

## **AMENDMENTS TO THE RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until April 15, 2024, on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

Comments on the proposed amendments should be submitted in writing to: Bryan M. Smeenk, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215, or [RuleAmendments@sc.ohio.gov](mailto:RuleAmendments@sc.ohio.gov) not later than April 15, 2024. Please include your full name and mailing address in any comments submitted by email.

### Key to Adopted Amendments:

1. Unaltered language appears in regular type. Example: text
2. Language that has been deleted appears in strikethrough. Example: ~~text~~
3. New language that has been added appears in underline. Example: text

1                   **RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

2  
3 **RULE 11.     Recording of Proceedings.**

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5           **(A)     Recording devices methods.** Proceedings before any court ~~and discovery~~  
6 ~~proceedings~~ may be recorded by methods including, but not limited to, stenographic, means,  
7 ~~phonogramic means, photographic means, audio electronic recording devices, or video recording~~  
8 ~~systems~~ audio, or audio/video. The administrative judge may order the use of any method of  
9 recording authorized by this rule.

10  
11           **(B)     Appeal.** ~~Transcripts of proceedings in electronic media shall be prepared in~~  
12 ~~accordance with Rule 9(A) of the Rules of Appellate Procedure.~~

13  
14           **(C)     Custody.** ~~Electronically recorded transcripts~~ Electronic recordings of proceedings  
15 shall be maintained ~~and transcribed~~ in the manner directed by the trial court.

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17           **(D)     Transcript.** Electronic recordings of proceedings shall be transcribed in the  
18 manner directed by the trial court and in accordance with the Rules of Appellate Procedure.

19  
20           **(E)     Inspection of electronically recorded transcripts of proceedings electronic**  
21 **recordings of proceedings.** A party may request a copy of an ~~electronically recorded transcript~~  
22 electronic recording of proceedings a proceeding, or a portion of the transcript recording. The  
23 court may permit a party to listen to or view ~~or hear the transcript of proceedings on file with~~  
24 recording maintained by the court.

25  
26           **(F)     Reference to electronically recorded transcripts of proceedings.** ~~Reference to~~  
27 ~~a particular portion of an electronically recorded transcript of proceedings shall be to the event,~~  
28 ~~the number of the reel of tape on which it was recorded and the elapsed time counter reading.~~

29  
30           **(G)(E) Expense of electronically recorded transcripts electronic recordings of**  
31 **proceedings.** The expense of copies of ~~electronically recorded transcripts~~ electronic recordings  
32 of proceedings or a portion of the recording ~~such portions as are considered necessary by a party~~  
33 shall be borne by the requesting party or as provided by law. The expense of listening to or viewing  
34 ~~or hearing an electronically recorded transcript~~ electronic recording of proceedings under division  
35 (D) of this rule shall be borne by the requesting party. All other expenses of electronically recorded  
36 transcripts of proceedings shall be costs in the action.

37  
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39                                   **Commentary ([insert effective date])**

40  
41           Rule 11 is updated and simplified to reflect changes in court technology and to harmonize its  
42 provisions with the amendments to App.R. 9 that ensued over the years since this rule was enacted. In  
43 particular, App.R. 9 has evolved to require typed and printed transcripts in all cases. See 2011 Staff Notes  
44 to App.R. 9 (“Under App.R. 9(A), trial courts may choose to record proceedings through...an audio-  
45 recording device, and/or a video-recording device...Regardless of the method of recording the  
46 proceedings, a transcript is required for the record on appeal; a videotaped recording of the trial court  
47 proceedings is no longer adequate.”).

49 **Commentary (July 1, 1997)**

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51  
52 Rule 11 is analogous to former C.P. Sup. R. 10 and M.C. Sup. R. 8.

53  
54 The rule authorizes the use of any one of several media in recording proceedings before a court.

55  
56 In this comment and in the comment to Rule 12, the terms, "record," "transcript of proceedings,"  
57 "transcribe," and "transcription" are used. As a preliminary consideration, the manner in which these terms  
58 are used in these comments is set forth.

59  
60 The definition of "record" is the same as that contained in App. R. 9(A):

61  
62 The original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any,  
63 including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial  
64 court shall constitute the record on appeal in all cases. \* \* \*

65  
66 The transcript of proceedings is the part of the record that reflects the events in the trial not  
67 represented by original papers. Essentially, it is the testimony of witnesses and the oral participation of  
68 counsel and of the trial judge, as recorded by the court reporter, and required for the purposes of appeal.  
69 The transcript of proceedings is the end product of whatever medium is used to record the proceedings. In  
70 traditional practice, the stenographic notes constituted a transcript of proceedings in that oral testimony  
71 was transcribed into stenographic notes. Of course, a second transcription into written form was necessary  
72 to put the proceedings into a form that could be readily used by all.

73  
74 When the verb, transcribe, is used in these comments, it means preserving oral testimony by  
75 conversion to another medium. The other medium may be stenographic notes, videotape, motion picture  
76 sound track, or audio tape. It may also mean the conversion from one recorded medium to another.

77  
78 When the noun, transcription, is used, it means the copy, either in the original medium or in the  
79 conversion medium.

80  
81 **Rule 11(A) Recording Devices**

82  
83 Recordation represents the best method of providing an accurate base for the creation of a  
84 transcript of proceedings required for an appeal under App. R. 9(A). In civil matters, there is no obligation  
85 to record the proceedings before the court. However, the court must provide a means of recording the  
86 proceedings in a civil matter upon the request of a party. R.C. 2301.20 requires the court of common pleas  
87 to provide a reporter on request of a party or their attorney. That provision applies to the municipal court  
88 by virtue of R.C. 1901.21(A).

89  
90 Rule 11(A) authorizes stenographic means, which refers to shorthand in one of its forms.  
91 Phonogramic means refers to the use of a stenotype. Photographic means refers to sound motion pictures,  
92 the recording on photographic film. Audio electronic recording devices refers to the several systems for  
93 recording sound on magnetic tape, magnetic discs, or an impression disc or belt. A video recording system  
94 is one which records sound and picture on videotape.

95  
96 Rule 11(A) directs that the choice of method of recording of proceedings is vested in the  
97 administrative judge rather than in the individual judge in a multi-judge court.

98  
99 **Rule 11(B) Appeal**

100  
101 A major source of delay in the appellate process is the transcribing from stenographic notes to  
102 written record. One of the advantages of recording proceedings on videotape is that there is an instant  
103 record prepared. The preparation of briefs can begin at the conclusion of the trial without a lengthy wait for

104 the transcribing of the reporter's notes. Videotape has an advantage over the other electronic media in that  
105 it is easier to identify overlapping voices than it is in a pure audio recording.  
106

107 On appeal, the record is composed of the original papers (pleadings, motions, depositions, exhibits,  
108 etc.), the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal  
109 entries. The parties to the appeal have control over the extent of the transcript of proceedings under App.  
110 R. 9(B). The appellant selects the portions of the transcript that are necessary to the appeal. The appellee  
111 may require additional inclusions, if necessary to the resolution of the assignments of error. When the  
112 appellant intends to urge that a finding or conclusion is unsupported by the evidence or is contrary to the  
113 weight of the evidence, the appellant must include a transcript of all evidence relevant to the finding or  
114 conclusion. Even where it is claimed that a verdict is against the manifest weight of the evidence, it is not  
115 automatic that all evidence is relevant to that issue. For example, where a verdict finds no liability, evidence  
116 as to damages is not relevant to the issue of the verdict being against the manifest weight of the evidence.  
117 Appellants have followed a common practice of ordering the entire transcription of the proceedings for  
118 inclusion in the record on appeal, thus aggravating the problem of delay. The record on videotape negates  
119 the problem.  
120

121 Rule 11(E) requires that the reference in a brief to a particular portion of a videotape recorded  
122 transcript of proceedings be to the event, the reel of videotape, and the elapsed time counter reading. For  
123 example: Testimony of Dr. Doug Ross, Reel 3, 1:06:55 to 1:14:23. The party would have the testimony  
124 within that time span transcribed into written form and append it to the brief to comply with Rule 11(B). The  
125 party may make the transcription from the videotape or from an audio tape recording furnished by the  
126 reporter, provided there is an accurate frame of reference to the elapsed time counter. The inclusion assists  
127 the reviewing court in that the court does not have to place the appropriate reel on the playback equipment,  
128 find the appropriate portion, and view the testimony, remembering it for the purposes of decision.  
129

### 130 **Rule 11(C) Custody**

131

132 R.C. 2301.20 provides that the official shorthand reporter is required to retain and preserve the  
133 shorthand notes. The provision is necessary because the reporter may be called upon to transcribe the  
134 notes into written form. It is a difficult task for another person to transcribe a reporter's shorthand notes. In  
135 contrast, records made in electronic media are complete at the conclusion of the proceedings and do not  
136 require a reporter's transcription to be utilized by others.  
137

138 The trial court has custody and control over the electronic recordings of proceedings, including the  
139 release of the videotape recording after it has served its function. Videotape is reusable and specific  
140 provision is made in Rule 13(E) for the disposition of videotape recordings filed with the court. The same  
141 standards serve to guide the court in releasing a videotape recording of proceedings under this rule.  
142

### 143 **Rule 11(D) Inspection of electronically recorded transcripts of proceedings**

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145 All electronically recorded transcripts of proceedings are required to be maintained in the manner  
146 directed by the trial court as provided in Rule 11(C).  
147

148 Rule 11(D) provides that a party may view or hear the transcript of proceedings on file. Party is  
149 used as a simplified reference; the reference includes a party's counsel. There is a clear implication that  
150 electronic transcripts of proceedings are not available for indiscriminate public viewing, any more than  
151 stenographic notes in the hands of the official court reporter are available for public inspection and reading.  
152 Rule 11(C)(B) places the responsibility for custody and maintenance of the filed electronically recorded  
153 transcripts in the trial court. The court may entertain and dispose of requests to view the videotape record  
154 by persons other than parties or their counsel.  
155

156 The important aspect of the rule is that a party does not have to order a copy of the videotape  
157 recording in videotape or in an audio recording for the purposes of preparing an appeal. The party may  
158 work from the original. As a practical matter, the inexpensive audio cassette recording made

159 simultaneously with the videotape recording or made from the videotape sound track provides the  
160 information needed for brief preparation with the exception of the superimposed time readings.

### 161 **Rule 11(E) References to electronically recorded transcripts of proceedings**

162 The rule implements App. R. 16(D) and Rule VI, Section 1(B)(3) of the Rules of Practice of the  
163 Supreme Court. Those references contemplated written records and call for reference to the pages of the  
164 record. This rule adapts the reference system to the electronically recorded transcript of proceedings. The  
165 example used in the discussion above is repeated to illustrate the reference to videotape: Testimony of Dr.  
166 Doug Ross, Reel 3, 1-06-55 to 1-14-23.

### 167 **Rule 11(F) Expense of electronically recorded transcripts of proceedings**

168 The rule refers to three distinct areas of expense: (1) the recording of the proceedings themselves;  
169 (2) the securing of copies of the transcript of proceedings; and (3) the viewing of the transcript of  
170 proceedings.

171 The expense of recording the proceedings electronically may be made up of different items: the  
172 cost of the videotape used, a fee for personnel and equipment to make the recording, and a fee for renting  
173 equipment operated by court personnel. The rule provides that these expenses are costs in the action.  
174 The official shorthand reporter's services are paid for on an annual salary basis or, if the appointment is  
175 for less than one year, on a per diem fixed by the court. R.C. 2301.22. It is also provided that an \$25.00  
176 per diem fee be taxed as costs in each reported case and paid into the county general fund. R.C. 2301.21.  
177 The rule provision that the expenses of making the electronic recording of the proceedings be costs has  
178 the force of statute by virtue of Article IV, Section 5 of the Ohio Constitution and provides an equivalency  
179 to the statutory provision relating to an official shorthand reporter. The costs charged for electronic  
180 recording consist of the disbursements made by the court; the amounts applicable to the official shorthand  
181 reporter are not the amounts charged. Costs would not include allowances for regular court employees.  
182 The owner of the videotape is the party who pays the assessed costs, which include the price of the  
183 videotape used in the recording of the proceedings.

184 The rule provides that the cost of an electronically recorded transcript of proceedings shall be borne  
185 by the party requesting the copy or as provided by law. This is in contrast to the provisions made for copies  
186 of transcripts from the notes of the official shorthand reporter. R.C. 2301.24 provides that the requesting  
187 party pay the compensation specified directly to the reporter, and R.C. 2301.25 provides that the cost of  
188 the transcript shall be charged as costs in the case. The same statutes provide that the cost of copies  
189 ordered by the trial judge or the prosecuting attorney are to be paid from the public treasury and charged  
190 as costs in the case. The difference in treatment between an electronically recorded transcript and one  
191 recorded stenographically or phonographically is that the electronic transcript is completed, accessible and  
192 usable at any given time without a transcription. A transcription is a convenience, not a necessity, in  
193 contrast to stenographic notes which must be transcribed to be useful. R.C. 2301.24 and 2301.25, relating  
194 to the provision of transcripts to indigent criminal defendants remain in effect, leaving the matter to the  
195 discretion of the trial court. Copies of the transcript may be whole or partial. It may be in the same medium  
196 or it may be transcribed into another medium. For example, videotape may be reproduced, the sound track  
197 alone may be reproduced as an audio tape recording, or the testimony may be transcribed into written form.  
198 Rule 13(A). The cited section applies in municipal courts by virtue of R.C. 1901.21. An example of a  
199 provision of law which would make the cost of a transcript recorded on videotape an item of costs in the  
200 case is App. R. 24.

201 Electronically recorded transcripts of proceedings introduce a new factor, viewing or hearing the  
202 original transcript of proceedings for brief preparation or the purposes of post-judgment motions. The rule  
203 provides that the expense of such viewing or hearing is an expense to be borne by the requesting party.  
204 The provision has no counterpart in the statutes by virtue of the nature of the reporter's notes. The provision  
205 is commensurate with the requirement that the requesting party bear the cost of a copy. It is a substitute  
206 for securing a copy. Viewing or hearing by the prosecuting attorney will be at public expense whether  
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208  
209  
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213

214 through the prosecuting attorney's budget or through the court's budget. The rule does not provide for that  
215 expense to be charged as costs in the case as was true of the expense of copies under the cited statutes.  
216

217  
218 **RULE 12. Conditions for Recording, Broadcasting, and Photographing Court**  
219 **Proceedings.**

220  
221 (A) **Presiding judge Procedure.** The Unless otherwise provided by law, the judge  
222 assigned to the trial or hearing proceeding shall permit the audio, audio-video recording,  
223 broadcasting or reording by electronic means, and the taking of photographs in court proceedings  
224 that are open to the public as provided by Ohio law. After consultation with the media interested  
225 parties, the judge shall specify the place or places in the courtroom where the operators and  
226 equipment are to be positioned. Requests for permission for the broadcasting, televising, recording  
227 to broadcast, televise, record, or taking of take photographs in the courtroom shall be in writing  
228 and the. The written order of the judge shall be made a part of the record of the proceedings.  
229

230 (B) **Permissible equipment and operators.**

231  
232 (1) ~~Use of more than one portable television, videotape, or movie camera with one~~  
233 ~~operator shall be allowed only with the permission of the judge.~~  
234

235 (2) ~~Not more than one still photographer shall be permitted to photograph trial~~  
236 ~~proceedings without permission of the judge. Still photographers shall be limited to two cameras~~  
237 ~~with two lenses for each camera.~~  
238

239 (3) ~~For radio broadcast purposes, not more than one audio system shall be permitted in~~  
240 ~~court. Where available and suitable, existing audio pickup systems in the court facility shall be~~  
241 ~~used by the media. If existing audio pickup systems are not available, microphones and other~~  
242 ~~electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall~~  
243 ~~be visible.~~  
244

245 (4) ~~Visible audio recording equipment may be used by news media reporters with the~~  
246 ~~prior permission of the judge.~~  
247

248 (5) ~~Arrangements between or among media for "pooling" of equipment shall be the~~  
249 ~~responsibility of the media representative authorized to cover the proceeding. "Pooling"~~  
250 ~~arrangements are to be made outside the courtroom and without imposing on the judge or court~~  
251 ~~personnel. If disputes arise over arrangements between or among media representatives, the judge~~  
252 ~~may exclude all contesting representatives from the proceedings.~~  
253

254 (6) ~~The judge shall prohibit the use of electronic or photographic equipment that~~  
255 ~~produces distracting sound or light. No artificial lighting other than that normally used in the~~  
256 ~~courtroom shall be employed, provided that, if the normal lighting in the courtroom can be~~  
257 ~~improved without becoming obtrusive, the judge may permit modification.~~  
258

259 (7) ~~Still photographers and television and radio representatives shall be afforded a clear~~  
260 ~~view but shall not be permitted to move about in the courtroom during court proceedings from the~~  
261 ~~places where they have been positioned by the judge, except to leave or enter the courtroom.~~

262  
263 **~~(C)~~ Limitations.**

264  
265 (1) There shall be no audio ~~pickup~~ recording or audio broadcast of conferences  
266 conducted in a court facility between attorneys and clients or co-counsel, ~~or~~ of conferences  
267 conducted at the bench, ~~between counsel and the judge~~ or from the courtroom when court is not in  
268 session.

269  
270 (2) The judge shall ~~inform victims and witnesses of their right to object to being filmed,~~  
271 ~~videotaped, recorded, or photographed~~ permit any victim or witness who objects to being recorded,  
272 broadcasted, or photographed the opportunity to be heard in advance of testifying. A victim or  
273 witness may not object to the court recording the proceeding as part of its official record.

274  
275 (3) This rule shall not be construed to grant media representatives any greater rights  
276 than permitted by law.

277  
278 ~~(4) Media representatives shall not be permitted to transmit or record anything other~~  
279 ~~than the court proceedings from the courtroom while the court is in session.~~

280  
281 **~~(D)~~(C) Revocation of permission.** Upon the failure of any media representative person to  
282 comply with the conditions prescribed by this rule or the judge, the judge may revoke the  
283 permission to record, broadcast or photograph the trial or hearing proceeding.

284  
285 **(D) Permissible equipment and operators.**

286  
287 (1) Video, still photography, audio recording, or broadcasting of court proceedings  
288 shall be limited to one videographer, one still photographer, and one audio technician, unless  
289 otherwise ordered by the judge. In the event of multiple requests, the judge may order coverage  
290 of court proceedings to be conducted by pool representation. Individuals participating in the pool  
291 shall designate a pool representative. Access to video, photographs, and audio shall be shared with  
292 the pool. The pool arrangement shall be by agreement of the participants and the judge shall  
293 resolve any dispute.

294  
295 (2) The judge shall prohibit equipment or activity that is distracting to the proceedings.  
296 No artificial lighting other than that normally used in the courtroom shall be employed, provided  
297 that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the  
298 judge may permit modification.

299  
300 (3) For audio recording or broadcast purposes, not more than one audio system shall  
301 be permitted in the courtroom. Where available and suitable, existing audio pickup systems in the  
302 court facility shall be used. If existing audio pickup systems are not available, microphones and  
303 other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible  
304 but shall be visible.

305 (4) Videographers, photographers, and audio technicians shall not move about the  
306 courtroom while court is in session.

307  
308 **(E) Prohibition on recording jurors, witnesses, and juvenile defendants.** No audio  
309 recording, video or photograph of any juror, witness, or juvenile defendant shall be taken by any  
310 means by a person other than a media representative approved by the judge.

311  
312 **Commentary (insert effective date)**  
313

314 Rule 12 is updated and simplified to reflect changes in court technology and court practice,  
315 especially post-COVID-19 pandemic, including the routine broadcasting by courts of their public  
316 proceedings on websites such as Youtube and holding hearings publicly accessible online using programs  
317 like Zoom.

318  
319 Additionally, the amended rule and updated commentary delete portions of former Sup.R. 12(C)  
320 and previously existing commentary stating that “[t]he filming, videotaping, recording, or taking of  
321 photographs of victims or witnesses who object shall not be permitted.” That rule provision and commentary  
322 mirrored Canon (3)(A)(7)(c)(iii) of the Code of Judicial Conduct. That Code section no longer exists; thus,  
323 the amended rule and updated commentary no longer require or permit blanket orders not to film, videotape,  
324 record, or photograph objecting victims or witnesses.

325  
326 **Commentary (July 1, 1997)**  
327

328 ~~Rule 12 is analogous to former C.P. Sup. R. 11 and M.C. Sup. R. 9. Division (A) was revised to~~  
329 ~~include a reference to standards set forth in Ohio law, such as *In re T.R.* (1990), 52 Ohio St.3d 6, that~~  
330 ~~govern public access to court proceedings. The 1997 amendments also eliminated the prohibition against~~  
331 ~~changing film and videotape during court proceedings.~~

332  
333 **Rule 12(A) Presiding Judge**  
334

335 The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic  
336 means and the taking of photographs in court proceedings open to the public, upon request, if the judge  
337 determines that to do so would not distract the participants, impair the dignity of the proceedings or  
338 otherwise materially interfere with the achievement of a fair trial. Both the request for permission and the  
339 ruling on the request must be in writing and made a part of the record of the proceedings.

340  
341 ~~The filming, videotaping, recording, or taking of photographs of victims or witnesses who object~~  
342 ~~shall not be permitted.~~

343  
344 After consultation with the media the judge specifies the locations within the courtroom where  
345 operators and equipment may be located. ~~However, still photographers and television and radio~~  
346 ~~representatives must be given a clear view of the proceedings under division (B)(7).~~

347  
348 **Rule 12(B) Permissible Equipment and Operators**  
349

350 ~~Not more than one portable television, videotape, or movie camera with one operator and not more~~  
351 ~~than one still photographer with two cameras shall be allowed unless the judge presiding at the trial or~~  
352 ~~hearing specifically permits additional cameras or operators. Each of the two still cameras permitted by the~~  
353 ~~rule is limited to two lenses.~~

354  
355 ~~For purposes of radio broadcasting, not more than one audio system is permitted. If an existing~~  
356 ~~audio system is available and suitable, it shall be used. If an audio system is not available, then~~  
357 ~~microphones and other necessary equipment “shall be as inconspicuous as possible but must be visible.”~~



358 ~~Portable audio recording equipment may be used by reporters if it is visible and if the permission~~  
359 ~~of the judge presiding at the trial or hearing is first obtained.~~

360  
361 ~~All pooling arrangements are the responsibility of the media representatives. Pooling arrangements~~  
362 ~~must be made without involving the court. If any disputes arise, the judge may exclude all contesting media~~  
363 ~~representatives.~~

364  
365 ~~Electronic or photographic equipment that produces distracting sound or light shall be prohibited~~  
366 ~~by the judge. No artificial lighting, other than that normally used in the courtroom, is permitted unless the~~  
367 ~~judge, upon request and after consultation with the media representatives, determines that the normal light~~  
368 ~~can be improved without becoming obtrusive.~~

369  
370 ~~Still photographers and television and radio representatives shall not move about the courtroom~~  
371 ~~from the place where they have been positioned by the judge, except to leave or enter the courtroom.~~

### 372 **Rule 12(C) Limitations**

373  
374 ~~Audio pickup or broadcast of conferences in a court facility between attorney and client or between~~  
375 ~~counsel and the judge are prohibited.~~

376  
377 ~~The trial judge must advise victims and witnesses of their right to object to being filmed, videotaped,~~  
378 ~~recorded, or photographed.~~

379  
380 ~~No part of Rule 12 gives authority for media coverage where it is otherwise limited or prohibited by~~  
381 ~~law.~~

382  
383 ~~While the court is in session, media representatives are not permitted to either transmit or record~~  
384 ~~anything from the courtroom other than court proceedings.~~

### 385 **Rule 12(D) Revocation of Permission**

386  
387 ~~If any media representative fails to comply with the conditions set by either the judge or this rule,~~  
388 ~~the judge may revoke the permission to broadcast or photograph the trial or hearing.~~  
389  
390