

STATE OF ILLINOIS)
) SS.
COUNTY OF DU PAGE)

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT
DU PAGE COUNTY, ILLINOIS

IN THE MATTER OF MODIFICATIONS AND) Administrative Order No. 04-7
ADDITIONS TO THE CIRCUIT COURT RULES)

WHEREAS, the Circuit Judges of the 18th Judicial Circuit adopted local Circuit Court Rules on January 16, 2002; and

WHEREAS, from time to time the Circuit Judges find it necessary to ratify and codify certain revisions, amendments and additions to said local Circuit Court Rules; and

WHEREAS, on July 20, 2004, the Circuit Judges replaced Rule 1.01(d) with Rule 1.03; amended Rule 1.30; and added rule 2.09.

IT IS THEREFORE ORDERED that these changes, shown as adopted in Exhibit A attached hereto, were adopted into the local Circuit Court Rules to be effective as indicated.

ENTER:

ROBERT K. KILANDER
Chief Judge

Dated: August 13, 2004
Wheaton, Illinois

I. ADMINISTRATION OF THE COURT

ARTICLE 1: GENERAL RULES

1.01 GENERAL RULES

(a) *Applicability*: The General Rules apply to both civil and criminal proceedings. The Rules of the Circuit Court of the 18th Judicial Circuit, together with the Illinois Supreme Court Rules [not chaptered in ILCS], the Code of Civil Procedure (ILCS Ch. 735), and the Code of Criminal Procedure (ILCS Ch. 720), govern all proceedings except to the extent that the procedure in a particular kind of action is specifically regulated by a statute other than as therein provided.

(b) *Construction*: The Rules of the Circuit Court of the 18th Judicial Circuit are to be construed in accordance with the appropriate provisions of an Act to revise the law in relation to the construction of statutes, approved March 5, 1874, as amended (5 ILCS 70/1 *et seq.*), and in accordance with the standards stated in Paragraph 1-106 of the Code of Civil Procedure (735 ILCS 5/1-106).

(c) *Enforcement*: The Court shall enforce all rules and orders necessary to compel compliance with the Rules of the Circuit Court of the 18th Judicial Circuit and may apply remedies provided in Supreme Court Rules 21(c) and 219(c), as well as such sanctions, as passing the matter to the end of the call, striking it from the call or continuing it to a later date.

~~———— (d) *Court Reporting Services Employees*: (Replaced by 1.03)~~

~~———— (1) The Chief Judge shall appoint official court reporting services employees, as authorized by the Illinois Supreme Court, which employees serve at his pleasure.~~

~~———— (2) The Chief Judge, or the Reporter Supervisor under the direction of the Chief Judge, shall assign all such employees to their duties, consistent with relevant statutory authority, Administrative Regulations Governing Court Reporting Services for the Illinois Courts, and general administrative powers.~~

~~———— (3) Electronic reporting systems have been approved for use and installed in this Circuit. Pursuant to subparagraph (2) above, official court reporting services employees shall be assigned to be trained and to operate the electronic recording systems.~~

~~———— (4) The production of the physical medium storing the electronic recording of any court proceedings shall be monitored by trained court reporting services employees who shall certify that each retained electronic recording was fully and accurately recorded at the time and place indicated. Said certification shall be~~

~~affixed to and accompany the electronic recording medium, and the medium shall be securely preserved in an unaltered and unalterable condition.~~

~~(5) The electronic recording medium shall be the exclusive property of the Office of the Chief Judge of the 18th Judicial Circuit. The contents of the electronic recording medium shall be disseminated by transcript only, which transcript, and not the medium, shall be the Official Record.~~

~~(6) Transcripts generated from the electronic recording systems shall be prepared in accordance with applicable statutory authority, rule and administrative regulation and shall utilize the following certification:~~

~~I, _____, certify the foregoing to be a true and accurate transcript of the electronic recording of the proceeding of the above entitled cause, which recording contained the operator's certification as required by Local Rule 1.01(d)(4).~~

~~(Signature)~~

~~(License or Restricted License Number)~~

~~Date: _____~~

~~(7) If the accuracy of a certified transcript generated from the electronic recording system is questioned, the following procedure shall be used: (added effective 7/26/02)~~

~~(i) Every challenged portion of the transcript shall be identified in writing and provided to the Reporter Supervisor. A copy of the challenged portion of the transcript shall be given to the certifying reporter to make the necessary corrections.~~

~~(ii) If the certifying reporter and the person challenging the transcript's accuracy cannot agree upon the challenged portions, those portions shall be identified in writing and provided to the Reporter Supervisor.~~

~~(iii) The Supervisor shall cause identified portions to be reviewed against the archived electronic recording for accuracy, and designate necessary corrections to be made by the certifying reporter.~~

~~(iv) If the reporter, in good faith, is unable to certify the corrections designated, the dispute will be placed before the judge that heard the transcribed proceeding, with notice to all necessary parties.~~

~~(v) The certifying reporter shall personally appear and present the questioned transcript. The Reporter Supervisor shall present the disputed corrections, along with a digital recording of the proceedings. The judge shall review the material~~

~~presented, make any necessary changes in the certifying reporter's transcript, and issue a court order certifying the transcript as accurate.~~

~~(8) Transcripts generated from stenographic notes shall be prepared and certified by qualified official court reporting services employees pursuant to relevant statute, regulation and rule and are not affected by subparagraphs (3), (4), (5), (6) and (7) above.~~

~~(9) Unless specifically authorized by court order to the contrary, only a transcript certified by one of the official court reporting services employees of this Circuit is the Official Record. The Official Record shall be given preference for use in all courtrooms and as a part of the Record on Appeal for any case from this Circuit.~~

(ed) *Gender*: When used in the Rules of the Circuit Court of the 18th Judicial Circuit, words or phrases that import the masculine or feminine genders shall be construed to include all genders, unless such construction would be inconsistent with the manifest intention of the context.

(fe) *Effective Date*: These Rules of the Circuit Court of the 18th Judicial Circuit shall become effective upon the approval of the Court Judges. At least once each year, the Rules Committee shall be assigned to review the Rules of the Circuit Court of the 18th Judicial Circuit and recommend changes to the Circuit Judges.

(gf) The following short titles shall be used throughout the Rules of the Circuit Court of the 18th Judicial Circuit:

- (1) Code of Civil Procedure (735 ILCS 5/1-101 *et seq.*);
- (2) Code of Criminal Procedure (725 ILCS 5/100-1 *et seq.*);
- (3) Criminal Code (720 ILCS 5/1-1 *et seq.*);
- (4) Supreme Court Rules (not chaptered in ILCS);
- (5) Unified Code of Corrections (730 ILCS 5/1-1-1 *et seq.*);
- (6) Rules of the Circuit Court of the 18th Judicial Circuit [Local Rule(s) or Rule(s)].

1.03 COURT REPORTING SERVICES *(Added effective 7/20/04)*

(a) Employees

_____ (1) The number of court reporting services employees designated to serve the circuit shall be determined by the Supreme Court, with the aid of the Administrative Office of the Illinois Courts.

(2) The Chief Judge shall appoint employees to vacant court reporting services positions, consistent with Supreme Court Rule 45 and The Administrative Regulations of 10/20/03, as amended, which employees shall serve at the pleasure of the Chief Judge.

(3) The Chief Judge, or the Reporter Supervisor under the direction of the Chief Judge, shall assign all such employees to their duties, consistent with Supreme Court Rule 45, The Administrative Regulations of 10/20/03 and general administrative powers.

(b) Electronic Recording

(1) Electronic reporting systems have been approved for use and installed in this Circuit. Pursuant to subparagraph (a)(3) above, court reporting services employees shall be assigned to be trained and to operate the electronic recording systems.

(2) The production of the physical medium storing the electronic recording of any court proceedings shall be monitored by trained court reporting services employees who shall certify that each retained electronic recording was fully and accurately recorded at the time and place indicated. Said certification shall be affixed to and accompany the electronic recording medium, and the medium shall be securely preserved in an unaltered and unalterable condition.

(3) Digital computer recordings of testimony are created for only one purpose. That purpose is to preserve the words spoken in formal courtroom proceedings, hearings and trials in a particular case, so that a transcript – the official record – may be subsequently produced. The digital computer recordings are owned by the Circuit Court of the 18th Judicial Circuit, and may only be used pursuant to rule.

_____ (4) Any spoken words in the courtroom that are not a part of a proceeding, hearing or trial of a specific case are not intended recordings; other than by authorized operators of the CourtSmart system to orient themselves on recording content, they may not be listened to or used in any way.

(5) Playback of any portion of the computer recording of a proceeding, hearing, or trial of a specific case is authorized in only four situations:

- (i) During the proceeding, hearing or trial at the direction of the Judge;
- (ii) By a court reporting services employee for the purpose of creating a transcript as the Official Record;
- (iii) At the direction of the Court for the use of the Court;
- (iv) Pursuant to the procedure outlined in (c)(3) below.

(6) In all other instances, the contents of the electronic recording medium shall be disseminated by transcript only, which transcript, and not the medium, shall be the official record. Only the Chief Judge may authorize exceptions to these rules upon good cause shown.

(c) Transcripts

(1) A request for a transcript, from either the electronic recording systems or from a court reporting services employee, is obtained by completing a "Transcript Request Form", available in the court reporters' office.

(2) Transcripts generated from the electronic recording systems shall be prepared in accordance with applicable statutory authority, rule and administrative regulation and shall utilize the following certification:

I, _____, certify the foregoing to be a true and accurate transcript of the electronic recording of the proceeding of the above entitled cause, which recording contained the operator's certification as required by Local Rule 1.03(e).

(Signature)

(License or Restricted License Number)

Date: _____

(3) If the accuracy of a certified transcript generated from the electronic recording system is questioned, the following procedure shall be used: *(added effective 7/26/02)*

(i) Every challenged portion of the transcript shall be identified in writing and provided to the Reporter Supervisor. A copy of the challenged portion of the transcript shall be given to the certifying court reporting services employee to make the necessary corrections.

(ii) If the certifying court reporting services employee and the person challenging the transcript's accuracy cannot agree upon the challenged portions, those

portions shall be identified in writing and provided to the Reporter Supervisor.

(iii) The Supervisor shall cause identified portions to be reviewed against the archived electronic recording for accuracy, and designate necessary corrections to be made by the certifying court reporting services employee.

(iv) If the certifying court reporting services employee, in good faith, is unable to certify the corrections designated, the dispute will be placed before the judge that heard the transcribed proceeding, with notice to all necessary parties.

(v) The certifying court reporting services employee shall personally appear and present the questioned transcript. The Reporter Supervisor shall present the disputed corrections, along with a digital recording of the proceedings. The judge shall review the material presented, make any necessary changes in the certifying reporter's transcript, and issue a court order certifying the transcript as accurate.

(4) Transcripts generated from stenographic notes shall be prepared and certified by qualified official court reporting services employees pursuant to relevant statute, regulation and rule and are not affected by subparagraphs (b), (c)(2) and (c)(3) above.

(5) Unless specifically authorized by court order to the contrary, only a transcript certified by one of the official court reporting services employees of this Circuit is the Official Record. The Official Record shall be given preference for use in all courtrooms and as a part of the Record on Appeal for any case from this Circuit.

(d) Authority

This Rule, written pursuant to Supreme Court Rule 45, adopted 4/19/04, incorporating *The Administrative Regulations: A Comprehensive Document Governing Reporting Services for Illinois Courts*, has been amended effective 6/15/04.

1.30 PHOTOGRAPHING, RECORDING, BROADCASTING, OR TELEVISIONING IN OR NEAR COURTROOMS *(Amended effective 7/20/04)*

~~(a) Except as provided by Supreme Court Rule or interpretation and authorized by the judge~~ Pursuant to Supreme Court Rule 63A(7), amended December 5, 2003, it is hereby ordered the taking of photographs, audio or video recordings, or broadcasting by radio, television or other electronic means, in connection with any judicial proceeding, in any courtroom or in areas immediately adjacent to any courtroom, including public hallways, of any courthouse of this circuit are prohibited. This prohibition includes the audio or video transmissions or recordings of judicial proceedings made by telephones, personal data assistants, laptop computers and other wired or wireless data transmission and recording devices.

(b) Access to the Judicial Office Facility shall be denied to persons possessing cameras or recording devices other than "personal electronic devices", identified below. Any person found possessing cameras or prohibited recording devices within the Judicial Office Facility shall have his or her name and address recorded by security staff, and be escorted out of the building. A second such violation may result in confiscation of the equipment. Anyone found using prohibited equipment to record or transmit court proceedings shall be subject to prosecution for Contempt.

As used in this rule, a personal electronic device is a piece of equipment that has audio capabilities only and is incapable of video recordation or broadcast. Such devices include but are not limited to cell phones, laptops, dictation machines and personal digital assistants. Personal electronic devices are permitted in the Judicial Office Facility for use outside of courtrooms, so long as such use does not interfere with the intended public use of those areas and does not involve the recording or broadcasting of judicial proceedings. All personal electronic devices brought into a courtroom must be turned off, unless the judge specifically orders otherwise.

~~(b)(c)~~ The provisions of Rule 1.30 (a) and (b), shall apply with regard to proceedings, except that:

(1) ~~Official court reporters~~ Court Reporting Services Employees may make audio recordings of courtroom proceedings in the performance of their regular duties;

(2) Incidental to ceremonial proceedings, any judge of this circuit, with the permission of their Presiding Judge or the Chief Judge may ~~at the judge's discretion,~~ permit the taking of photographs, audio or video recordings, and broadcasting by radio and television, within the area of the judge's courtroom, chambers or court offices;

(3) In special circumstances as authorized by the Chief Judge.

~~(c)(d)~~ The purpose of this ~~order~~ rule is to implement the provisions of the Supreme Court Rules and for the orderly administration of justice. Rule 1.30 shall not

be applied in such a way as to conflict with any Supreme Court Rule.

2.09 CUSTODY OF EVIDENCE *(Added effective 7/20/04)*

(a) The Clerk of the Court shall take custody of all items admitted into evidence by the court at any proceeding, hearing or trial. The Clerk shall preserve, safeguard and account for each piece of admitted evidence until specifically relieved of that duty by court order, and shall bring the evidence back into the courtroom as required by the judge. During times when court is not in session, every effort shall be made by the Clerk to secure all contraband items or items of intrinsic value or danger in a secure safe or a locked storage area, and not entrust them to the possession of another.

(b) Items in evidence, removed by order of court from the Clerk's custody for any reason, shall be specifically listed in a written order or enumerated orally on the record, and entrusted to a named individual, such as a Deputy Sheriff, Bailiff or attorney. When the need for alternate custody has been concluded, all such items shall be immediately returned to the custody of the Clerk, and the return of each item shall be memorialized by written order or enumerated orally on the record.

(c) At the conclusion of the case, the Clerk shall retain custody of all items in evidence, preserving, safeguarding and accounting for them until such time as the Clerk may be relieved of custody by order of court.

(d) Items offered but not accepted into evidence by the court shall be retained by the proffering party, unless ordered to be taken into the custody of the Clerk for purposes of future review. Once taken into custody by the Clerk, they shall be preserved, safeguarded and accounted for in the same manner as items in evidence.

(e) This rule applies equally to all types of cases heard in the 18th Judicial Circuit.