

Division 12 Supplemental Rules for Non-Media Use of Electronic Devices in the Courtroom

In addition to Kan. Sup. Ct. Rule 1001, as amended by 2012 SC 87, Division 12 further imposes the following supplemental rules for the non-media use of electronic devices in the courtroom and in chambers.

Kan. Sup. Ct. Rule 1002 states:

NON-MEDIA USE OF ELECTRONIC DEVICES IN JUDICIAL PROCEEDINGS

(a) Prohibited Use of Electronic Devices.

Any electronic device, including a cell phone, smart phone, laptop, or still or video camera, must be turned off in the courtroom unless prior written permission of the presiding judge or justice has been obtained. An electronic device must be put away and out of sight in the courtroom, unless use of the device is permitted by subsection (b) or authorized by the presiding judge or justice under this subsection.

(b) Permissible Use of Electronic Devices.

Court personnel, counsel of record, and unrepresented parties appearing before the court may use a smart phone, laptop, or tablet computer during a court proceeding if the sound is off, no disruption occurs, and that person is sitting in a designated area. Notwithstanding the foregoing, an electronic device must not be used for oral communication during a court proceeding, except under Rule 145.

(c) Confiscation.

Violating this rule may result in the device being confiscated during the remainder of the proceeding.

[History: New rule effective June 12, 2013.]

In Division 12, the following additional rules apply:

These supplemental rules apply to any portable electronic device. For purposes of these supplemental rules, the following definitions apply.

“Portable electronic device” includes, but is not limited to, a transportable 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); other devices that provide internet access; and any similar items.

“Judicial proceeding” proceeding includes trials, hearings, court supervised mediations and settlement conferences or other alternative dispute resolution procedure and all and any other matter, discussions, conversations, informal or formal, whether on or off the record, occurring in the courtroom or chambers and whether in person or through remote video conference.

“Chambers” include the judge’s personal office, administrative assistant’s office, jury rooms, conference rooms, any place in the restricted circulation areas of the courthouse and any other place in which a judicial proceeding is held.

“Courthouse” includes all areas within the exterior walls of a court building, or if the court does not occupy the entire building, that portion of the building used for the administration and operation of the court. A “courthouse” also includes areas outside a court building where a judge conducts an event concerning a court case.

“Courtroom” includes the portion of a courthouse in which judicial proceedings take place. For purposes of this definition, the “courtroom” includes any technology platform or application through which remote proceedings are conducted (i.e., Zoom, Blue Jeans, Teams, etc.)

“Courtroom participant” includes all represented and unrepresented parties, attorneys, witnesses, potential witnesses, and spectators.

1. Photography and audio or video recording, broadcasting, or live streaming.

Except for requests for film or electronic media coverage of court proceedings as permitted under Rule 1001, the following restrictions apply to photography, audio recording, video recording, broadcasting, or live streaming in a courthouse.

(a) In a courtroom: In a courtroom, no one may use a portable electronic device to take photographs or for audio or video recording, broadcasting, or live streaming, unless that use is specifically authorized and allowed, prior to the proceeding, by Division 12.

(b) Outside a courtroom: In areas of a courthouse other than courtrooms, no one may photograph, record, broadcast, or live stream an individual without that individual’s prior express consent.

(c) Jurors: No one may photograph, record, broadcast, or live stream any juror or anyone called to the court for jury service.

2. Jurors and witnesses. The following restrictions apply to use of portable electronic devices by jurors, including prospective jurors, and by witnesses.

(a) Jurors: Jurors must turn off their portable electronic devices while present in a courtroom. A court may order jurors to turn over to the court their portable electronic devices during deliberations. If so, the court must provide jurors with a phone number where they can be reached in case of an emergency during deliberations.

(b) Witnesses: A witness must turn off any portable electronic device while in a courtroom, and may use a device while testifying only with permission of a judge. If a witness or potential witness has been ordered to remain outside the courtroom pending testimony, that witness or potential witness may not communicate by portable electronic device with any courtroom participant.

(5) Attorneys, parties, and members of the public. The following provisions apply to use of portable electronic devices in Division 12's courtroom by attorneys, parties, and members of the public.

(a) Allowed uses: Attorneys, parties, and members of the public may use a portable electronic device in a courtroom to retrieve or to store information (including notetaking), to access the Internet, and to send and receive text messages or information, but only as permitted by the Court. Attorneys, parties, and members of the public may use a portable electronic device to reproduce public court documents in a clerk's office as long as the device leaves no mark or impression on the document and does not unreasonably interfere with the operation of the clerk's office.

(b) Prohibited uses: Attorneys must silence portable electronic devices while in the courtroom. Parties and members of the public must turn off (totally powered off) all portable electronic devices while in the courtroom. A portable electronic device may not be used, without permission of the court, to make or to receive telephone calls or for any other audible function while court is in session. Portable electronic devices may not be used to communicate in any way with any courtroom participant including, but not limited to, a party, a witness, a potential witness, or juror at any time during any court proceedings. Portable electronic devices may not be used to create an audio, video or other recording of a judicial proceeding in any way. Portable electronic devices may not be used to broadcast or publicly disseminate court room proceedings. Prohibited activities include posting to Facebook, Twitter, Instagram, Snapchat, and any similar social media or public information sharing platform or process.

3. Use of a portable electronic device outside a courtroom; limitations. Except as provided elsewhere in this rule, a person may use a portable electronic device in a courthouse, subject to the authority of judges, Clerks of the Court, or court administrators to limit or terminate activity that is disruptive to court operations or that compromises courthouse security.

4. Violations of this rule. If these rules are violated, the presiding judge may confiscate the device for the remainder of the day or order that the phone be turned off and put away. Violations of this rule are punishable by appropriate sanctions--up to and including contempt of court, as determined in the discretion of the court.

5. Implied Consent. Upon entering a courtroom or anyplace where a judicial proceeding is being held, by entering that space, all such persons consent to inspection of their portable electronic device at any time. The consent is limited to inspection reasonably necessary to ensure compliance with Supreme Court, Local, and Division rules. This consent provision does not in any way limit or effect the ability of law enforcement in the furtherance of their duties.

6. Rules Supplemental. These rules are supplemental to, and in no way limit or restrict, applicable statutory provisions, Supreme Court Rules, and/or applicable Local Court rules.

The news media, educational media, and any person or entity that is not an attorney of record in the case or a party to the proceedings who is representing himself or herself, or support staff employed by an attorney of record (paralegal or administrative assistant) shall strictly comply with Kan. Sup. Ct. Rule 1001, as amended by 2012 SC 87, and with Kan. Sup. Rule 1002--as further supplemented by this Division 12 Rule.

Exceptions to these rules may be granted for good cause, if requested prior to the beginning of the proceeding.