



SUPREME COURT OF GEORGIA

Atlanta August 2, 2018

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

It is ordered that Municipal Court Rule 11 (Use of Electronic Devices in Courtrooms and Recordings of Judicial Proceedings); Rule 12 (Completion of Annual Caseload Reports); and Rule 14 (Interpreters; Notification Form), be hereby amended, effective August 30, 2018, as follows:

RULE 11. USE OF ELECTRONIC DEVICES IN COURTROOMS AND RECORDINGS OF JUDICIAL PROCEEDINGS

11.1 Overview.

Open courtrooms are an indispensable element of an effective and respected judicial system. It is the policy of Georgia's courts to promote access to and understanding of court proceedings not only by the participants in them but also by the general public and by news media who will report on the proceedings to the public. This must be done, however, while protecting the legal rights of the participants in the proceedings and ensuring appropriate security and decorum.

Except as otherwise required by law, this rule governs the use of devices to record sounds or images in a courtroom and comports with the standards provided in OCGA § 15-1-10.1 regarding the use of devices to record judicial proceedings.

This rule similarly governs the use of electronic devices, including mobile phones and computers, in a courtroom for purposes other than recording sounds and image use is generally allowed by lawyers, by employees of lawyers, and by self-represented parties, but to ensure decorum and avoid distraction, such use is generally prohibited by jurors, witnesses, parties, and spectators, including representatives of the news media. Such persons may, however, use their devices by stepping outside the courtroom, and nothing in this rule prevents a judge from permitting parties and spectators to use their devices for non-recording purposes as the judge may allow in his or her discretion.

A court must use reasonable means to advise courtroom visitors of the provisions of this rule and must make the form in Exhibit A available in its clerk's office and on the court's website.

11.2 Definitions.

The following definitions apply in this rule:

(a) "Recording device" means a device capable of electronically or mechanically storing, accessing, or transmitting sounds or images. The term encompasses, among other things, a computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone or other wireless phone; a camera and other audio or video recording devices; a personal digital assistant (PDA); and any similar devices.

(b) "Recording" means electronically or mechanically storing, accessing, or transmitting sounds or images. "Record" means to electronically or mechanically store, access, or transmit sounds or images, including by photographing, making an audio or video recording, or broadcasting. Nothing in this rule prohibits making written notes and sketches pertaining to any judicial proceedings.

(c) "Courtroom" means the room in which a judge will conduct a court proceeding and the areas immediately outside the courtroom entrances or any areas providing visibility into the courtroom.

11.3 Jurors, Witnesses, Parties, and Spectators, Including Representatives of the News Media.

The following restrictions apply to use of recording devices by witnesses, by parties, and by spectators, including representatives of the news media.

(a) Witnesses: Witnesses shall turn the power off to any recording device while present in a courtroom, and may use a device while testifying only with permission of the judge. Witnesses shall not record proceedings.

(b) Parties and spectators: Parties and spectators may use recording devices to record proceedings only as specifically authorized by the court pursuant to this rule. All parties and spectators shall turn the power off to any recording device while present in a courtroom, unless the judge allows orally or in writing the use of recording devices in the courtroom for purposes other than recording sounds and images, which the judge may freely do when he or she believes such use would not be disruptive or distracting and is not otherwise contrary to the administration of justice. When such use is allowed, recording devices must be silenced and may not be used to make or receive telephone calls or for other audible functions without express permission from the judge.

11.4 Attorneys, Employees of Attorneys Such as Paralegals and Investigators, and Self-Represented Parties (Pro Se Litigants).

(a) Use of recording devices to record: Unless otherwise ordered by the court, attorneys representing parties in a proceeding and self-represented parties may make audio recordings of the proceeding in a nondisruptive manner after announcing to the court and all parties that they are doing so. Recordings made pursuant to this paragraph may be used only in litigating the case or as otherwise allowed by the court or provided by law. Attorneys and self-represented parties may also seek authorization to record proceedings pursuant to paragraph 11.5 Rule.

(b) Use of recording devices for non-recording purposes: Attorneys and their employees such as paralegals and investigators may use recording devices in a courtroom for purposes other than recording sounds and images, including word processing, storing or retrieving information, accessing the internet, and sending or receiving messages or information. Self-represented parties may do the same but only in direct relation to their proceedings. Recording devices must be silenced and may not be used to make or receive telephone calls or for other audible functions without express permission from the judge.

(c) Limitation: Any allowed use of a recording device under Rule 11.4 is subject to the authority of the judge to terminate activity that is disruptive or distracting or is otherwise contrary to the administration of justice.

11.5 Celebratory or Ceremonial Proceedings, or When the Court Is Not in Session.

Notwithstanding other provisions of this rule, a person may request orally or in writing, and a judge or judge's designee may approve orally or in writing, use of a recording device in a courtroom to record a celebratory or ceremonial proceeding or use of a recording device in a courtroom when the court is not in session.

11.6 Other Persons or Organizations Desiring to Record.

Any other persons or organizations, including representatives of the news media, desiring to record a court proceeding shall make application to the judge on the form in Exhibit A following Rule 11.

(a) Submission of a request: The person or organization must submit the request to the judge or to an officer of the court designated to receive requests under this rule. The request should address any logistical issues that are expected to arise.

(b) Time limit for submitting a request: The person or organization must submit the request sufficiently in advance of the proceeding – at least 24 hours where practicable under the circumstances – to allow the judge to consider it in a timely manner.

(c) Notice and hearing: The court will notify the parties of its receipt of a request for recording. Parties shall then notify their witnesses. The prosecutor of a criminal case shall notify alleged victims. The judge will promptly hold a hearing if the judge intends to deny the request or a portion of the request, or if a party, witness, or alleged victim objects to a request. The hearing under this paragraph shall be part of the official record of the proceeding.

(d) Time for a party, witness, or alleged victim to object to a request: A properly notified party, witness, or alleged victim waives an objection to a request for recording of a proceeding if the party, witness, or alleged victim does not object to the request in writing or on the record before or at the start of the proceeding.

11.7 Denial or Limitation of Recording.

A properly submitted request for recording should generally be approved, but a judge may deny or limit the request as provided in Rule 11.7. A judge's decision on a request, or on an objection to a request, is reviewable as provided by law.

(a) Denial of recording: A judge may deny a request for recording only after making specific findings on the record that there is a substantial likelihood of harm arising from one or more of the following factors, that the harm outweighs the benefit of recording to the public, and that the judge has considered more narrow restrictions on recording than a complete denial of the request:

- (1) The nature of the particular proceeding at issue;
- (2) The consent or objection of the parties, witnesses, or alleged victims whose testimony will be presented in the proceedings;
- (3) Whether the proposed recording will promote increased public access to the courts and openness of judicial proceedings;
- (4) The impact upon the integrity and dignity of the court;
- (5) The impact upon the administration of the court;
- (6) The impact upon due process and the truth-finding function of the judicial proceeding;
- (7) Whether the proposed recording would contribute to the enhancement of or detract from the ends of justice;
- (8) Any special circumstances of the parties, witnesses, alleged victims, or other participants such as the need to protect children or factors involving the safety of participants in the judicial proceeding; and
- (9) Any other factors affecting the administration of justice or which the court may determine to be important under the circumstances of the case.

(b) Limitation of recording: Upon his or her own motion or upon the request of a party, witness, or alleged victim, a judge may allow recording as requested or may, only after making specific findings on the record based on the factors in the preceding paragraph, impose the least restrictive possible limitations such as an order that no recording may be made of a particular criminal defendant, civil party, witness, alleged victim, law enforcement officer, or other person, or that such person's identity must be effectively obscured in any image or video recording, or that only an audio recording may be made of such person.

11.8 Manner of Recording.

The judge should preserve the dignity of the proceeding by designating the placement of equipment and personnel for recording the proceeding. All persons and affiliated individuals engaged in recording must avoid conduct or appearance that may disrupt or detract from the dignity of the proceeding. No person shall use any recording device in a manner that disrupts a proceeding.

11.9 Pooling of Recording Devices.

The judge may require pooling of recording devices if appropriate. The persons or organizations authorized to record have the responsibility to implement proper pooling procedures that meet the approval of the judge.

11.10 Prohibitions.

The following uses of recording devices are prohibited:

(a) No use of recording devices while the judge is outside the courtroom: Except as provided in Rule 11.5, a person may use a recording device in a courtroom only when the judge is in the courtroom, and use of a recording device must terminate when the judge leaves the courtroom.

(b) No recording of privileged or confidential communications: In order to preserve the attorney-client privilege and client confidentiality as set forth in the Georgia Rules of Professional Conduct and statutory or decisional law, no person shall make a recording of any communication subject to the attorney-client privilege or client confidentiality.

(c) No recording of bench conferences: No person other than the court reporter may record a bench conference, unless prior express permission is granted by the judge.

11.11 Recording Not Official Court Record.

No recording of a judicial proceeding made pursuant to this rule may be used to modify or supplement the official court record of that proceeding without express permission of the judge pursuant to OCGA § 5-6-41 (f).

11.12 Disciplinary Authorities.

Rule 11 does not apply to disciplinary authorities acting in the course of their official duties.

11.13 Enforcement.

Persons who violate Rule 11 may be removed or excluded from the courtroom. A willful violation of this rule may be punishable as contempt of court.

EXHIBIT A

**THE MUNICIPAL/RECORDER'S COURT OF _____
STATE OF GEORGIA**

Petitioner,
v. _____
Respondent.

Civil Action File: _____

**REQUEST TO USE A RECORDING DEVICE PURSUANT TO RULE 11 ON
RECORDING OF JUDICIAL PROCEEDINGS.**

Pursuant to Rule 11 of the Uniform Rules for Municipal Court regarding Use of Electronic Devices in Courtrooms and Recording of Judicial Proceedings, the undersigned hereby requests permission to use a recording device in Courtroom ___ in order to record images and/or sound during (all) (the following portions) of the proceedings in the above captioned case/calendar.

Consistent with the provisions of the rule, the undersigned desires to use the following described recording device(s): _____. The proceedings that the undersigned desires to record commence on (date). Subject to direction from the court regarding possible pooled coverage, the undersigned wishes to use this device in the courtroom on (date). The personnel who will be responsible for the use of this recording device are: (identify appropriate personnel).

The undersigned hereby certifies that the device to be used and the locations and operation of such device will be in conformity with Rule 11 and any guidelines issued by the court.

The undersigned understands and acknowledges that a violation of Rule 11 and any guidelines issued by the court may be grounds for removal or exclusion from the courtroom and a willful violation may subject the undersigned to penalties for contempt of court.

This ____ day of _____, 20__.

(Individual Signature)

(Representing/Firm)

(Position)

APPROVED: _____

Judge, Municipal/Recorder's Court

Municipal Court of _____

RULE 12. COMPLETION OF ANNUAL CASELOAD REPORTS

In order to compile accurate data on the operation of the municipal courts, each chief judge shall ensure the accurate completion and timely submission of the Annual Caseload Reports sent to them by the Administrative Office of the Courts.

RULE 14. INTERPRETERS; NOTIFICATION FORM

(a) In all civil and criminal cases, the party or party's attorney shall inform the court in the form of a notice of the need for a qualified interpreter, if known, within a reasonable time – at least 5 days where practicable – before any hearing, trial, or other court proceeding. Such notice shall be filed and shall comply with any other service requirements established by the court. The notice shall (1) designate the participants in the proceeding who will need the services of an interpreter, (2) estimate the length of the proceeding for which the interpreter is required, (3) state whether the interpreter will be needed for all proceedings in the case, and (4) indicate the language(s), including sign language for the Deaf/Hard of Hearing, for which the interpreter is required.

(b) Upon receipt of such notice, the court shall make a diligent effort to locate and appoint a licensed interpreter, at the court's expense, in accordance with the Supreme Court of Georgia's Rule on Use of Interpreters for Non-English Speaking and Hearing Impaired Persons. If the court determines that the nature of the case (e.g., an emergency) warrants the use of a non-licensed interpreter, then the court shall follow the procedures as outlined in the Supreme Court of Georgia's Commission on Interpreters' Instructions for Use of a Non-Licensed Interpreter. Despite its use of a non-licensed interpreter, the court shall make a diligent effort to ensure that a licensed interpreter is appointed for all subsequently scheduled proceedings, if one is available.

(c) If a party or party's attorney fails to timely notify the court of a need for a court interpreter, the court may assess costs against that party for any delay caused by the need to obtain a court interpreter unless that party establishes good cause for the delay. When timely notice is not provided or on other occasions when it may be necessary to utilize an interpreter not licensed by the Supreme Court of Georgia's Commission on Interpreters (COI), the Registry for Interpreters of the Deaf (RID), or other industry-recognized credentialing entity, such as a telephonic language service or a less qualified interpreter, the court should weigh the need for immediacy in conducting a

hearing against the potential compromise of due process, or the potential of substantive injustice, if interpreting is inadequate. Unless immediacy is a primary concern, some delay might be more appropriate than the use of an interpreter not licensed by the COI, RID, or other recognized credentialing entity.

(d) Notwithstanding any failure of a party or party's attorney to notify the court of a need for a court interpreter, the court shall appoint a court interpreter whenever it becomes apparent from the court's own observations or from disclosures by any other person that a participant in a proceeding is unable to hear, speak, or otherwise communicate in the English language to the extent reasonably necessary to meaningfully participate in the proceeding.

(e) If the time or date of a proceeding is changed or canceled by the parties, and interpreter services have been arranged by the court, the party that requested the interpreter must notify the court 24 hours in advance of the change or cancellation. Timely notice of any changes is essential in order to cancel or reschedule an interpreter, thus precluding unnecessary travel by the interpreter and a fee payment by the court. If a party fails to timely notify the court of a change or cancellation, the court may assess any reasonable interpreter expenses it may have incurred upon that party unless the party can show good cause for its failure to provide a timely notification.

EXHIBIT A

THE MUNICIPAL/RECORDER'S COURT OF _____ STATE OF GEORGIA

Petitioner,

Civil Action File: _____

v.

Respondent.

NOTICE OF NEED FOR INTERPRETER PURSUANT TO UNIFORM MUNICIPAL COURT RULE 14

Pursuant to Uniform Municipal Court Rule 14, Petitioner/Respondent presents this Notice of Need for Interpreter in the above-styled case. Petitioner/Respondent provides the following information about the need for a qualified interpreter in this case:

1. The following participants will need interpretation services in this case: [list Petitioner, Respondent, any witnesses, etc.];

2. The interpreter is expected to be needed for: [state the time, date and length of the proceeding for which the interpreter is required];

3. The interpreter will/will not be needed for all proceedings in the case; and

4. Interpretation services are requested in the following language/s: [list language/s].

Notice submitted this _____ day of _____, 20____.

Attorney for Petitioner/Respondent
State Bar Number: _____

EXHIBIT B

THE MUNICIPAL/RECORDER'S COURT OF _____ STATE OF GEORGIA

_____,
Petitioner,

Civil Action File: _____

v.

_____,
Respondent.

CERTIFICATE OF SERVICE

This is to certify that I have this day served Petitioner/Respondent in the foregoing matter with a copy of the Notice of Need for Interpreter dated _____ by: _____.

Attorney for Petitioner/Respondent
State Bar Number: _____

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Theresa A. Barnes Clerk