



March 22, 2018

The Honorable Andre Bouchard
Chancellor
Delaware Court of Chancery
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware 19801

Your Honor,

I write on behalf of the Radio Television Digital News Association (RTDNA) concerning the Court of Chancery's review of the rules governing electronic media coverage of its proceedings.

RTDNA is the world's largest professional association devoted to advocating on behalf of broadcast and digital journalists. RTDNA strongly believes that permitting electronic coverage of state and federal judicial proceedings is a matter of sound public policy. Our organization has long worked with courts on the state and federal levels to craft rules designed to give the public access to the inner workings of the legal system while preserving the fairness and integrity of the underlying judicial proceedings. RTDNA believes that the public should be able to see first-hand the arguments made before the state and federal courts, many of which involve profound social, political and legal issues. As Justice Brandeis famously commented, "sunlight is said to be the best of disinfectants."

At a fundamental level, the Delaware Supreme Court agrees. First, Administrative Directive No. 155 remains in effect, providing for electronic media coverage in certain courts subject to the discretionary approval of the Judge, Chancellor, or Vice Chancellor presiding over the case. Second, the Delaware Supreme Court partners with livestream.com to provide live simulcasts of oral arguments as they occur, with archives available online. Significantly, Delaware's guidelines governing audio and video recording in courtrooms were put in place after an extensive study period that appropriately involved dialogue among the bench, the bar, and the media.

Now, however, it appears that the Court of Chancery has taken the informal position that it will not entertain petitions to allow audio or video coverage of court proceedings while the Rules Committee examines such issues. Moreover, by all accounts, the court is conducting such review in an opaque fashion, and without input from the electronic media. Further, we understand that this review has been ongoing since 2016 and, while it is pending, Administrative Directive 155 is effectively nulled, thus barring audio and visual coverage without specific justification.

We write to urge you to conclude this review as soon as possible and conclude, as countless other reviews and studies have, that audiovisual coverage of its proceedings carries immense public interest benefits and can be done unobtrusively. In practice, what goes on inside a courtroom can only be effectively reported if the court permits journalists to use the best technology for doing so. There is no principled basis for allowing the print media and not the electronic media to use the tools of their trade inside Delaware's courtrooms. Only the electronic media can serve the function of allowing interested members of the public not privileged to be in the courtroom to see and hear for themselves what occurs.

As Administrative Directive No. 155 recognizes, such coverage creates greater transparency, increases citizens' knowledge and understanding of the court system, and advances the public's right to know.

I would welcome the opportunity to discuss and provide input for your review. Additionally, RTDNA would be willing to work cooperatively with the Rules Committee to facilitate the formulation of rules. We respectfully submit, however, that Administrative Directive No. 155 was extensively vetted, and the court's guidelines should be allowed to govern as intended, with judicial discretion exercised to prohibit audiovisual coverage only where it is found that such access would result in some specific countervailing harm.

In any event, RTDNA urges the court to be transparent in its review process, and to avoid using any protracted examination of the rules as a pretext to deny legitimate requests for audiovisual coverage.

Respectfully,

A handwritten signature in blue ink, appearing to read "Dan Shelley". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

CC: Vice Chancellor J. Travis Laster
Vice Chancellor Sam Glasscock III
Vice Chancellor Tamika Montgomery-Reeves
Vice Chancellor Joseph R. Slights III
William M. Lafferty, Esquire, Attorney-at-Law, Rules Committee