



December 18, 2017

Hon. David E. Nahmias
Hon. Nels S.D. Peterson
Supreme Court of Georgia
244 Washington Street
Room 572
Atlanta, Georgia 30334

Re: Comments Regarding Proposed Amendment to Uniform
Superior Court Rule 22

Dear Justices Nahmias and Peterson:

Thank you for the opportunity to comment on behalf of the Georgia First Amendment Foundation to the proposed amendment to Uniform Superior Court Rule 22, governing the use of electronic devices in Georgia's trial courts, that was approved by the Council of Superior Court Judges in July 2017 and is now under submission to the Supreme Court.

Since Rule 22 was last revised, over 20 years ago, there have been enormous advances in cameras and other recording technologies and devices as well as a sea change in their availability and ubiquity. These developments, coupled with changes in the news industry, more than justify a reexamination of the procedures for public recording of court proceedings. *See, e.g., McLaurin v. Ott*, 327 Ga. App. 488 (2014).

The Foundation appreciates the efforts to revise the rule in light of these developments. The Foundation also appreciates the desire to expand the subject matter of the rule to address not just photographic and electronic recording of judicial proceedings, but also courtroom use of electronic devices generally.

However, consistent with its submission to the Council last June, the Foundation is concerned that the amendments now proposed, as well as the trajectory of these and other Rule 22 amendments that have been considered over the last few years, are not on the right track.

The original Rule 22 was promulgated to welcome into the State's courtrooms an important segment of the media that had theretofore as a practical matter been barred: radio and television. With great wisdom and foresight, for which it was recognized nationally, this Court decided to adopt a simple and straightforward rule that cameras and microphones—the tools

Board of Directors

Kathy Brister
KB Media Inc.

Tom Budlong
Georgia Library Association

Jon Burton, Esq.
LexisNexis

Peter C. Canfield, Esq.
Jones Day

Carolyn Carlson
Kennesaw State University

Tom Clyde, Esq.
Kilpatrick Townsend & Stockton LLP

Cynthia Counts, Esq.
Duane Morris LLP

Lisa Cupid, Esq.
Cobb County Board of Commissioners

Charles Davis
Grady College of Journalism & Mass
Communications, University of Georgia

F.T. Davis Jr., Esq.
Dentons

Carolyn Y. Forrest, Esq.
Fox Television Stations Inc.

Ken Foskett
The Atlanta Journal-Constitution

Richard T. Griffiths
Media Ethicist

David Hudson, Esq.
Hull Barrett Attorneys

Samira Jafari
CNN

Tywanda Lord, Esq.
Kilpatrick Townsend & Stockton LLP

Hollie Manheimer, Esq.
Manheimer Law Office

John McCosh
Georgia Budget & Policy Institute

Shawn McIntosh
The Atlanta Journal-Constitution

Eric NeSmith
Community Newspapers Inc.

DuBose Porter
The Courier-Herald

Hyde Post
Hyde Post Communications Inc.

Dale Russell
WAGA-TV Channel 5

Gerry Weber, Esq.
Law Offices of Gerry Weber LLC
Southern Center for Human Rights

Jim Zachary
The Valdosta Daily Times
Transparency Project of Georgia

Affiliations appear for purposes of identification only

7742 Spalding Drive, #209 • Norcross, GA 30092
678-395-3618 • info@gfaf.org • www.gfaf.org

*"Because public men and women are amenable
'at all times' to the people, they must conduct
the public's business out in the open."
— The late Charles L. Weltner Sr., Chief Justice,
Georgia Supreme Court*

of the trade of those media—should be presumptively permitted in the State’s courtrooms, subject to reasonable restrictions to preserve decorum and minimize disruption.

The Court’s decision was rooted in its perception that court rules—particularly rules that prescribe what the public can and cannot do in their courtrooms and what they are able to see and hear of what transpires there—should serve, rather than conflict with, the State’s strong public policy in favor of open government and its oft-stated corollary that the State’s courts must always strive to be more accessible to the public. *See, e.g., R. W. Page Corp. v. Lumpkin*, 249 Ga. 576, 576 n.1 (1982) (“This court has sought to open the doors of Georgia’s courtrooms to the public and to attract public interest in all courtroom proceedings because it is believed that open courtrooms are a *sine qua non* of an effective and respected judicial system which, in turn, is one of the principal cornerstones of a free society.”) *See generally Embracing the Courts of the Future: Final Report of the Next Generation Courts Commission* (March 2014) at 19-23 (recommending that courts “practice and promote transparency”; “As a result of security concerns and budget cuts, the news services and citizens that do make the trip to the courthouse often find not a welcoming place that reflects the courts’ fundamentally public nature but a cold and inhospitable fortress”) available at http://www.georgiacourts.org/sites/default/files/Next%20Generation%20Courts/next%20gen%20report_0.pdf

The Foundation strongly believes that a revised Rule 22—unlike the proposed amendments now under submission—should preserve this same welcoming spirit. Today, radio and television reporters and photographers are no longer the only persons who need to use electronic devices in the courtroom. Now, electronic devices are essential tools of the trade for all journalists. Now, electronic devices are essential tools of everyday life for virtually every member of the public. Smart phones, tablets and laptop computers were unheard of when Rule 22 was originally promulgated. At present they are ubiquitous and, in a very practical sense, indispensable—for writing and note taking, fact-checking and researching, scheduling and communicating, and on and on. Indeed, as the United States Supreme Court observed several years ago, portable electronic devices “are now such a pervasive part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy.” *Riley v. California*, ___ U.S. ___ (2014).

Any proper amendment to Rule 22 must recognize this current context and its corollary: To continue to welcome the media and the public into the State’s courtrooms the rules must now welcome their use of their electronic devices. As the Foundation’s original comments indicated, it is certainly appropriate as under the current rule to require affirmative permission for recording court proceedings—a state statute requires it—and to limit or even prohibit recording of or by certain proceeding participants (e.g., jurors). It is also of course critical to afford trial judges the broad discretion necessary to maintain order and decorum and address misconduct. But the use of electronic devices otherwise, including by the general public, should be presumptively permitted and the rule should make that clear.

Other state court systems have followed this welcoming and straightforward path. *See, e.g., Utah Rule 4-401.02(3)(B)* (available at http://www.utcourts.gov/resources/rules/ucja/ch04/4-401_02.htm). *See generally Report and Recommendations on the Possession and Use of Electronic Devices in Court Facilities, Social Media Subcommittee of the Judicial Outreach Committee* (July 14, 2011) (available at http://www.ncsc.org/~media/Files/PDF/Information%20and%20Resources/Social_Media_Subcommittee_FINAL_REPORT.ashx).

Hon. David E. Nahmias
Hon. Nels S.D. Peterson
December 18, 2017
Page 3

The Foundation respectfully urges the Court to respect its tradition, reject the complex and forbidding course proposed in the pending amendment and once again choose a welcoming and straightforward path for Georgia. To that end the Court should ask the Council to either start afresh or to consider substantial revisions along the lines of those proposed in the Foundation's June 2017 submission to the Council, a copy of which is attached.

The Foundation is pleased to have been given the opportunity to be involved in this process.

Thank you very much for your consideration.

Sincerely,



Peter Canfield

Enclosure

cc: Tee Barnes, Clerk/Court Executive
Shawn McIntosh, President, Georgia First Amendment Foundation

Canfield, Peter C.

From: Peter Canfield
Sent: Tuesday, June 6, 2017 9:34 AM
To: weathers@cscj.org
Cc: Shawn.McIntosh@ajc.com
Subject: Proposed Amendment to Uniform Superior Court Rule 22
Attachments: redline from existing rule 22.docx; june 2017 georgia first amendment foundation proposed revised rule 22 and_ new rule 22 1.docx

Dear Shannon:

Thank you for the opportunity to comment on behalf of the Georgia First Amendment Foundation to the proposed amendment to Uniform Superior Court Rule 22, governing "Electronic and Photographic News Coverage of Judicial Proceedings," that was approved by the Council of Superior Court Judges for first reading on January 19, 2017.

Since Rule 22 was last revised, over twenty years ago, there have been enormous advances in cameras and other recording technologies and devices as well as a sea change in their availability and ubiquity. These developments, coupled with changes in the news industry, more than justify a reexamination of the procedures for public recording of court proceedings. *See, e.g., McLaurin v. Ott*, 327 Ga. App. 488 (2014).

The Foundation appreciates the Council's efforts to revise the rule in light of these developments. The Foundation also appreciates the Council's desire to expand the subject matter of the rule so as to attempt to address not just photographic and electronic recording of judicial proceedings but courtroom use of electronic devices generally.

The Foundation is concerned, however, that the amendments now proposed, as well as the trajectory of these and other Rule 22 amendments that have been considered by the Council over the last few years, are not on the right track. Ideally, court rules should be short, simple and easy to understand and administer. The proposed amendments to Rule 22, however, have become anything but.

The Foundation believes that the Council could significantly improve Rule 22 and at the same time eliminate unnecessary complexity and prolixity by doing two things: (1) create two rules -- one to govern recording of court proceedings (an amended Rule 22) and another to govern use of electronic devices in courthouses (a new Rule 22.1); and (2) unlike the January 19, 2017 proposed amendment, begin and imbue in each rule the presumption that recording and use is permitted, albeit subject to certain qualifications and restrictions.

The Foundation respectfully submits that not only would such an approach result in clearer and simpler rules, it would make the rules serve, rather than conflict with, the State's strong public policy in favor of open government and its oft-stated corollary that the State's courts must always strive to be more accessible to the public. *See, e.g., R. W. Page Corp. v. Lumpkin*, 249 Ga. 576, 576 n.1 (1982) ("This court has sought to open the doors of Georgia's courtrooms to the public and to attract public interest in all courtroom proceedings because it is believed that open courtrooms are a *sine qua non* of an effective and respected judicial system which, in turn, is one of the principal cornerstones of a free society.") *See generally Embracing the Courts of the Future: Final Report of the Next Generation Courts Commission* (March 2014) at 19-23 (recommending that courts "practice and promote transparency"; "As a result of security concerns and budget cuts, the news services and citizens that do make the trip to the courthouse often find not a welcoming place that reflects the courts' fundamentally public nature but a cold and inhospitable fortress") available at http://www.georgiacourts.org/sites/default/files/Next%20Generation%20Courts/next%20gen%20report_0.pdf

For these reasons and in this spirit, the Foundation proposes that the Council reconsider its present approach and revise the rules along the lines of the proposed rule amendments attached. For your convenience a redline showing changes from the existing rule is also attached. Should the Council retain the present approach, the Foundation reiterates its previous comments and adopts those submitted earlier this year by the Southern Center for Human Rights.

The Foundation is pleased to have been given the opportunity to be involved in this process and hopes that you will continue to involve us in the future.

Thank you very much for your consideration.

Sincerely,

Peter Canfield

Peter Canfield
Jones Day
1420 Peachtree Street, N.E.
Suite 800
Atlanta, Georgia 30309
Office +1.404.581.8956
Cell +1.678.296.5413

cc: Shawn McIntosh, President, Georgia First Amendment Foundation

*(See attached file: june 2017 georgia first amendment foundation proposed revised rule 22 and new rule 22
1.docx)*

(See attached file: redline from existing rule 22.docx)

=====

This e-mail (including any attachments) may contain information that is private, confidential, or protected by attorney-client or other privilege. If you received this e-mail in error, please delete it from your system without copying it and notify sender by reply e-mail, so that our records can be corrected.

=====

PROPOSED AMENDMENTS TO RULE 22 AND PROPOSED NEW RULE 22.1 OF THE UNIFORM RULES FOR SUPERIOR COURT

UNIFORM SUPERIOR COURT RULE 22. ELECTRONIC AND PHOTOGRAPHIC ~~NEWS COVERAGE~~RECORDING OF JUDICIAL PROCEEDINGS

~~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:~~

Electronic and photographic recording of judicial proceedings shall be permitted subject to the following restrictions and conditions:

(A) ~~Persons~~Unless otherwise excused by the court, a person desiring to ~~broadcast/record/~~photograph ~~official court~~or otherwise electronically record images or sound of judicial proceedings must timely 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~~recording is desired; the type equipment or recording device 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 or device.

(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.~~A request to photograph or otherwise electronically record images or sound of any judicial proceeding shall be evaluated pursuant to the standards set forth in O.C.G.A. § 15-1-10.1. In exercising discretion with respect to such requests, the judge shall bear in mind the State’s longstanding policy favoring open judicial proceedings.* In accordance with the policy, the judge shall presume that a request by a person, company, or other entity engaged in the gathering and dissemination of news for the public should be approved.†

(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~~

* See *Morris Communications v. Griffin*, 279 Ga. 735, 736 (2005); *Georgia Television Co. v. Napper*, 258 Ga. 68 (1988).

† Georgia law affords a special qualified privilege to “[a]ny person, company or other entity engaged in the gathering and dissemination of news for the public through any newspaper, book, magazine, radio or television broadcast, or electronic means.” O.C.G.A. § 24-5-508.

~~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.~~recording.

(D) ~~The~~Any positioning and removal of cameras and other electronic recording 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 the court's 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 court's 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~~Unless excused by the court, cameras and ~~tape recorders~~other electronic devices used to record a judicial proceeding 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~~All cameras and ~~broadcasting and recording~~other electronic devices used to record a judicial proceeding 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~~Photographs 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~~recording of the public and the courtroom are allowed, if done without disruption to the court proceedings.

(J) ~~Reporters, photographers, and technicians~~Persons operating cameras and other electronic devices to record must have and produce upon request of court officials ~~credentials identifying them and the media company for which they work~~appropriate identification.

(K) Persons operating cameras and other electronic devices to record a judicial proceeding should do everything possible to avoid attracting attention to themselves and shall not interrupt a proceeding to seek to correct an equipment or other technical problem.

~~(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)~~ (NL) No interviews pertaining to a particular judicial proceeding ~~will be conducted~~ may be electronically recorded 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.~~

EXHIBIT "A"

IN THE SUPERIOR COURT OF _____

COUNTY

STATE OF GEORGIA

(STYLE OF CASE/CALENDAR)

CASE NO. _____

REQUEST ~~TO INSTALL RECORDING AND/OR PHOTOGRAPHING EQUIPMENT PURSUANT TO RULES AND GUIDELINES FOR ELECTRONIC AND/OR PHOTOGRAPHIC NEWS COVERAGE~~ RECORDING OF JUDICIAL PROCEEDINGS.

Pursuant to ~~Rule 22 of the Electronic and Photographic News Coverage of Judicial Proceedings in the~~ Uniform Superior Court ~~Rules~~ Rule 22 governing Electronic and Photographic Recording of Judicial Proceedings, the undersigned hereby requests permission to ~~install equipment~~ photograph or electronically record images and/or sound in courtroom _____ ~~in order to record, photograph or televise~~ of all or portions of the proceedings in the above-captioned case/calendar.

The undersigned _____ (is/is not) a person engaged in the gathering and dissemination of news for the public or is the representative of a company or other entity that is so engaged.

~~Consistent with the provisions of the rules and guidelines, the~~ The undersigned desires to ~~install~~ photograph or electronically record using the following described equipment: _____ ~~in the following locations or device:~~ _____.

The proceedings that the undersigned desires to ~~record,~~ photograph or ~~televise~~ electronically record commence on _____ (date). ~~Subject to direction from the court regarding possible pooled coverage, the~~

The undersigned wishes to install ~~this~~ equipment in the courtroom on _____ (date).

The ~~personnel~~ person(s) who will be responsible for the ~~installation and operation of this equipment during its use~~ photographing or electronic recording are: _____ (identify appropriate personnel).

The undersigned hereby certifies that the ~~equipment to be installed and the locations and operation of such~~ photographic or electronic recording equipment will be operated and, if applicable, installed in conformity with ~~the~~ Rule 22 and any other appropriate rules and guidelines issued by the court.

This _____ day of _____, 1920_____.

(Individual Signature)

(Representing ~~/~~ Firm, if Any)

~~(Position)~~

~~(Address)~~

~~(Telephone Number)~~

UNIFORM SUPERIOR COURT RULE 22.1. USE OF PORTABLE ELECTRONIC DEVICES.

Portable electronic devices “are now such a pervasive part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy.” *Riley v. California*, ___ U.S. ___ (2014). Use of such devices shall be permitted subject to the following restrictions and conditions:

(A) As used in this rule, “portable electronic device” means any device that can record or transmit data, images or sounds, or access the internet, including without limitation a pager, laptop/notebook/tablet or other handheld personal computer, personal digital assistant, audio or video recorder, wireless device, cellular telephone or electronic calendar.

(B) *Use of portable electronic devices in courthouses.* A person may use a portable electronic device while in common areas of the courthouse, such as lobbies and corridors, subject to further restrictions on the time, place and manner of such use that are appropriate to maintain safety, decorum and order.

(C) *Use of portable electronic devices in courtrooms.*

(1) A person may silently use a portable electronic device inside a courtroom.

(2) A person may not use a portable electronic device to record or transmit images or sound of a court proceeding except in accordance with Rule 22.

(3) A judge may further restrict use of portable electronic devices in the courtroom by the public or in connection with a particular proceeding by jurors, attorneys or witnesses as appropriate to maintain safety, decorum and order, and protect the integrity of the proceedings. In exercising discretion with respect to such restrictions, the judge shall bear in mind the State’s longstanding policy favoring open judicial proceedings and anticipate that reporters and other public observers seated in the courtroom may properly use such devices to prepare and post online accounts and commentary during the proceedings.[‡]

[‡] See, e.g., *R. W. Page Corp. v. Lumpkin*, 249 Ga. 576, 576 n.1 (1982) (“Most judicial proceedings, even some of considerable importance to the general populace, remain unattended by the public and unreported by the news media. This court has sought to open the doors of Georgia’s courtrooms to the public and to attract public

(D) Use of portable electronic devices in court chambers. A person may not use a portable electronic device in chambers without prior approval from the judge.

interest in all courtroom proceedings because it is believed that open courtrooms are a *sine qua non* of an effective and respected judicial system which, in turn, is one of the principal cornerstones of a free society.”)

PROPOSED AMENDMENTS TO RULE 22 AND PROPOSED NEW RULE 22.1 OF THE UNIFORM RULES FOR SUPERIOR COURT

UNIFORM SUPERIOR COURT RULE 22. ELECTRONIC AND PHOTOGRAPHIC RECORDING OF JUDICIAL PROCEEDINGS

Electronic and photographic recording of judicial proceedings shall be permitted subject to the following restrictions and conditions:

(A) Unless otherwise excused by the court, a person desiring to photograph or otherwise electronically record images or sound of judicial proceedings must timely file a 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 recording is desired; the type equipment or recording device 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 or device.

(B) A request to photograph or otherwise electronically record images or sound of any judicial proceeding shall be evaluated pursuant to the standards set forth in O.C.G.A. § 15-1-10.1. In exercising discretion with respect to such requests, the judge shall bear in mind the State’s longstanding policy favoring open judicial proceedings.* In accordance with the policy, the judge shall presume that a request by a person, company, or other entity engaged in the gathering and dissemination of news for the public should be approved.†

(C) The judge may require pooled recording.

(D) Any positioning and removal of cameras and other electronic recording 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 the court’s 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 court’s central audio system. Upon prior approval of the court, microphones may be added in an unobtrusive manner.

* See *Morris Communications v. Griffin*, 279 Ga. 735, 736 (2005); *Georgia Television Co. v. Napper*, 258 Ga. 68 (1988).

† Georgia law affords a special qualified privilege to “[a]ny person, company or other entity engaged in the gathering and dissemination of news for the public through any newspaper, book, magazine, radio or television broadcast, or electronic means.” O.C.G.A. § 24-5-508.

(G) Unless excused by the court, cameras and other electronic devices used to record a judicial proceeding 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) All cameras and other electronic devices used to record a judicial proceeding must be quiet running.

(I) Photographs of the jury 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 recording of the public and the courtroom are allowed, if done without disruption to the court proceedings.

(J) Persons operating cameras and other electronic devices to record must have and produce upon request of court officials appropriate identification.

(K) Persons operating cameras and other electronic devices to record a judicial proceeding should do everything possible to avoid attracting attention to themselves and shall not interrupt a proceeding to seek to correct an equipment or other technical problem.

(L) No interviews pertaining to a particular judicial proceeding may be electronically recorded in the courtroom except with the permission of the judge.

EXHIBIT "A"

IN THE SUPERIOR COURT OF _____

(STYLE OF CASE/CALENDAR)

REQUEST FOR ELECTRONIC OR PHOTOGRAPHIC RECORDING OF JUDICIAL PROCEEDINGS.

Pursuant to Uniform Superior Court Rule 22 governing Electronic and Photographic Recording of Judicial Proceedings, the undersigned hereby requests permission to photograph or electronically record images and/or sound in courtroom _____ of all or portions of the proceedings in the above-captioned case/calendar.

The undersigned ____ (is/is not) a person engaged in the gathering and dissemination of news for the public or is the representative of a company or other entity that is so engaged.

The undersigned desires to photograph or electronically record using the following described equipment or device: _____.

The proceedings that the undersigned desires to photograph or electronically record commence on _____ (date).

The undersigned wishes to install equipment in the courtroom on _____ (date).

The person(s) who will be responsible for the photographing or electronic recording are:
_____ (identify appropriate personnel).

The undersigned hereby certifies that the photographic or electronic recording equipment will be operated and, if applicable, installed in conformity with Rule 22 and any other appropriate rules and guidelines issued by the court.

This _____ day of _____, 20__.

(Individual Signature)

(Representing Firm, if Any)

UNIFORM SUPERIOR COURT RULE 22.1. USE OF PORTABLE ELECTRONIC DEVICES.

Portable electronic devices “are now such a pervasive part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy.” *Riley v. California*, ___ U.S. ___ (2014). Use of such devices shall be permitted subject to the following restrictions and conditions:

(A) As used in this rule, “portable electronic device” means any device that can record or transmit data, images or sounds, or access the internet, including without limitation a pager, laptop/notebook/tablet or other handheld personal computer, personal digital assistant, audio or video recorder, wireless device, cellular telephone or electronic calendar.

(B) *Use of portable electronic devices in courthouses.* A person may use a portable electronic device while in common areas of the courthouse, such as lobbies and corridors, subject to further restrictions on the time, place and manner of such use that are appropriate to maintain safety, decorum and order.

(C) *Use of portable electronic devices in courtrooms.*

(1) A person may silently use a portable electronic device inside a courtroom.

(2) A person may not use a portable electronic device to record or transmit images or sound of a court proceeding except in accordance with Rule 22.

(3) A judge may further restrict use of portable electronic devices in the courtroom by the public or in connection with a particular proceeding by jurors, attorneys or witnesses as appropriate to maintain safety, decorum and order, and protect the integrity of the proceedings. In exercising discretion with respect to such restrictions, the judge shall bear in mind the State’s longstanding policy favoring open judicial proceedings and anticipate that reporters and other public observers

seated in the courtroom may properly use such devices to prepare and post online accounts and commentary during the proceedings.[‡]

(D) Use of portable electronic devices in court chambers. A person may not use a portable electronic device in chambers without prior approval from the judge.

[‡] See, e.g., *R. W. Page Corp. v. Lumpkin*, 249 Ga. 576, 576 n.1 (1982) (“Most judicial proceedings, even some of considerable importance to the general populace, remain unattended by the public and unreported by the news media. This court has sought to open the doors of Georgia’s courtrooms to the public and to attract public interest in all courtroom proceedings because it is believed that open courtrooms are a *sine qua non* of an effective and respected judicial system which, in turn, is one of the principal cornerstones of a free society.”)