RULES ON ELECTRONIC COVERAGE OF JUDICIAL PROCEEDINGS

1. Purpose.

The Judiciary of Guam (the "Judiciary") is responsible for adjudicating controversies, both civil and criminal, in accordance with established legal principles and ensuring the fair and equal administration of justice.

The purpose of the Rules on Electronic Coverage of Judicial Proceedings (the "Rules") are: (1) to provide public access to the courts while ensuring the right of any party to a fair trial; (2) to acknowledge the existence of new technology and to permit its use in and around the courthouse, subject to restrictions; (3) to avoid delay or interference in judicial proceedings; and (4) to maintain appropriate courtroom decorum.

2. Definitions.

a. "Court" means the courtroom at issue, the Judiciary of Guam and Northern Court Satellite courthouses, including their commons areas, entrances and exits, and any other areas in which judicial proceedings are held by the Judiciary.

b. "Electronic coverage" means transmitting, broadcasting, televising, recording or taking photographs by any means, including but not limited to, video cameras, still cameras, electronic devices with photographic or recording capabilities, or computers.

c. "Electronic device" means any device, including any portable device, that has the capability to transmit, broadcast, televise, record and/or take photographs and also includes any similar electronic devices whether now in existence or later developed.

d. "Judge" means the particular justice, judge, magistrate judge, or judicial officer presiding over the judicial proceeding in which electronic coverage is requested.

e. "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court of Guam or by any public servant authorized by law to impanel a jury, and also includes any person who has been drawn or summoned as a prospective juror.

f. "Media" shall include any organization or person who regularly gathers, prepares, photographs, records, broadcasts, writes, edits, or publishes news or information about matters of public interest in any medium and who successfully applies to participate in electronic coverage and agrees to comply not only with the Rules, but with all court rules.

g. "Party" or "Parties" mean the prosecutor, the plaintiff, the defendant, or any litigant of record who has appeared in a case.

h. "Pooling arrangements" means any method in which a judge may require the media to enter into an arrangement to pool their coverage, either upon order of the judge or among the media representatives, with data or information to be made available to all pool participants in a generally accepted form or format, and with any costs associated with establishing media pool coverage to be shared among the pool participants.

i. "Proceeding" or "Proceedings" means any trial, hearing, motion, hearing on an order to show cause, petition, appellate argument, or any other matter held in open court which the public is entitled to attend.

j. "Requestor" means a person who desires to transmit, broadcast, televise, record or photograph a judicial proceeding and who requests permission from the judge to do so after obtaining media credentials and obtaining a signed agreement for use of electronic devices.

3. General.

a. Applicability.

(1) The Rules apply to the media's request to transmit, broadcast, televise, record or take photographs of a judicial proceeding. The Rules do not govern the coverage of a judicial proceeding by media who are not using electronic devices in the courtroom.

(2) The Rules apply to judicial proceedings of the Supreme Court of Guam and the Superior Court of Guam.

(3) The Rules are not intended to alter any rules of professional or judicial conduct or canons of ethics of attorneys or judges, except as specifically provided for in the Rules.

(4) If electronic coverage is permitted under the Rules, such coverage shall be impartially given to all media representatives.

(5) Nothing in the Rules are intended to limit or restrict the power of the judge to control the conduct of the judicial proceedings.

b. Prior Authorization. No electronic coverage shall occur without the prior express authorization from the judge presiding over the judicial proceeding, who may prescribe conditions of coverage as provided by the Rules.

c. Common Areas and Grounds of the Courthouse. The media may use electronic devices in the common areas of the courthouse, subject to reasonable restrictions that may be put into place by the Judiciary and/or judge that are appropriate to maintain safety, decorum and order. Media shall take appropriate measures to ensure that the entrances and exits to the courthouse are kept clear in order that the public may enter and leave the courthouse safely and without undue interference.

d. Dress and Decorum. The media should present a neat appearance in keeping with the dignity of the proceedings. The decorum and dignity of the court, the courtroom and the proceedings must be maintained at all times.

4. Credentialing of Media and Agreement for the Use of Electronic Devices.

a. Actions Required Before Use of Electronic Device at Court. Before using an electronic device in the courtroom, the person must apply for media credentials and execute an agreement for the use of electronic devices (the "Agreement").

b. Submitting an Application and Agreement. The application for media credentials (the "Application") and Agreement shall be accessible on the Judiciary website. The Application and Agreement shall be submitted to the Administrator of the Courts, or his designee, for approval. A form of the Application and Agreement are attached to the Rules as Attachment 1. If the Application is approved, a Media Identification Badge shall be issued to the applicant. The Media Identification Badge shall be worn and be clearly visible to the judge while in the courtroom. A copy of an approved Application and a copy of the executed Agreement signed and dated by the Administrator of the Courts, or his designee, shall be provided to the applicant.

c. Duration of Application and Agreement. The approved Application and Agreement shall be valid for a two year period from the date of approval, provided all information set forth by the applicant shall remain complete and accurate during that period.

d. Permitted Uses Upon Approval of Application and Agreement. A person with valid credentials may use an electronic device inside a courtroom to silently take notes and/or transcribe information, without obtaining prior authorization from the judge. The judge may prohibit or further restrict use of electronic devices used to take notes or transcribe information, if such use interferes with the administration of justice, poses a threat to safety or security, or

compromises the integrity of the proceedings. However, in order to transmit, broadcast, televise, record or photograph a judicial proceeding, aside from possessing valid media credentials, permission must be granted by the judge after submission of a signed Request for Electronic Coverage Form as provided in the Rules.

e. Violation of Agreement. Violation of the Agreement shall subject the person to such sanctions as the court may deem appropriate including, but not limited to, contempt of court.

5. Initial Appearances in Criminal Proceedings.

a. Permission Required. For initial appearances in criminal proceedings, a Request for Electronic Coverage Form (the "Request Form") must be submitted at least 24 hours before the proceeding commences unless such proceeding is scheduled on less than 24 hours' notice. A form of the Request Form is attached to the Rules as Attachment 2. Such electronic coverage, if authorized by the judge, is subject to objection by the prosecutor, defendant or defendant's attorney.

b. Objection(s) to and Ruling on Request. The judge may rule on the basis of an oral objection alone. If a judge denies a request for electronic coverage, the judge shall state on the record, whether orally or in writing, the reason for the denial.

c. Limited to Initial Appearances. A judge's authorization of electronic coverage of an initial appearance applies only to the particular initial appearance. Authorization for electronic coverage of proceedings subsequent to the initial appearance must be requested separately under Section 6 of the Rules.

6. Electronic Coverage of Superior Court Proceedings.

a. Permission Required. All requests for electronic coverage in Superior Court proceedings, except initial appearances in criminal cases, shall be made in writing through the Request Form at least three days in advance of the time the proceeding is scheduled to begin, but the judge may grant such a request on shorter notice. When the proceeding is not scheduled at least three days in advance, the request for electronic coverage must be made as soon as practicable after the proceeding is scheduled. The chamber staff for each judge shall notify the attorneys of record that a request for electronic coverage has been made, unless circumstances make it impractical to do so. The judge may authorize the request for electronic coverage, but such authorization shall be subject to the objection of any party to a proceeding. All requests for electronic coverage which are timely filed as provided by this Section shall be determined by the judge prior to the commencement of the proceeding.

b. Objection(s) to the Request. A party to a proceeding objecting to electronic coverage must file a written objection, stating the grounds for objection, prior to the commencement of the proceeding, unless the party was not provided with notice of the request within a reasonable time. "Reasonable time" shall mean the period of time required for all parties to be notified in advance and shall consider the realities of court scheduling. In such cases, the parties may make an oral objection. The judge may rule on the basis of the written or oral objection alone or may hold a hearing on the objection. The objecting party, and all other parties, may be afforded an opportunity to present additional evidence in the discretion of and as directed by the judge. The judge in his absolute discretion may permit the media to file an objection, present arguments and/or evidence. The time for filing of objections may be extended in the discretion of the judge.

c. Ruling on the Request. If the judge approves the request for electronic coverage, the judge may orally make this determination on the record. If the judge places limitations on

electronic coverage, including the requirement that pooling arrangements be utilized, the judge shall issue a written order stating the limitations on electronic coverage. In the event the judge denies a request for electronic coverage, the judge shall issue a written order stating the reason for the denial. A form of the order to be issued is attached to the Rules as Attachment 3.

d. Modification or Revocation of Permission. The judge may, as to any or all media participants, modify or terminate electronic coverage at any time during the proceedings for reasons including, but not limited to, finding that the Rules or orders issued by the judge have been violated, or that substantial rights of individual participants or rights to a fair trial will be prejudiced if electronic coverage is allowed to continue. In the event of a modification or revocation of permission, the judge shall issue a written order stating the reason for such action.

7. Supreme Court Proceedings.

a. Permission Required. All requests for electronic coverage of Supreme Court proceedings shall be made through the Request Form at least 24 hours before the proceeding commences, however, the judge may grant such a request on shorter notice.

b. Objection(s) to the Request. The provisions in the Rules allowing objections to electronic coverage do not apply to Supreme Court proceedings.

c. Ruling on the Request. If the judge places limitations on electronic coverage, including the requirement that pooling arrangements be utilized, the judge shall issue a written order stating the limitations on electronic coverage. In the event the judge denies a request for electronic coverage, the judge shall issue a written order stating the reason for the denial.

8. Presumption in Favor of Electronic Coverage. In accordance with 8 GCA §1.23, under these Rules, there is a presumption that all courtroom proceedings that are open to the public are subject to electronic coverage.

a. Factors That May Be Considered by the Judge. In ruling on a request, the judge may consider the following factors:

(1) The importance of maintaining public trust and confidence in the judicial system;

(2) The importance of promoting public access to the judicial system;

(3) The parties' support of or opposition to the request;

(4) The nature of the case;

(5) The privacy rights and well-being of all participants in the proceeding, including witnesses, jurors and victims;

(6) The effect on any minor who is a party, prospective witness, victim or other participant in the proceeding;

(7) The effect on the parties' ability to select a fair and unbiased jury;

(8) The effect on any ongoing law enforcement activity in the case;

(9) The effect on any subsequent proceedings in the case;

(10) The effect of coverage on the willingness of witnesses to cooperate, including risk that coverage will engender threats to the health or safety of any witness;

(11) The effect on excluded witnesses who would have access to the televised testimony of prior witnesses;

(12) The scope of coverage and whether partial coverage might unfairly influence or distract the jury;

(13) The security and dignity of the court;

(14) Undue administrative or financial burden to the court or participants;

(15) The maintenance of the orderly conduct of the proceedings;
(16) The adequacy of the physical facilities of the court for coverage; and
(17) Any other factor affecting the fair administration of justice.

9. Restrictions on Electronic Coverage. The following restrictions apply to any permission granted for electronic coverage of judicial proceedings.

a. Proceedings Closed to the Public. There shall be no electronic coverage of any proceedings which are by law closed to the public, or which may be closed to the public and have been closed by the judge, including but not limited to, proceedings held in chambers, grand jury proceedings and juvenile proceedings.

b. Jurors. There shall be no electronic coverage of jury selection. Electronic coverage of the return of the jury's verdict may be permitted. In all other circumstances, electronic coverage of jurors is prohibited except to the extent it is unavoidable in the coverage of other trial participants or courtroom proceedings. The policy of the Rules is to prevent unnecessary or prolonged photographic or video coverage of individual jurors that would permit the identification of any juror.

c. Witnesses. At any time, and *for any reason*, the judge may exclude electronic coverage of any witness in the courtroom.

d. Court Conferences. To protect the attorney-client privilege there shall be no audio recording, broadcasts and/or transmissions of conferences between attorneys and their clients, between co-attorneys, between attorneys and the judge held at the bench, or between judges in an appellate proceeding. Still photographs and silent video are permitted.

10. Technical Requirements.

a. Media Personnel. Only media personnel with valid media credentials shall be allowed to conduct electronic coverage of judicial proceedings.

b. Equipment Specifications. Equipment used by the media in courtrooms during judicial proceedings must be unobtrusive and must not produce distracting sound. In addition, such equipment must satisfy the following criteria, where applicable:

(1) Still cameras and lenses must be unobtrusive and not cause distracting light or sound.

(2) Television cameras, together with any related equipment to be located in the courtroom, must be unobtrusive in both size and appearance, without distracting light or sound. Television cameras are to be designed or modified so that participants in the judicial proceedings are unable to determine when recording is occurring.

(3) Microphones, wiring and audio equipment must be unobtrusive and of adequate technical quality to prevent interference with the judicial proceedings being covered. The judge must approve any changes in existing courtroom audio systems. No modifications of existing systems shall be made at public expense.

(4) Media personnel shall not interrupt a judicial proceeding with a technical or equipment problem.

c. Setup of Personnel and Equipment. All media personnel and equipment must be in place at least fifteen minutes prior to the scheduled time of commencement of the proceeding.

d. Lighting. Other than light sources already existing in the courtroom, no flashbulbs or other artificial light device of any kind shall be used in the courtroom. With authorization from the judge, modifications may be made to light sources, provided such modifications are installed and maintained without public expense.

e. Location of Equipment and Personnel. Equipment and operating personnel must be located and coverage of the judicial proceedings must take place from an area or areas the judge designates within the courtroom.

f. Movement during Proceedings. Equipment and personnel may be installed in or removed from the courtroom only when the court is not in session. In addition, such equipment shall at all times be operated from a fixed position. Media personnel are prohibited from moving about the courtroom while proceedings are in session and from engaging in any movement that attracts undue attention.

g. Equipment and Pooling. The following limitations on the amount of equipment and number of media personnel in the courtroom apply:

(1) Where circumstances make it necessary, the judge shall require the media to pool equipment and personnel. The judge may order pooling arrangements in the event media representatives are unable to agree to such an arrangement.

(2) If pooling arrangements are employed, such data or information is to be available equally to all pool participants in a generally accepted form or format, and the pool representative shall charge no fees or expenses to other pool participants. The pool representative is not to be given any economic or coverage advantage over the other pool participants. If costs are associated with establishing media pool coverage, the costs shall be shared among the pool participants.

11. Appellate Review. No appellate review of the interpretation or application of the Rules shall be available to the media or the parties. The media or parties may, however, seek extraordinary relief by way of writ petition.

12. Sanctions. Any violation of the Rules or an order made under the Rules is an unlawful interference with the proceedings of the court and may be the basis for an order terminating electronic coverage, an order for contempt of court, or an order imposing monetary or other sanctions.