

MISC. DOCKET NO. 04-9068

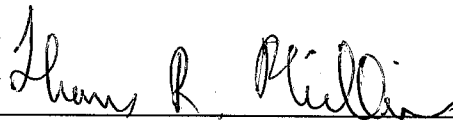
**ORDER OF THE SUPREME COURT OF TEXAS**

**Approval of the Local Rules of the Travis County  
Probate Court No. One concerning  
Recording and Broadcasting of Proceedings**

**ORDERED that:**

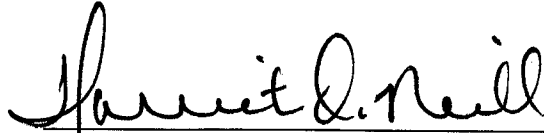
Pursuant to Rule 3 of the Texas Rules of Civil Procedure, the following Local Rules for the Travis County Probate Court No. One concerning the recording and broadcasting of proceedings are approved. This approval is temporary pending further orders of the Court.

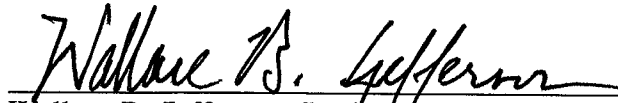
In Chambers, this 10<sup>th</sup> day of May, 2004.


  
\_\_\_\_\_  
Thomas R. Phillips, Chief Justice


  
\_\_\_\_\_  
Nathan L. Hecht, Justice

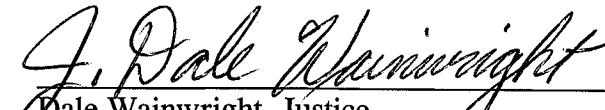
  
\_\_\_\_\_  
Priscilla R. Owen, Justice


  
Harriet O'Neill, Justice

  
Wallace B. Jefferson, Justice

  
Michael H. Schneider, Justice

  
Steven Wayne Smith, Justice

  
Dale Wainwright, Justice

  
Scott A. Brister, Justice

**PROPOSED CHANGES**  
**TO THE LOCAL RULES FOR PROBATE COURT NUMBER ONE**  
**OF TRAVIS COUNTY, TEXAS:**

***RECORDING AND BROADCASTING OF PROCEEDINGS***

[To be added to CHAPTER 4: RULES OF DECORUM]

**4.3: Recording and Broadcasting of Court Proceedings**

Pursuant to Rule 18c(a) of the Texas Rules of Civil Procedure, the following Rules govern the recording and broadcasting of court proceedings before the Probate Court of Travis County, and its Masters (Associate Judges) and Referees.

**4.3.1 Policy**

The policy of these Rules is to allow media coverage of public civil court proceedings to facilitate the free flow of information to the public concerning the judicial system, to foster better public understanding about the administration of justice, and to encourage continuing legal education and professionalism by lawyers. These Rules are to be construed to provide the greatest access possible while at the same time maintaining the dignity, decorum and impartiality of the court proceeding.

**4.3.2 Definitions**

Certain terms are defined for purposes of these Rules as follows:

- (a) **Court.** "Court" means the particular court or Associate Judge in which the proceeding will be held.

- (b) **Media Coverage.** “Media coverage” means any visual or audio coverage of court proceedings by a media agency.

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- (c) **Media or Media Agency.** “Media” or “Media agency” means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television station or network, news service, magazine, trade paper, in-house publication, professional journal, or other news reporting of news gathering agency.
- (d) **Visual Coverage.** “Visual coverage” means coverage by equipment, which has the capacity to reproduce or telecast an image, and includes still and moving picture photographic equipment and video equipment.
- (e) **Audio Coverage.** “Audio coverage” is coverage by equipment which has the capacity to reproduce or broadcast sounds, and includes tape and cassette sound recorders, and radio and video equipment.

#### **4.3.3 Media Coverage Permitted**

- (a) Media coverage is allowed in the courtroom only as permitted by Rule 18c of the Texas Rules of Civil Procedure and these Rules.

- (b) If media coverage is of investiture or ceremonial proceedings as allowed by Rule 18c(c) of the Texas Rules of Civil Procedure, permission for, and the manner of such coverage, are determined solely by the Court, with or without guidance from these Rules. If media coverage is for other than investiture or ceremonial proceedings, that is, under Rule 18c(a) or (b) of the Texas Rules of Civil Procedure, the provisions of these Rules shall govern.
- (c) Media coverage under Rule 18c(a) and (b) of the Texas Rules of Civil Procedure is permitted only on written order of the Court. A request for an order shall be made on the form included in these Rules. The following procedure shall be followed, except in extraordinary circumstances and only if there is a finding by the Court that good cause justifies a different procedure: (i) the request should be filed with the Probate Clerk with a copy delivered to the Court, all counsel of record and, where possible, all parties not represented by attorneys, and (ii) such request shall be made in time to afford the attorneys and parties sufficient time to confer, to contact their witnesses and to be fully heard by the Court on the questions of whether media coverage should be allowed and, if so, what conditions, if any, should be imposed on such coverage. Whether or not consent of the parties or witnesses is obtained, the Court may in its discretion deny, limit or terminate media coverage. In exercising such discretion the Court shall consider all relevant factors, including but not limited to those listed in (e) below.

- (d) If media coverage is sought with consent as provided in Rule 18c(b) of the Texas Rules of Civil Procedure, consent forms adopted by the Court shall be used to evidence the consent of the parties and witnesses. Original signed consent forms of the parties shall be attached to and filed with the request for order. Consent forms of the witnesses shall be obtained in the manner directed by the Court. No witness or party shall give consent to media coverage in exchange for payment or other consideration, of any kind or character, either directly or indirectly. No media agency shall pay or offer to pay any consideration in exchange for such consent.
- (e) If media coverage is sought without consent, pursuant to Rule 18c(a) of the Texas Rules of Civil Procedure, the decision to allow such coverage is discretionary and will be made by the Court on a case-by-case basis. Objections to media coverage should not be conclusory but should state the specific and demonstrable injury alleged to result from media coverage. If the Court denies coverage, it shall set forth in its order the findings upon which such denial is based. In determining an application for coverage, the Court shall consider all relevant factors, including but not limited to:
- (i) the type of case involved;
  - (ii) whether the coverage would cause harm to any participants;
  - (iii) whether the coverage would interfere with the fair administration of justice, advancement of a fair trial, or the rights of the parties;

- (iv) whether the coverage would interfere with any law enforcement activity;
- (v) the objections of any of the parties, prospective witnesses, victims, or other participants in the proceeding of which coverage is sought;
- (vi) the physical structure of the courtroom and the likelihood that any equipment required to conduct coverage of proceedings can be installed and operated without disturbance to those proceedings or any other proceedings in the Courthouse;
- (vii) the extent to which the coverage would be barred by law in the judicial proceeding of which coverage is sought; and
- (viii) the fact that any party, prospective witness, victim, or other participant in the proceeding is a child, to which fact the Court shall give great weight.

#### **4.3.4 Media Coverage Prohibited**

- (a) Media coverage of proceedings held in chambers, proceedings closed to the public, and jury selection is prohibited. Audio coverage and close-up video coverage of conferences between an attorney and client, witness or aide, between attorneys, or between counsel and the Court at the bench is prohibited.

- (b) Visual coverage of potential jurors and jurors in the Courthouse is prohibited except when in the courtroom the physical layout of the courtroom makes it impossible to conduct visual coverage of the proceedings without including the jury, and the Court so finds. In such cases visual coverage is allowed only if the jury is in the background of a picture of some other subject and only if individual jurors are not identifiable.

#### **4.3.5 Equipment and Personnel**

The Court may require media personnel to demonstrate that proposed equipment complies with these Rules. The Court may specify the placement of media personnel and equipment to permit reasonable coverage without disruption to the proceedings. Unless the Court in its discretion and for good cause orders otherwise, the following standards apply:

- (a) One television camera and one still photographer, with not more than two cameras and four lenses, are permitted.
- (b) Equipment shall not produce distracting sound or light. Signal lights or devices which show when equipment is operating shall not be visible. Moving lights, flash attachments, or sudden lighting changes shall not be used.



- (b) Existing courtroom sound and lighting systems shall be used without modification. An order granting permission to modify existing systems is deemed to require that the modifications be installed, maintained, and removed without public expense. Microphones and wiring shall be unobtrusively located in places approved by the Court and shall be operated by one person.
- (c) Operators shall not move equipment or enter or leave the courtroom while the Court is in session, or otherwise cause a distraction. All equipment shall be in place in advance of the proceeding or session.
- (d) Identifying marks, call letters, words and symbols shall be concealed on all equipment. Media personnel shall not display any identifying insignia on their clothing.

#### **4.3.6 Delay of Proceedings**

No proceeding or session shall be delayed or continued for the sole purpose of allowing media coverage, whether because of installation of equipment, obtaining witness consents, conduct of hearings related to the media coverage or other media coverage questions. To assist media agencies to prepare in advance for media coverage, and when requested to do so: (i) the Court will attempt to make the courtroom available when not in use for the purpose of installing equipment; (ii) counsel (to the extent they deem their client's rights will not be jeopardized) should make available to the media witness lists; (iii) and the Court Administrator will inform the media agencies of settings or proceedings.

#### **4.3.7 Pooling**

If more than one media agency of one type wish to cover a proceeding or session, they shall make pool arrangements. If they are unable to agree, the Court may deny media coverage by that type of media agency.

#### **4.3.8 Official Record**

Films, videotapes, photographs or audio reproductions made in the proceeding pursuant to these Rules shall not be considered as part of the official court record.

APPENDIX E

NO. \_\_\_\_\_

VS.

§ IN THE PROBATE COURT OF  
§ TRAVIS COUNTY, TEXAS  
§

REQUEST FOR ORDER TO ALLOW MEDIA COVERAGE  
WITH CONSENT OF PARTIES OR WITNESSES

Pursuant to Rule 18c of the Texas Rules of Civil Procedure and the Rules Governing the Recording and Broadcasting of Court Proceedings in the Probate Court of Travis County (Rule 4.3 of the Local Rules for Probate Court Number One of Travis County, Texas) (Local Rules), I request permission to install equipment for the purpose of media coverage of the above described case as follows:

1. Courtroom: \_\_\_\_\_
2. Equipment: \_\_\_\_\_
3. Dates of Coverage: \_\_\_\_\_

I, individually, and on behalf of the personnel of the media agency I represent and all media personnel who participate in media coverage through any pooling agreement, understand and agree that:

1. All media personnel covering the proceedings will comply with the provisions of Rule 18c of the Texas Rules of Civil Procedure and the Local Rules.
2. Written consent of each party has been obtained; true copies of all completed consent forms are attached to this request.

3. There will be no audio or visual coverage of the testimony of any witness unless consent of that witness has been obtained in the manner required by the Court and filed with the Probate Clerk, with a copy delivered to the trial court.
4. Permission may be withdrawn by the Court at any time pursuant to the Local Rules, at which time media coverage will immediately cease.

The original of this request was filed with the Probate Clerk, with a copy delivered to the trial court, on \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_.m.

\_\_\_\_\_  
Individual - signature

\_\_\_\_\_  
Individual - printed

\_\_\_\_\_  
Name of Media Agency

\_\_\_\_\_  
Position

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number  
bbb

APPENDIX F

NO. \_\_\_\_\_

VS. § IN THE PROBATE COURT OF  
§ TRAVIS COUNTY, TEXAS  
§

REQUEST FOR ORDER TO ALLOW MEDIA COVERAGE  
WITHOUT CONSENT OF PARTIES OR WITNESSES

Pursuant to Rule 18c of the Texas Rules of Civil Procedure and the Rules Governing the Recording and Broadcasting of Court Proceedings in the Probate Court of Travis County (Rule 4.3 of the Local Rules for Probate Court Number One of Travis County, Texas) (Local Rules), I request permission to install equipment for the purpose of media coverage of the above described case without consent of the parties or witnesses, as follows:

- 1. Courtroom: \_\_\_\_\_
- 2. Equipment: \_\_\_\_\_
- 3. Dates of Coverage: \_\_\_\_\_

I, individually, and on behalf of the personnel of the media agency I represent and all media personnel who participate in media coverage through any pooling agreement, understand and agree that:

- 1. All media personnel covering the proceedings will comply with the provisions of Rule 18c of the Texas Rules of Civil Procedure and the Local Rules.
- 2. Permission may be withdrawn by the Court any time pursuant to the Local Rules, at which time media coverage will immediately cease.

The original of this request was filed with the Probate Clerk, with a copy delivered to the trial court, on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ .m.

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Individual - signature

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Individual - printed

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Name of Media Agency

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Position

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Address

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Telephone Number