

STATE OF MINNESOTA
HENNEPIN COUNTY

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota

Plaintiff,

The Honorable Regina M. Chu

vs.

Kimberly Ann Potter

Defendant

Dist. Ct. File 27-CR-21-7460

**DECLARATION OF GRACE WONG
IN SUPPORT OF
MEDIA COALITION'S MOTION
OBJECTING TO CLOSURE OF TRIAL
TO THE PRESS AND PUBLIC**

Grace Wong, declares as follows:

1. I am a journalist at Court TV, which is part of The E.W. Scripps Company. I submit this declaration in support of the Media Coalition's Motion Objecting to Closure of Trial to the Press and Public. I have personal knowledge of the facts herein and would be competent to testify to them.

2. Court TV is devoted to live, gavel-to-gavel coverage, in-depth legal reporting, and expert analysis of the nation's most important and compelling trials. The network is available on cable, satellite, over-the-air and online at CourtTV.com. It is also carried on an expanding array of streaming services and apps, including YouTube TV, SiriusXM, Roku, Amazon Fire TV and Apple TV.

3. I have worked for Court TV for more than 20 years collectively, during its time as a cable network and since its relaunch in 2019. In the interim, from 2013-2019, I covered courts as a journalist for several other companies, including CNN and Al Jazeera America. During my career, I have observed and reported on more than 100 civil and criminal trials in more than 25 states. My team used audio-visual equipment to broadcast our coverage of most of these trials.

4. On behalf of Court TV, my team and I covered Derek Chauvin's trial for the murder of George Floyd. I was the only journalist who was in the courtroom every day of the trial, working with my team (located in a nearby "control room"), Presiding Judge Peter Cahill, Chief Judge Toddrick Barnette, and others to ensure our coverage did not disrupt the proceedings and that we complied with Judge Cahill's orders, such as his order that we not show jurors, family members in the gallery, or minor witnesses on camera.

5. I have spoken with Judge Cahill and Chief Judge Barnette many times about Court TV's coverage of the Chauvin trial and I know that they believe things went smoothly and that they appreciated my team's professionalism and help in offering unprecedented access to the trial by acting as pool and sharing our feeds, free of charge, to the more than 50 media groups covering the trial. We earned Judge Cahill's trust and confidence by adhering strictly to his trial management order. For example, during one of the first days of *voir dire*, we realized that one camera was inadvertently picking up the reflection of a juror in a plexi-glass barrier erected to reduce the spread of respiratory droplets. We immediately addressed the situation by adjusting the position of the podium and testing the shot from different angles to avoid the reflection. Likewise, when it was brought to our attention that the defendant's attorney was concerned that his client's notepad was reflected in the plexi-glass along the judge's bench, Court TV shopped for a number of portable dividers that would be suitable, sent the links to the judge for his approval, purchased the dividers and installed them on the defendant's table with Judge Cahill's approval. These dividers served to obstruct any reflection of the defendant's notepad.

6. During the Chauvin trial, my team used three cameras trained, respectively, on the bench and witness stand, counsel tables, and the lectern/podium. Until the day of the verdict, we were not permitted to "zoom in" on trial participants' faces, and we did not do so. However, our use of

three fixed cameras allowed us to better “frame” our shots so that viewers could easily observe trial participants’ conduct, as well as questions to and the testimony of witnesses, while maintaining the privacy of the jurors and family members in the gallery. We also worked with the court to ensure that viewers of the coverage could easily see documentary, photographic, and video evidence via a direct link to the ELMO that we switched to at the same time the exhibits were displayed to the jury. By providing a direct feed from the court’s display device, we were able to show the press and public what jurors saw, thus eliminating the need for the court or the parties to make separate copies of exhibits available to the press and public in real time.

7. The equipment Court TV uses in the trials it covers—including at the Chauvin trial—is state of the art. The cameras are silent, robotic, and unobtrusive, and most of the microphones (placed around the courtroom) are the size of pencil erasers. The photojournalists who operate the equipment, meanwhile, are highly talented professionals, specifically trained for courtroom coverage. State court judges, including Chief Judge Barnette, have often noted Court TV’s ability to broadcast trials without becoming a distraction or violating court rules. It is my sense that most trial participants do not even realize the cameras are there or, if they do, soon forget.

8. I plan to attend the trial in this case. Court TV will be covering the trial from start to finish, with cameras if the Court decides to permit audio and visual coverage of the trial.

9. I understand that the Court issued an order in August prohibiting audio/visual coverage of the trial in this case. I further understand that the trial will be held in Courtroom 1856, which is the same courtroom where Mr. Chauvin was tried, and which (due to remodel) has no gallery for spectators but is fitted and wired for cameras and audio. I further understand that the press and public’s access to the courtroom in this trial is expected to be similar to what it was in the trial of Mr. Chauvin, where only two seats were reserved for members of the news reporting pool (one

for a print journalist and one for a broadcast journalist); one seat was reserved for me, in my role as a Court TV producer, and no member of the general public was admitted into the courtroom. And I further understand that this Court intends to use “overflow” rooms that, as of August, it anticipated would each accommodate approximately 50 people who will be able to watch the proceedings via closed-circuit television.

10. I have serious concerns about the workability of the Court’s plan. Those concerns are informed, in part, by my experience covering other high-profile trials, and fall into three categories.

11. First, the Court’s current plan will require almost everyone interested in observing the trial in this case to watch it through the filter of non-professional, low-quality cameras. This is unfortunate as there really is no substitute for being in the courtroom, or being able to see and hear accurately the testimony of witnesses. Only those sitting in the actual courtroom can simultaneously observe all the trial participants—including the jurors, and the families of the defendants and the victim—and see how they respond minute-by-minute to the proceedings, including through body language, facial expressions, and nonverbal noises (such as crying or gasping). Indeed, even the best photojournalism falls short of replicating the in-person experience, but a closed-circuit feed provided by the Court, using existing Court technology, and making that feed available *only* to those who come to the courthouse *in person* to sit in an overflow room really is a worst-case scenario.

12. I am familiar with court-provided, closed-circuit television, and I believe that limiting access to what the Court proposes would make accurate coverage of the trial very difficult. Historically, and in my experience covering courts across the country, the image provided by court technology is typically highly pixelated and static. It tends to be distant, panoramic, and

often is shot from an eye-in-the-sky vantage point, meaning that even determining the gender of an individual can be hard and facial expressions are impossible to see. The audio is often poor, both because the equipment is sub-par and also because trial participants fail to approach lecterns or other areas where microphones are present or they mute their mics and forget to turn them back on. The feed can be glitchy, such that the video does not match the audio and gestures therefore do not line up with spoken words. Video evidence, which is likely to play an important role in the trial of this case, poses particularly challenges. Often, viewers in overflow rooms have a limited view of the monitor or in most cases don't see or hear video and photographic evidence at all. Another disadvantage, for journalists especially, is the inability to record and playback legal arguments and testimony to ensure they are accurately reporting on the events in the courtroom.

13. Second, although I understand that the Court believed as of August that overflow rooms could accommodate up to 50 people each, I fear that—due to continued social distancing requirements—the Court will not be able to fill these rooms to capacity and that even multiple overflow rooms will not be able to accommodate the many people interested in observing the trial in this case. Thus, even if the Court were able to improve the closed-circuit feed by purchasing better audio-visual recording equipment and by hiring a sophisticated operator for that equipment, the Court's proposal would still prevent the vast majority of interested persons from observing the proceedings for themselves. Thus, the general public will be forced to rely on press accounts of what transpires at trial. Just as being in an overflow room is a poor substitute for being in the courtroom, reading a third-party account of a trial is a poor substitute for watching it personally.

14. Court TV has tried to address this problem in other high-profile trials where cameras were not permitted, including in the recent Harvey Weinstein trial, but there is only so much it can do. In the Weinstein trial, for example, Court TV hired a stenographer to create a transcript of trial proceedings each day and then hired voice talent to read those transcripts against a video backdrop of drawings by a sketch artist.¹

15. The coverage was, predictably, less than perfect. The actors we hired were not able to watch the trial for themselves and thus had nothing to rely on in crafting their performance except the transcript. They tried to read the transcripts with feeling—guessing, for example, when a witness responded with sadness, indignation, or some other emotion—but viewers had no idea whether the inflection in the voices of the actors matched that of the witnesses. Nor could viewers tell whether the actors' facial expressions and body language matched that of the actual testifying witnesses. In other words, viewers were not able to get a reliable sense for the credibility of the witnesses, which is the whole point of live testimony. Despite our best efforts, I fear they did not get an authentic understanding of what happened at trial.

16. Third, if the Court requires the press and public to come to the courthouse to observe the trial—rather than watching it remotely, on Court TV or elsewhere—I expect the demand for seats to far outstrip the supply, resulting in a chaotic environment at the courthouse. This expectation is based on my experience at the Weinstein trial, where media seating was limited to 50 spaces, which is significantly more than I expect to be available at this trial.

17. In the Weinstein case, media organizations were forced to compete for the 50 reserved seats and, as a result, lined up outside the courthouse, often in inclement weather, as early as 4

¹ Eventually Court TV was able to get preliminary transcripts every few hours from the actual court reporter.

a.m. Large media organizations hired interns to stand in line—something smaller publications were not necessarily able to do—and everyone was crammed in between barricades that lined the street. When the courthouse opened at 8 a.m. there was a mad dash to get to the elevators and the courtroom floor, where there was another queue to wait in before being admitted into the courtroom. Limited space in the hallways of the courthouse meant people were often packed in behind barricades that lined the hallway to maintain a clear pathway to the courtroom. This handling of the trial contributed to an atmosphere of unruliness and an environment that was more akin to camping out, waiting for concert tickets, rather than a public trial in the hallowed halls of a courtroom.

18. All of this was a nightmare back in January and February 2020, when Harvey Weinstein was tried. Since then, the COVID-19 pandemic has swept the globe. Due to the combination of COVID-19 and the high degree of public interest in the case, the crowding and chaos I experienced in the Weinstein trial was also a very real concern for the Chauvin trial. In my opinion, televising the Chauvin trial live helped avoid similar congestion and disorder during that trial.

19. There is a similarly high degree of public interest in this case, and COVID-19 is still considered enough of a public health risk by this Court (and the Minnesota Supreme Court) that masks and some degree of social distancing are required in Government Center. Given this combination of factors, I don't see how the Court can mitigate the risk of COVID-19 transmission during the trial if people can observe the trial only by coming to Government Center in person, inviting the same sort of crowding and chaos I experienced in the Weinstein case.

20. I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 28, 2021.

/s/ Grace Wong
Grace Wong