



Maneke's law column

More changes for court camera rules

These columns that run in the off-months between the MPA News Magazine are intended to focus on technical issues for newspapers. Two months ago, the column looked at the proposed changes to Supreme Court Operating Rule 16 (COR 16) – the “cameras in the courtroom” rule. The rule published on March 21 was a proposed final rule, which the Supreme Court issues to allow interested parties to make final suggestions before its implementation.

In fact, that's what happened this time to this Rule. Coincidentally, shortly after the initial draft was issued, cameras in the courtroom became a significant issue, given that a criminal trial of then-Governor Eric Greitens was looming and the trial court, after due consideration of a number of factors, issued an order severely limiting camera access to only a short period at the beginning of the trial.

Changes to the rule announced in this May 29, 2018, order include an addition of a proposed “media hearing,” in which a court may hear objections to media coverage and set terms and conditions of media coverage. While such hearings have been held in the past in some courts, this suggestion by the Court will encourage such hearings, enabling media representatives to work with the court to satisfy the judge's (and participants') concerns.

One very significant modification is in the language in COR 16.04. Before, the rule only provided for one still photographer in each case. The new rule provides that a judge may choose at times to approve (in advance) including more than one photographer. In addition, the rule now provides for approved media equipment to be in place in the courtroom 30 minutes in advance of the time the proceeding is to begin. The new amendment also acknowledges that a judge may authorize the media to use “electronic devices solely for textual note taking and writing if they are configured to operate quietly and in such a manner as to avoid undue distractions.” If a reporter wants to take a tablet or other

small computer device into the courtroom to take notes, rather than the traditional pen and notebook, it's going to be important to give the judge notice IN ADVANCE and get clearance for such activity. And the way the rule is worded, it doesn't seem unreasonable to suggest that there couldn't be clearance in advance for a reporter who regularly covers cases in a judge's courtroom to obtain such clearance in advance for regular reporting activities, rather than have to seek clearance in each case

Also, the new rule changes language about courtroom decorum, simply suggesting reporters appear in “suitable business attire.” Earlier, the proposed rule suggested that the media needed to dress more like lawyers and court reporters. This rule relaxes that standard slightly, but reporters are encouraged to always respect the decorum of the courtroom by the attire they wear to do their job in those locations.

Two other orders announcing rule changes were announced in late May. One was an order repealing Rule 11 of the Model Local Court Rules. Previously, Rule 11 contained language stating “All persons except those authorized by the court to preserve the record shall refrain from broadcasting, televising, recording, or taking photographs in the courtrooms and in the corridors and stairways adjacent thereto while court is in session and during recesses.” A number of circuits in the state had adopted this rule or a form of it, and it became an issue in a few cases where applications were filed for cameras in the courtroom, including during the debate regarding the Greitens trial. Once brought to the Supreme Court's

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attention, this new Order was issued repealing it.

Additionally, problems that have developed in the last year in a number of circuits over closed case records that previously had appeared in CaseNet generated an order creating a new subdivision (d) to Court Operating Rule 2. That provision now states “Access to case records as provided by this Court Operating Rule 2.04 shall not be restricted in anticipation of a jury trial without a court

order setting forth specific findings supporting a compelling justification to restrict access.” Worry over jury panel members seeking to “research” possible pending trials has caused judges to choose to remove court records from CaseNet access. Entire cases would disappear from the database just before trial. This should require a court to engage in thoughtful consideration before choosing to restrict public access.

As a reminder, however, I have been told that generally local court clerks still make docket information available to reporters, if they show up at the courthouse personally. There is no rule that provides this, however, so it may solely be at your local circuit court's discretion. If you are denied access, I would never hesitate to take it up with your local judge, perhaps simply for the reason that it reinforces the importance to the media of having access to such records when covering a trial.

