

## **RULE AT-6. PUBLICITY AND TRIAL MANAGEMENT**

- (a) **In General.** A lawyer should try a case in court and not in the news media. A lawyer must not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that the statement has a substantial likelihood of materially prejudicing an adjudicative proceeding.
- (b) **Criminal Investigation.** With respect to a grand jury or other pending investigation of a criminal matter, a lawyer participating in the investigation must refrain from making any extrajudicial statement, for dissemination by any means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to warn the public of any dangers, to obtain assistance in the apprehension of a suspect, or to otherwise aid in the investigation.
- (c) **Criminal Prosecution.** From time of arrest, issuance of an arrest warrant, or filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense must not release or authorize the release of any extrajudicial statement, for dissemination by any means of public communication, related to that matter and concerning:
- (1) the prior criminal record (including arrests and criminal charges), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his apprehension or to warn the public of dangers he may present;
  - (2) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
  - (3) the performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
  - (4) the identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;
  - (5) the possibility of a plea of guilty to the offense charged or a lesser offense; or
  - (6) any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.
- (d) **Criminal Trial.** During the trial of any criminal matter, including jury selection, a lawyer associated with the prosecution or defense must not give or authorize any extrajudicial

statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records filed in the case.

- (e) **Sentencing Phase.** After guilt is found in a criminal case and before sentence is imposed, a lawyer associated with the prosecution or defense must not make or authorize any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that the statement will affect the sentence.
- (f) **Permitted Statements in Criminal Matters.** This rule does not preclude the lawyer, in the proper discharge of his or her official or professional duty, from:
  - (1) announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation;
  - (2) making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, limited to a description of the evidence seized;
  - (3) disclosing the nature, substance, or text of the charge, including a brief description of the offense charged;
  - (4) quoting or referring without comment to public records of the court in the case;
  - (5) announcing the scheduling or result of any stage in the judicial process;
  - (6) requesting assistance in obtaining evidence; or
  - (7) announcing without elaboration that the accused denies the charges made against him.
- (g) **Special Orders.** In a widely publicized or sensational case, the court on motion of either party or its own motion, may issue a special order governing extrajudicial statements by participants likely to interfere with the rights of the accused to a fair trial by an impartial jury, the courtroom seating and conduct of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters the court may deem appropriate. The order might address some or all of the following subjects, among others:
  - (1) a proscription of extrajudicial statements by participants in the trial, including lawyers, parties, witnesses, jurors, and court officials, which have a substantial likelihood of divulging prejudicial matter not of public record in the case;
  - (2) specific directives regarding the clearing of courthouse entrances and hallways and the management of the jury and witnesses during the course of the trial to avoid their

mingling with or being in proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;

- (3) a specific directive that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any manner during their deliberations;
- (4) sequestration of the jury on motion of either party or on the court's own, without disclosing any movant's identity;
- (5) a directive that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the court;
- (6) insulation of witnesses from news interviews during the trial period;
- (7) specific directives regarding the seating of spectators and representatives of the news media.