

Your honors, good morning and thank you for the opportunity to appear before you and address the recommended amendments to the General Rules of Practice to allow for audio and video coverage on a pilot basis of certain criminal proceedings.

My name is Leita Walker. I am an attorney at Faegre Baker Daniels and I appear today on behalf of Star Tribune Media Company LLC. Star Tribune is read by 1.4 million adults every week in print and online and in 2013 added two more to its collection of Pulitzer Prizes, journalism's highest honor.

Increasingly Star Tribune is focused on its online readers. And although it has always been a visual medium, in a world of converged media, smart phones, and sophisticated readers, audio and video content are increasingly important as an educational tool that Star Tribune's subscribers have come to expect and appreciate. In 2014, for example, 11% of StarTribune.com's unique visitors viewed a photograph on the site, and 10% of them watched a video. Photos average about 2.4 million views per month; videos average about 800,000 views per month.

I am sharing the allotted time today with Hal Davis, a \_\_-year veteran reporter for the St. Paul Pioneer Press and a member of the Minnesota Coalition on Government Information, on whose behalf he appears. Mr. Davis will be addressing why audio and video coverage is important to journalists, consumers of journalism, and the public at large. Specifically, he will respond to the dissenters' view that it is "media companies" and not the public that seek audio and visual coverage of court proceedings and their concern that "the media will utilize only snippets of the most salacious courtroom events."

The one thing I might say in previewing Mr. Davis remarks is that, yes, certainly, audio-visual content helps Star Tribune attract and retain websites visitors. But this is a happy side effect of Star Tribune's primary goal: to help consumers understand the world in which they live by reporting the news in the most complete, responsible way it can. Think about your own news consuming habits: When big news breaks—the capture of Osama bin Laden, the inauguration of a new President, the recent snowstorm in Buffalo, New York—you don't just want to read about it. You want to *see* it. And that's because words can't tell the story in the way that pictures, audio, and video can. This is true of what happens in a courtroom, just as much as what happens anywhere else.

The Court has already heard detailed policy arguments for and against the expansion of audio and video coverage of court proceedings. Thus, save for one point that I'll make in closing, I'll spend my time highlighting the historical right of access and the current landscape when it comes to cameras in courtrooms.

First, and as the Court is no doubt aware, there is no question after the Supreme Court’s decision in *Chandler v. Florida*<sup>1</sup> that a state may permit, radio, television, and still photographic coverage of a criminal trial for public broadcast, even over the objection of the accused.

Second, all 50 states have provisions, albeit with limitations, to allow cameras at some level of their state court system,<sup>2</sup> and this Court has previously recognized that “the evidence seems clear that cameras themselves do not impact the actual in-court proceedings.”<sup>3</sup> In fact, during the two-year pilot project for civil court proceedings, which was implemented in July 2011, there were no reported problems, complaints, delays or known prejudices to the parties involved.<sup>4</sup> There is no reason to believe that permitting cameras in not only civil proceedings but also a subset of criminal proceedings will result in anything different.

And third, congressional lawmakers are currently considering allowing cameras in federal courts pursuant to the Sunshine in the Courtroom Act of 2013.<sup>5</sup> Although past attempts to get cameras in federal courts have fallen short, at a recent hearing<sup>6</sup> the Sunshine bill, received strong bipartisan backing. This support suggests that federal lawmakers are getting wise to what the states have already discovered through their experimentation with in-court technology: that it’s not a big deal, and that the effects have been positive, not negative.

In other words, the proposed amendment to the rules involves well-charted territory: other states have done this, there have been few if any problems, and there is nothing to fear.

Finally, your honors, I said I wanted to make just one policy point, and it is by reference to the allegations of police brutality and the grand jury proceedings in Ferguson, Missouri, and more recently in New York, which have captivated the nation for the past several weeks. There are many lessons you can take from those incidents, but the one that’s relevant here is that, when it comes to the competence and fairness of our judicial system and its participants, public perception is as important as—maybe more important than—reality.

What happens behind the doors of Minnesota courtrooms may be a model of justice for the world to follow. But as Chief Justice Burger explained in the plurality opinion in *Richmond*

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<sup>1</sup> 449 U.S. 560 (1981).

<sup>2</sup> Marder, Nancy S., *The Conundrum of Cameras in the Courtroom*. 44 *Ariz. St. L.J.* 1489, 1391–92 (2012).

<sup>3</sup> March 11, 2011, Order at 8.

<sup>4</sup> December 3, 2013, Order at 1–2.

<sup>5</sup> It would authorize the presiding judge of a federal court to “at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.”

<sup>6</sup> The hearing as before the House Judiciary Committee’s Subcommittee on Courts, IP and the Internet.

*Newspapers, Inc. v. Virginia*, “people in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.”<sup>7</sup>

In other words, people need to see it to believe it.

When our country was founded, the size of its communities and the simplicity of our forebears’ lives allowed them in many cases to simply walk down the road, into the courtroom, and sit for a spell. This helped them understand and evaluate the decisions the courts made, and was a fundamental part of our democracy.

People can’t really do that anymore: Our communities are bigger. Our lives are busier. Our society is more complex. And yet technology—if the courts embrace it—has the ability to, in effect, take us back to this time by allowing people to observe what is happening in their courtrooms, and to learn from what they watch, even if they can’t be there in person.

For these and all the reasons contained in its written submission, Star Tribune supports the proposed amendments to the General Rules of Practice and the pilot program to allow for audio and video coverage of certain criminal proceedings.

Thank you.

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<sup>7</sup> 448 U.S. 555, 572 (1980).

