

## MEMBERS OF THE MEDIA

### FOR PLANNING PURPOSES ONLY – TESLA TRIAL. (UPDATE)

FOR BROADCAST MEDIA – If you are sending a live or satellite truck (an oversized vehicle), you will be directed to park on the west (or right side) of King Street, across from the Leonard Williams Justice Center. This is the area behind the Queen Theater and in front of the Renaissance Center (405 N. King Street). There will be no ability to accommodate broadcast trucks on the courthouse property itself due to security and access issues. Parking availability along King Street will be on a first-come, first-served basis and no reserved spaces. **Police will ticket, and possibly tow, any vehicles that park illegally outside the designated area.**

Further there will be no specified parking for media, but individual members of the media can use the public parking garage attached to the courthouse (fees apply) or in any other nearby public parking.

### GENERAL ADVISORY FOR THOSE WHO HAVE NOT COVERED COURT OF CHANCERY TRIALS

Trials in the Delaware Court of Chancery are different than usual civil or criminal trials. There is no jury, so there are generally no traditional opening statements or closing arguments. Proceedings are closer to those of an appellate proceeding where each of the parties are allotted a certain amount of time to make their case and once that time has expired their case is over. Similarly, the judge in the case may direct parties to focus on one particular aspect of the case at trial, indicating that he or she feels that arguments on other points were adequately covered in the briefs. Also, because the proceedings are for a Chancellor or Vice Chancellor, who is familiar with the law and generally familiar with the case, participants frequently do not pause to explain things – like complicated legal concepts or aspects of the law – as they normally might when presenting a case to a jury. Therefore, reporters covering Court of Chancery cases are advised to familiarize themselves with the case ahead of time by reading court filings (or perhaps coverage of the case in other media) if they want to follow proceedings and completely understand what is going on in court. Finally, while Court of Chancery judicial officers sometimes will rule from the bench at the conclusion of a trial, more commonly the Chancellor or Vice Chancellor who is presiding over a trial will simply thank participants once the allotted time for arguments have expired and issue a written ruling at a later date.

## MEMBERS OF THE MEDIA

### FOR PLANNING PURPOSES ONLY – TESLA TRIAL.

The Court of Chancery trial proceedings in case CA-12711-VCS *In Re: Tesla Motors Inc.* are set to commence at 9:15 a.m. on Monday July 12, 2021 at the Leonard L. Williams Justice Center (500 N. King Street, Wilmington Delaware) in Courtroom 7E.

I am reaching out to media organizations in advance to ensure that the proceedings go as smoothly as possible for the media, court staff and all involved in the trial.

To that end, media organizations that are planning on covering the proceedings at the courthouse should let me know so that we can gauge how many seats should be set aside for the media in the courtroom. We may not be able to meet all of the media's space needs but we are working to set aside at least two benches in Courtroom 7E on a first-come, first-served basis for credentialed members of the media.

Media representatives that will be attending should familiarize themselves with Vice Chancellor Joseph R. Slights III's protocol order, which is attached below. This order may answer many of your logistical questions, as it sets out the Vice Chancellor's expectations on how the trial will proceed and the expected conduct of all the parties. If you have any additional questions you may contact Court of Chancery Court Administrator Susan Judge at [Susan.Judge@delaware.gov](mailto:Susan.Judge@delaware.gov) or 302-255-0550, or myself.

While many COVID-19 restrictions, like a mask mandate for vaccinated individuals, have been eased in Delaware Court facilities some remain in place. Due to social distancing guidelines, seating in the courtroom will require individuals to sit at least three feet apart.

If you or your representative does not get a seat in the reserved media rows, limited general seating is available in Courtroom 7E. Media representative may also sit in an overflow courtroom that will have closed-circuit coverage of the trial in Courtroom 7F. There will be no off-site or remote access to proceedings. (During the trial one witness is expected to testify remotely and arrangements will be made to provide a phone number to the media to allow for audio-only access to this testimony.)

Media representatives who would like access to the press room on the first floor of the Leonard Williams Justice Center – or an alternate workspace we are setting up in the Law Library – but do not have a court-issued Media ID badge should get in touch with me about how to obtain one. *(A Media ID badge is not required to sit in on proceedings – any reporter can attend just as any member of the public – but a Media ID badge or a temporary pass from my office will be required to sit in the row set aside for the press in the courtroom and to access the Media Room and/or Law Library workspace and bring electronic devices into the courthouse.)*

Media representatives that would like to bring in a laptop FOR NOTE TAKING PURPOSES ONLY must be preauthorized to do so by the Court of Chancery. The rules and a request form for media representatives to bring a laptop into the courtroom are available here: [Guidelines for Use of Laptops by the Media - Court of Chancery - Delaware Courts - State of Delaware](#)

THE REQUEST FOR PERMISSION TO BRING A LAPTOP INTO THE COURTROOM SHOULD BE MADE AS SOON AS POSSIBLE. The Court of Chancery may not be able to respond to a request made on the day of trial and/or may be overwhelmed with requests so the best advice is to get the request in early.

For all media, we will have an area set aside on the plaza in front of the courthouse, near the exit for interviews. Please use this area and – at all times – please do not block the exit or entrance to the building.

Thank you for your attention.

Regards

Sean O’Sullivan

Chief of Community Relations

State of Delaware Administrative Office of the Courts

405 N. King Street, Suite 507

Wilmington, DE 19801

302-255-0093



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN RE TESLA MOTORS, INC.                    ) CONSOLIDATED  
STOCKHOLDER LITIGATION                ) C.A. No. 12711-VCS

**ORDER ESTABLISHING TRIAL PROTOCOLS**

The terms of this Order apply to the conduct of the trial and all trial-related events (the “Trial”) scheduled to begin at 9:15 a.m. on July 12, 2021, in Courtroom 7E (the “Courtroom”) of the Leonard L. Williams Justice Center (the “Courthouse”), Wilmington, Delaware. Nothing in this Order shall restrict the power, authority or responsibility otherwise vested in the Presiding Judge to control the conduct of any proceeding, maintain decorum and prevent distractions, guarantee the safety of the courtroom, including any party or witness, and ensure the fair and impartial administration of justice in the pending case.

**MANDATORY**

The provisions of Paragraphs 1 through 12 are mandatory and will be enforced accordingly by the Court and its agents.

1. Media representatives and members of the general public will be admitted to the Courtroom starting at 8:30 a.m. each day of Trial. A one-hour lunch recess will generally be taken each day at approximately 12:30 p.m. and the Court will provide mid-morning and mid-afternoon breaks.

2. Allocation of seating in the gallery of the Courtroom will be on a first come, first served basis, except that Rows 1 and 2 will be reserved for media representatives. Courtroom 7F will serve as an overflow courtroom for the media and the public. Once capacity is reached, the courtrooms will be closed. This trial is in-person only and therefore there will be no videostreaming of the proceedings.

3. Under the Chief Justice's Administrative Order No. 22, entered on June 29, 2021, persons who are not fully vaccinated are required to wear a mask in the courthouse, and persons who are fully vaccinated are no longer required to wear a mask in the courthouse. The 3-foot social distancing requirement remains in effect for all individuals and will be enforced in the courtrooms.

4. Policies and procedures for media access to court proceedings have been adopted by the Judicial Branch (Ex. A) and the Court of Chancery (Ex. B). These policies and procedures are incorporated by reference. If these policies and procedures conflict with this Order, this Order shall control. The ultimate authority to supervise the hearing and all associated events and the application of such policies and procedures rests exclusively with the Court.

5. Media representatives should obtain media credentials prior to seeking admittance to the Courtroom or wear credentials issued by their news affiliate that will identify them as a member of the media. Media credentials shall be worn and noticeably displayed by the media representatives at all times while in the

Courthouse. Media representatives may be required to show their media credentials upon request of the Capital Police or Court staff. Inquiries regarding media credentials are to be directed to Sean O’Sullivan, Chief of Community Relations, Administrative Office of the Courts.

6. No food is allowed in Courtrooms 7E and 7F. Trial counsel may bring bottled water into the Courtroom for the trial teams and witnesses.

7. No person, except those involved in the proceedings and designated court personnel, will be permitted beyond the attorney bar of the Courtroom at any time.

8. Neither media representatives nor the general public have standing to address the Court or speak during the time Court is in session. Anyone who violates this Order may be asked to leave the Courtroom without further notice.

9. The Capitol Police will be responsible for maintaining order and decorum in the Courthouse. All instructions given by the Capitol Police and orders of this Court must be complied with immediately. Failure by any person to do so may subject that person to sanctions by the Court.

10. No electronic transmission, video recording, photography, sound recording or any other electronic duplication of the proceedings of any type is permitted.

11. Media representatives will be permitted to use electronic devices in the Courtroom, but solely for the purpose of notetaking, and only as long as the use does not cause a distraction. No electronic device brought into the Courtroom may be used during the Trial for electronic-based communications, and electronic-based communications should be disabled to the extent practicable while the device is in the Courtroom. All sound or vibration notifications must be disabled while the device is in the Courtroom.

12. Media representatives who violate this Order may be subject to removal from the Courtroom and/or sanctions.

### **INFORMATIONAL**

The remaining Paragraphs are informational only and are intended to provide guidance to media representatives and members of the general public who will be attending the Trial.

13. The Courthouse public entrance opens at 8:30 a.m. All persons entering the Courthouse must pass through security screening and a secondary screening at the entrance to the Courtroom.

14. To locate parking near the Courthouse, please contact Wilmington Parking Authority <https://www.wilmingtonparking.com> or Colonial Parking <https://www.colonialparking.com>.

15. Access to power outlets will not be available in the Courtroom.

16. The Media Room on the First Floor of the Courthouse is available for media representatives to work. Please contact Sean O’Sullivan for access to the media room. In addition, the Courthouse law library located on the Second Floor will be available for media representatives to work. Workspace, power outlets and Wi-Fi are available in both locations.

17. All media inquiries or requests for information should be directed to the Chief of Community Relations, Sean O’Sullivan.

*/s/ Joseph R. Slights III*  
Vice Chancellor  
Dated June 30, 2021

# **EXHIBIT A**

# MEDIA COVERAGE, PUBLIC ACCESS AND RECORD MANAGEMENT

## VII. Media Coverage, Public Access and Records Management

### 1. Media Coverage:

- a. **Definition:** A "Media Representative" shall have bona fide credentials or identification issued by a bona fide media organization whose news reports are made available to the general public on a regular basis.
- b. **Policies:**
  - i. The Presiding Judge for each Court may establish guidelines for a Judicial Officer presiding over a case to authorize, at his discretion, photographic and electronic media coverage of non-jury, non-confidential civil proceedings under Rule 2.10 (C) of the Delaware Judges Code of Judicial Conduct.
  - ii. Video and audio recordings of Supreme Court non-confidential oral arguments are posted on the official website of the Delaware Judiciary in the time frame determined by the Supreme Court, generally two days after the oral arguments have concluded, and are available for one year thereafter.

### 2. Public Access to Court Administrative and Case Records:

Although the Judicial Branch, a separate, coequal Branch of government under our State Constitution, is exempt from the requirement of the [Delaware Freedom of Information Act, 29 Del. C. Chapter 100](#), the Judicial Branch supports the presumption of open public access to Court records, a presumption that can be out-weighted by other public policy concerns including security or confidentiality. The Judicial Branch has adopted formal public access policies or procedures covering the release of administrative and case records based on the *Template Policy on Public Access to Judicial Branch Administrative Records*, attached as [Appendix I](#). Judicial Branch policies are included and shall be posted online for the general public:

- a. Administrative Office of the Courts Policy Statement 18, *Delaware Administrative Office of the Courts Policy on Public Access to Administrative Records*, attached as [Appendix I-1](#);
- b. *Policy on Public Access to Supreme Court Administrative Records*, attached as [Appendix I-2](#);
- c. *Policy on Public Access to Records in the Delaware Court of Chancery*, attached as [Appendix I-3](#);
- d. Administrative Directive of the President Judge of the Superior Court of the State of Delaware (No. 2000-5) *Policy on Public Access to Superior Court Judicial Records*, attached as [Appendix I-4](#);
- e. *The Family Court of the State of Delaware Public Access Policy (May 8, 2007)*, attached as [Appendix I-5](#);
- f. Administrative Directive of the Chief Judge of the Court of Common Pleas for the State of Delaware (No. 2001-1) *Policy on Public Access to the Court of Common Pleas Judicial Records*, attached as [Appendix I-6](#);
- g. Justice of the Peace Court Policy Directive 14-249 (October 21, 2014) *Public Access to Administrative Records*, attached as [Appendix I-7A](#).
- h. Justice of the Peace Court Policy Directive 14-250 (October 21, 2014) *Public Access to Court Records*, attached as [Appendix I-7B](#).

3. **Online Judicial Opinions and Case Records:**

- a. **Public Records:** Judicial opinions and case records posted on the Judicial Branch's website or available through Court Connect are public records. The Judicial Branch will not impede online search engines from indexing or publishing opinions, except in limited circumstances warranting such exceptions.
- b. **Exceptions:** In limited circumstances, including a serious threat to an individual's safety or significant negative implications relating to an individual's ability to transact business or obtain or retain employment or housing, an individual may request that access to an opinion or Court record be restricted.
  - i. An individual requesting restricted access to records shall send her application to the Court that published the opinion or maintains the record and shall include the following information:
    1. name of the applicant (the applicant has to be the person whose name is referenced in the case(s)) or the legal representative of that person;
    2. case name(s);
    3. case number(s);
    4. Court from which the case(s) were issued; and reason(s) why the applicant is asking for restricted access to the opinion or case record.

- ii. The Court that published the opinion and maintains the record shall determine whether online access to the record or opinion should be restricted.
- iii. The administrative or computer costs associated with implementing the actions may be assessed to the applicant. If costs will be assessed in a particular situation, the applicant will be provided an estimate, and must agree to pay the costs, in advance of the performance of the work.
- iv. The Judicial Branch is not responsible if opinions or Court records continue to be available online from other websites through non-state search engines once the Judicial Branch has removed the information from its website.

# **EXHIBIT B**

# **GUIDELINES FOR USE OF LAPTOPS BY THE MEDIA**

Please note policy revision

The following guidelines apply to the use of laptops by members of the media attending Court of Chancery proceedings and are to be strictly adhered to:

- a. Authorized media representatives may bring a laptop computer into the courtroom for the sole purpose of note taking while Court is in session. For purposes of this policy, a media representative shall have bona fide credentials or identification issued by a bona fide media organization, whose news reports are made available to the general public on a regular basis.
- b. The laptop must fit onto the user's lap and not take up any additional space. It must be positioned and operated silently and in a manner which does not cause any distractions or detract from the dignity and decorum of the proceeding. Laptops must operate on battery power due to the limited amount of space and number of electrical outlets in the courtrooms, and to reduce the risk of accidents caused by excessive wires in the walkway. Users will be able to charge laptops outside of the courtroom during breaks.
- c. Laptops shall **not** be used in the courtroom to broadcast, webcast, record audio or video, photograph, e-mail, or transmit by any other means. Internet usage interferes with equipment used by court reporters, therefore electronic transmissions via WiFi, air card, wave card or any other means is strictly prohibited.
- d. Although laptops will be permitted with prior approval, the following devices remain prohibited: audio recorders, cell phones, smart phones, iPads, iPods, and any other device that can access the internet via mobile broadband technology, *i.e.*, 3g, 4g, or LTE.
- e. Requests to bring a laptop must be submitted by completing the [Laptop Authorization Form](#) attached hereto (or fillable form below), along with instructions.

- f. Upon approval by the Chancellor or Court Administrator, a media representative will be authorized to use a laptop, in accordance with this policy, during Court of Chancery proceedings. This privilege may be retracted by the presiding Judicial Officer at any time during a proceeding, for any reason. A presiding Judicial Officer may authorize use of a laptop consistent with these guidelines, on an ad hoc basis, while consideration of the Laptop Authorization Form is pending.
- g. Media representatives who violate this policy will lose the privilege of using a laptop during Chancery proceedings, may lose the privilege of attending future Chancery proceedings, and may be subject to the penalties of civil contempt.
- h. This authorization will commence on the date of approval and shall remain in effect for a time period to be determined by the Court.

## Delaware Court of Chancery Laptop Authorization Form

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Before filling out the Authorization Form, please be sure to read the above [Delaware Court of Chancery Guidelines for Use of Laptops by the Media](#).

First and Last Name:

Media Outlet:

Email Address:

Phone Number (with area code):

*Please note policy revision*

*By initialing below, I acknowledge that I have read the Court of Chancery Guidelines for Use of Laptops by the Media. I agree to use the laptop for **note taking purposes only** while in the courtroom and I will not connect to the Internet, broadcast, webcast, record audio or video, take photographs, send email or transmit by any other means including those not specified herein. I acknowledge that the Chancellor or a presiding Judicial Officer may retract this authorization at any time for any reason.*

Initials:

Date:

Reset Submit