretion, shall resolve any unforeseen matter that is the source of controversy and may adopt any necessary measures not provided by these Rules.

Rule 14. Permissible Use of Recorded Materials

No magnetic tape, video, photograph, or recording of any images or audio acquired under these Rules may be admitted into evidence in any other proceeding that may arise or in any other collateral proceeding, or in any review or appeal thereof.

Rule 15. Coverage of Judicial Proceedings in Additional Courtrooms

Any media outlet that is interested in the electronic coverage of judicial proceedings held in courtrooms where the Experimental Program has not been extended may request authorization of the Supreme Court through a motion filed at least twenty (20) days prior to the date scheduled on the calendar for the commencement of the proceeding. In extraordinary cases, the request may be filed as soon as the media outlet becomes aware of the court date. When filing the request, the media outlet must certify that a copy of the request has been served on the parties to the case and to the presiding judge. The parties shall, in turn, have five (5) days from the date of notice to state their position on the request. The Supreme Court shall decide whether to authorize or reject the request by way of a Resolution.

Rule 16. Effective Date

These Rules shall be effective July 1, 2013.