

SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	)	
	)	
v.	)	
	)	
JARREAU AYERS,	)	ID No. 1710003395
DERRIC FORNEY,	)	ID No. 1710003439
ROMAN SHANKARAS,	)	ID No. 1710003500
DWAYNE STAATS,	)	ID No. 1710003516
	)	
Defendants.	)	

**PROTOCOL ORDER GOVERNING TRIAL**

This 4<sup>th</sup> day of October, 2018, to ensure that the proceedings are conducted in an orderly manner and that both parties receive a fair adjudication, the following order is entered. The Court may rescind or modify this Order at any time.

The terms of this Order apply to the conduct of the trial and all trial related events (hereinafter “Trial”) scheduled to begin jury selection at 10:00 a.m. on October 8, 2018, in Courtroom 8B of the Leonard L. Williams Justice Center (“Courthouse”), Wilmington, Delaware. The Trial will begin on Monday, October 22, 2018 in Courtroom 8B.

The provisions noted as “Mandatory” shall be applied by the Court and enforced accordingly by its officers and agents. The provisions noted as “Informational” are intended to provide meaningful structure and guidance to those Media Representatives and members of the General Public who will be attending the Trial.

## MANDATORY

1. Media Representatives and members of the General Public will be admitted to Courtroom 8B at 9:30 a.m. each day of Trial. A one-hour lunch recess will generally be taken each day at approximately 1:00 p.m. and the Court will provide mid-morning and mid-afternoon breaks.
2. Allocation of Seating in the Courtroom will be on a first come first serve basis: Row 1 will remain vacant for security reasons; Row 2 will be reserved for Media Representatives and the remaining rows will be for the General Public.
3. Policies and procedures for media access to court proceedings have been adopted by the Judicial Branch (Ex. A) and the Superior Court (Ex. B). These policies and procedures are incorporated herein by reference. To the extent that 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 Superior Court.

4. 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 or on State property immediately adjacent to the Courthouse. Media Representatives may be required to show their media credentials upon request of the Capitol Police, Superior Court's Court Security Officers or Superior Court staff. Inquiries regarding media credentials are to be directed to Sean O'Sullivan, Chief of Community Relations, Administrative Office of the Courts.
5. No food or beverages are allowed in the Courtroom.
6. No person, except those immediately involved in the proceedings and designated court personnel, will be permitted beyond the attorney bar of the Courtroom at any time.
7. Neither the media nor the general public have standing to address the Court or speak during the time that Court is in session. Should anyone violate this Order, they may be asked to leave the Courtroom without further notice.

8. Attendees may not converse or make gestures that are disruptive to the proceedings or distracting to jurors or witnesses.
9. Defendants are not permitted, while in the courtroom, to communicate or attempt to communicate with anyone in the General Public section of the Courtroom.
10. No one from the General Public or Media Representatives may attempt to communicate with any Defendant while Trial is in session.
11. The Capitol Police and the Superior Court's Court Security Officers ("Court Security Officers") will be responsible for maintaining order and decorum in the Courthouse. All orders given by the Capitol Police or the Court Security Officers shall be deemed orders of this Court and must be complied with immediately. Failure by any person to do so may subject that person to sanctions by the Court.
12. No electronic transmission, video recording, photography, sound recording or any other electronic duplication of the proceedings of any type is permitted in the Courtroom.
13. Media Representatives will be permitted to use electronic devices in the Courtroom, solely for the purpose of note-taking as long as the use does not cause a distraction. Any electronic device worn or brought into the Courtroom shall not be used during the Trial for electronic

based communications and shall not be set in a mode that permits transmission of any form of communication to any person or device either in or out of the Courthouse. Electronic devices shall be set in a mode which prohibits the device from making any sound or vibration while the device is in the Courtroom.

14. Any Media Representative who violates the provisions of this Order regarding the use of electronic devices may be subject to sanctions.

#### **MANDATORY JUROR LOGISTICS**

15. The identities of the jurors shall not be revealed to the public or media. Any references to the jurors in public, including within the courtroom, shall be by juror number only.
16. General *voir dire* will be conducted in Courtroom 8B and juror specific *voir dire* will be conducted in Courtroom 8C.
17. All rules enumerated herein, including seating arrangements, apply to the Trial as well as to *voir dire*.
18. Any attempt to contact the jurors or to interact with the jurors in any way or to obtain any personal information about the jurors is strictly prohibited. In the event of contact with any juror, the Court will inquire into how the juror information became available. Anyone violating this Order may be subject to criminal contempt proceedings.

19. Conversations, interviews, and written communications with prospective jurors before the completion of *voir dire* and with selected jurors, including alternates, before the Court discharges the jury at the conclusion of the Trial, are prohibited.
20. After the jury renders a verdict and the Court discharges the jury, jurors may consent to talk with the news media concerning the case. However, jurors are not obligated to discuss this case with anyone at the Trial's conclusion, and once a juror indicates his or her desire not to discuss the case, there can be no further attempts to contact that juror. Under the Rules of Professional Responsibility, Counsel is prohibited from contacting jurors or discussing the case with them.
21. The Court will not permit any depictions or identification of individual jurors in any manner including, but not limited to, artist renditions or written descriptions.
22. Media Representatives and the General Public shall not capture any juror's image on any device at any time.
23. Any Media Representative or member of the General Public who violates the provisions of this Order regarding contact with jurors or the capturing of any juror's image may be subject to sanctions.

## INFORMATIONAL

24. 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.
25. Reserved parking for media production/satellite trucks will be available near the Courthouse in the Customs Building parking lot beginning at 7 a.m. on Monday, October 8, 2018 and each day of the Trial. Arrangements for this reserved parking should be made through Sean O'Sullivan, Chief of Community Relations, Administrative Office of the Courts.
26. Overflow parking for the media will be available behind the Courthouse on Walnut Street. The overflow parking will only be available if the reserved parking is full. All arrangements for the overflow parking should be made through Sean O'Sullivan, Chief of Community Relations, Administrative Office of the Courts. Media credentials are required and must be provided upon request.
27. To locate additional parking near the Courthouse, please contact Wilmington Parking Authority <http://www.wilmingtonparking.com/> or Colonial Parking <http://colonialparking.com/>.
28. Access to power outlets will not be available in the Courtroom.

29. The Media Room on the First (1<sup>st</sup>) Floor of the Courthouse is available for Media Representatives to work. In addition, the Courthouse law library located on the Second (2<sup>nd</sup>) Floor will be available for Media Representatives to work. Work space, power outlets and Wi-Fi are available in both locations.
30. All media inquiries or request for information should be directed to Superior Court's Public Information Officer:

Linda M. Carmichael, Esquire  
Chief Staff Attorney  
Linda.carmichael@state.de.us  
Cell phone: 302-593-4815  
Office phone: 302-255-2687

Nothing in this Order shall limit or 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, witness, or juror, and ensure the fair and impartial administration of justice in the pending case.

IT IS SO ORDERED this 4<sup>th</sup> day of October, 2018.

  
Judge William C. Carpenter, Jr.



# **EXHIBIT A**

## Operating Procedures

Branch Procedures Menu ▼

# Media Coverage, Public Access and Records 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 (<http://delcode.delaware.gov/title29/c100/>), 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-1  (</forms/download.aspx?id=83608>). 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  (</forms/download.aspx?id=83618>);
- b. *Policy on Public Access to Supreme Court Administrative Records*, attached as Appendix I-2  (</forms/download.aspx?id=83628>);
- c. *Policy on Public Access to Records in the Delaware Court of Chancery*, attached as Appendix I-3  (</forms/download.aspx?id=83638>);
- 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  (</forms/download.aspx?id=83648>);
- e. *The Family Court of the State of Delaware Public Access Policy (May 8, 2007)*, attached as Appendix I-5  (</forms/download.aspx?id=83658>);
- 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  (</forms/download.aspx?id=83668>);
- g. Justice of the Peace Court Policy Directive 14-250 (October 21, 2014) *Public Access to Court Records*, attached as Appendix I-7  (</forms/download.aspx?id=83678>).

### 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.

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# EXHIBIT B

## **Interim Guide for the Use of Electronic Devices by Media Representatives<sup>1</sup> in the Superior Court**

Pursuant to the Supreme Court's Operating Procedures § VII (1)(b) the Superior Court hereby establishes the following interim guidelines for use of electronic devices by Media Representatives ("Superior Court Media Guidelines" or "Guidelines"). The Superior Court Media Guidelines apply to the use of all electronic devices, including but not limited to cell phones, personal digital assistants (PDAs), personal computers (laptops, tablets), wearable electronic devices (Google Glass, Apple Watch) and all similar devices capable of transmitting, receiving, recording or storing messages, images, sounds, data or other information by electronic means, by Media Representatives. The use of all electronic devices is strictly controlled within court facilities. Prohibited uses include all photographic and videography, including sound recordings, broadcast sound, and broadcast still or moving images.

Use of electronic devices in the Superior Court is presumptively prohibited. The Supreme Court's Operating Procedures reference possible restricted use of electronic devices in certain limited proceedings – civil, non-jury, non-confidential proceedings, but only with permission of the presiding Judicial Officer. The Media Representative may seek prior written permission from the presiding Judicial Officer to bring a laptop or tablet<sup>2</sup> into a courtroom on which to take notes during the proceeding by submitting a Request Form (Ex. A) within two business days of the proceeding only if the proceeding is a civil, non-jury, non-confidential proceeding. If prior permission is received, a laptop or tablet may be used for note-taking only so long as the device is muted, makes no audible sound, does not record sound or picture and is not disruptive of the court proceeding. Any media representative who is granted permission to use a laptop or tablet shall sit in the rear of the courtroom and must be as inconspicuous as possible. Any electronic transmission of information from the courtroom is prohibited. Official transcripts of proceedings may be ordered through the Court Reporters' Office. After a Superior Court Judicial Officer approves a Media Representative's request to bring in a laptop or tablet into a courtroom for note taking purposes, that permission may be revoked or further restricted at any time.

Members of the media desiring to access the courthouse with electronic devices shall first obtain a valid media credential issued by the Chief of Community Relations, Administrative Office of the Court. Valid media credentials shall be visible at all times while in the courthouse. Media Representatives will not be permitted to bring in electronic devices without their assigned media credentials. Media representatives shall not bring in electronic devices for use by another Media Representative or any other person. With valid media credentials a Media Representative may bring electronic devices into the courthouse for use in the media room. All electronic devices must remain muted or silenced so that no audible sound is heard and any recording function is disabled at all times outside of the Media Room.

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<sup>1</sup> "Media Representative" shall have the meaning as set forth in the Operating Procedures for the Delaware Judicial Branch, which requires such person to "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."

<sup>2</sup> Electronic devices permissible in courtrooms are limited to laptops and tablets (including iPads) because they are the most useful note taking devices.

No electronic devices are permitted in any courtroom without prior written permission from the presiding judicial officer. A request to use electronic devices is restricted to civil, non-jury, non-confidential proceedings.

Anyone found to be in violation of the provisions of these Guidelines is subject to having the electronic device confiscated, having that person's media credentials revoked and may be subject to contempt proceedings.

The effective date of these Interim Guidelines is November 25, 2015.

DATED: November 24, 2015

/s/ Jan R. Jurden  
President Judge

**EXHIBIT A**  
**DELAWARE SUPERIOR COURT**  
**REQUEST FOR LAPTOP OR TABLET USE**  
**IN CIVIL NON-JURY, NON-CONFIDENTIAL PROCEEDING**

Name (including affiliated media organization): \_\_\_\_\_

Contact Information (address, email, phone no.): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Date of Request: \_\_\_\_\_ Date of Requested Access: \_\_\_\_\_

If specific case related: Date of Proceeding: \_\_\_\_\_ Time of Proceeding: \_\_\_\_\_

Case No.: \_\_\_\_\_ Case Name: \_\_\_\_\_

The type of Expanded Media Use requested: \_\_\_\_\_ Type of Electronic Device requested: \_\_\_\_\_

\_\_\_\_\_ note taking purposes only      laptop \_\_\_\_\_ tablet \_\_\_\_\_

Additional information for consideration of request: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Requests must be submitted at least two business days prior to the requested date of access. Submitting requests five days prior to the proceeding is appreciated to allow for ample response time. Please submit completed form to \_\_\_\_\_.

By signing below, I acknowledge that I have read the Superior Court's Guidelines for Use of Electronic Devices by Media Representatives. I agree to use the electronic devices in compliance with the Guidelines and for the purpose indicated on this request. If permitted to use a laptop or tablet for note-taking purposes only while in the courtroom I will not connect to the internet, record audio, still or video photography, broadcast or webcast. I acknowledge that the President Judge, Resident Judge, or a presiding Judicial Officer may retract this authorization at any time for good cause. I understand that this authorization expires on the last day of the requested proceeding and I must submit a new request for future access.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name