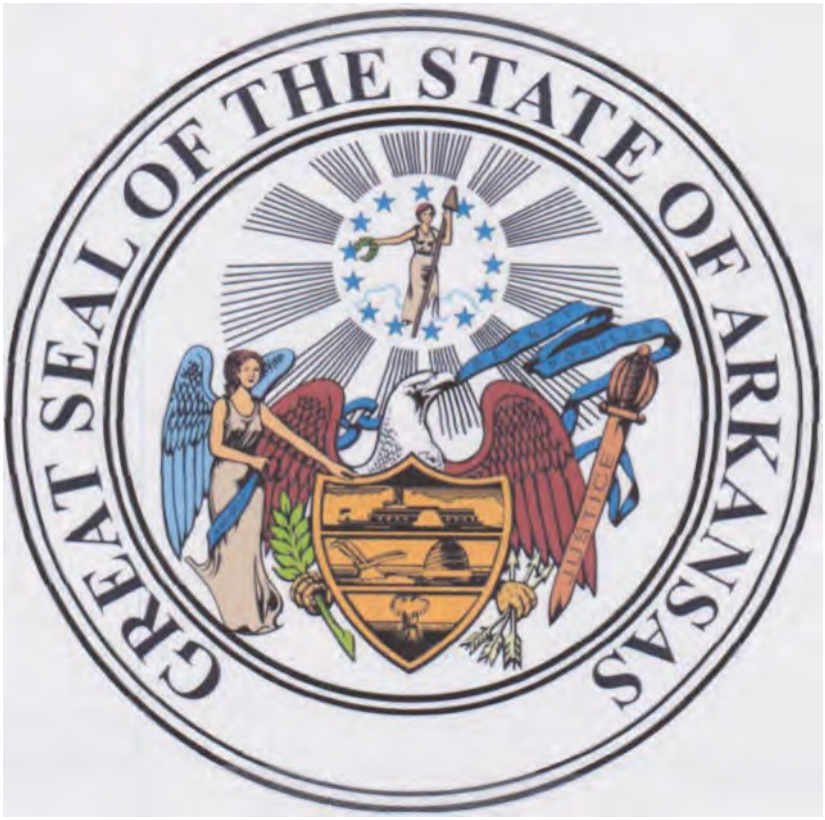
COURT REPORTER

REFERENCE MANUAL

2022 - 2023



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Alice C. Cook
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SECTION I:

DEPOSITIONS

ARCP Rule 28. Persons Before Whom Depositions May Be Taken.

(a) *Within this State and Elsewhere in the United States*. Within this state and elsewhere in the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of this State or of the place where the examination is held, or before a person appointed by the court in which the action is pending. A person so appointed has power to administer oaths and take testimony.

(b) *In Foreign States or Countries*. In a foreign state or country, depositions may be taken (1) on notice before a person authorized to administer oaths in the place where the examination is held, either by the law thereof or by the law of the United States, or (2) before a person commissioned by the court, and a person so commissioned shall have the power by virtue of his commission to administer any necessary oath and take testimony, or (3) pursuant to any applicable treaty or convention or pursuant to a letter of request, whether or not captioned a letter rogatory. A commission or a letter of request shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter of request that the taking of the deposition in any other manner is impractical or inconvenient, and both a commission and a letter of request may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter of request may be addressed "To the Appropriate Authority in (name of the country)." When a letter of request or any other device is used pursuant to any applicable treaty or convention, it shall be captioned in the form prescribed by that treaty or convention. Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States under these rules.

(c) *For Use in Foreign Countries*. A party desiring to take a deposition or have a document or other thing produced for examination in this state, for use in a judicial proceeding in a foreign country, may produce to a judge of the circuit court in the county where the witness or person in possession of the document or thing to be examined resides or may be found, letter rogatory, appropriately authenticated, authorizing the taking of such deposition or production of such document or thing on notice duly served; whereupon it shall be the duty of the court to issue a subpoena requiring the witness to attend at a specified time and place for examination. In case of failure of the witness to attend or refusal to be sworn or to testify or to produce the document or thing requested, the court may find the witness in contempt.

(d) *Disqualification for Interest*. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action. Additionally, the officer before whom the deposition is to be taken and the parties, attorneys, or employees shall not:

(1) include the officer on any list of preferred providers of court reporting services after exchanging information and reaching an agreement specifying the prices or other terms upon which future court reporting services will be provided whether or not the services actually are ever ordered; or

(2) take any action to restrict an attorney's choice in the selection of an officer.

Reporter's Notes (as modified by the Court) to Rule 28: 1. Rule 28 is very similar to FRCP 28. This rule is a slightly modified version of superseded Ark. Stat. Ann. § 28-350 (Repl. 1962) which tracked FRCP 28 prior to the 1963 amendments thereto. This rule does not make any appreciable changes in Arkansas law. As a practical matter, anyone authorized by law to administer oaths is qualified to take depositions.

2. Section (c) is a combination of 28 U.S.C. Section 1782 and superseded Ark. Stat. Ann. § 28-346 (Repl. 1962). Nothing in this rule requires that the deposition actually be taken before the court. In this sense the rule may be a departure from the superseded statute.

Addition to Reporter's Note, 1989 Amendment: Rule 28(c) is amended to apply only to the taking of depositions for use in judicial proceedings in foreign countries. Rule 45(f), as amended in 1989, now governs the taking of depositions for use in proceedings in other states.

Addition to Reporter's Notes, 1997 Amendment: This revision, based on a 1993 change in federal Rule 28(b), is intended to make effective use of the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, and of any similar treaties that the United States may enter into in the future which provide procedures for taking depositions abroad. The term "letter of request" has been substituted for "letter rogatory" because it is the primary method provided by the Hague Convention. A letter rogatory is essentially a form of a letter of request.

Addition to Reporter's Notes, 2001 Amendment: Subdivision (c) has been amended by deleting the reference in the first sentence to chancery and probate courts. Constitutional Amendment 80 established circuit courts as the "trial courts of original jurisdiction" in the state and abolished the separate chancery and probate courts.

Addition to Reporter's Notes, 2022 Amendment:

Subsection (d) has been amended to identify a process that could compromise the neutrality of the officer before whom the deposition is to be taken. Additional language is also found in Section 22 of the Regulations of the Board of Certified Court Reporter Examiners.

HISTORY

Amended November 20, 1989, effective January 1, 1990; amended November 18, 1996, effective March 1, 1997; amended May 24, 2001, effective July 1, 2001; amended May 12, 2022, effective June 1, 2022.

ARCP Rule 29. Stipulations Regarding Discovery Procedures.

Unless the court orders otherwise, the parties may by written stipulation (1) provide that depositions may be taken before any person, at any time or place, upon any notice and in any manner and when so taken may be used like any other depositions; and (2) modify the procedures provided by these rules for other methods of discovery.

Reporter's Notes to Rule 29: -1. Rule 29 is a modified version of FRCP 29. Under the latter, prior court approval must be secured to extend the time to (a) answer interrogatories; (b) produce documents, etc.; or (c) respond to requests for admissions of fact. This prior approval has been rejected by such states as Massachusetts and Arizona when adopting procedural rules patterned after the Federal Rules of Civil Procedure. See Rule 29 of the Massachusetts Rules of Civil Procedure and "Arizona and the Federal Rules" 41 F.R.D. 79 (1966).

2. Agreements between counsel to modify the discovery rules have been commonplace in Arkansas practice. No particular problems have arisen and the notion that prior court approval is necessary was rejected by the Committee. Should agreements of counsel get out of hand, the court has the power under Rule 29 to overrule or reject any stipulation or agreement of counsel. Therefore, any problems which may arise in this area may be corrected by the court on a case by case basis.

3. Prior Arkansas law was found in superseded Ark. Stat. Ann. § 28-351 (Repl. 1962), which was identical to FRCP 29 as it existed prior to its 1970 amendments.

ARCP Rule 30. Depositions Upon Oral Examination.

(a) *When Depositions May Be Taken*. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant or service made under Rule 4(e), except that leave is not required (1) if a defendant has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subdivision (b)(2) of this rule. The attendance of a witness may be compelled by subpoena as provided in Rule 45, but a subpoena is not necessary if the witness is a party or a person designated under subdivision (b)(6) of this rule to testify on behalf of a party. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(b) *Notice of Examination; General Requirements; Special Notice; Method of Recording; Production of Documents and Things; Deposition of Organization.*

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice.

(2) Leave of court is not required for the taking of a deposition by plaintiff under subdivision (a) if the notice (A) states that the person to be examined is about to go out of this state, or is about to go out of the United States, and will be unavailable for examination unless his deposition is taken before expiration of the 30 day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice and his signature constitutes a certification by him that to the best of his knowledge, information and belief, the statement and supporting facts are true. The sanctions provided by Rule 11 are applicable to the certification.

(3) The party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the court orders otherwise, it may be recorded by sound, sound-and-visual, or stenographic means, and the party taking the deposition shall bear the cost of the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by nonstenographic means. With prior notice to the deponent and other parties, any party may designate another method to record the deponent's testimony in addition to the method specified by the person taking the deposition. The additional record or transcript shall be made at that party's expense unless the court otherwise orders.

(4) Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated under Rule 28 and shall begin with a statement on the record by the officer that includes:

(A) the officer's name and business address;

(B) the date, time, and place of the deposition;

(C) the name of the deponent;

(D) the administration of the oath or affirmation to the deponent; and

(E) an identification of all persons present. If the deposition is recorded other than stenographically, the officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other recording medium.

The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.

(5) The notice to a party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request. The court may on motion, with or without notice, allow a shorter or longer time.

(6) A party may in his notice and in the subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf and may set forth, for each person designated, the matters on which he will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This subdivision (b)(6) does not preclude taking a deposition by any other procedure authorized by these rules.

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or other remote electronic means. For purposes of these rules, a deposition by such means is taken at the place where the deponent is to answer questions.

(c) *Examination and Cross-Examination; Record of Examination; Oath; Objections.* Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of the Arkansas Rules of Evidence, except Rule 103. The officer before whom the deposition is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other method authorized by subdivision (b)(3) of this rule. All objections made at the time of the examination to the qualifications of the officer taking the deposition, to the manner of taking it, to the evidence presented, to the conduct of any party, or to any other aspect of the proceedings, shall be noted by the officer upon the record of the deposition; but the examination shall proceed, with the testimony being taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on either the party taking the deposition in which event he shall (1) transmit such questions to the office, or (2) directly upon the officer, who shall propound them to the witness and record the answers verbatim.

(d) *Schedule and Duration; Motion to Terminate or Limit Examination.*

(1) Any objection during a deposition must be stated concisely and in a non-argumentative and non-suggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation directed by the court, or to present a motion under paragraph (4).

(2) The court may by order limit the time permitted for the conduct of a deposition, but must allow additional time if needed for a fair examination of the deponent or if the deponent or another person impedes or delays the examination.

(3) If the court finds that any impediment, delay, or other conduct has frustrated the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorneys' fees incurred by any parties as a result thereof.

(4) At any time during a deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 26(c). If the order made terminates the examination, it may be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition must be suspended for the time necessary to make a motion for an order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(e) *Review by Witness; Changes; Signing*. If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by subdivision (f)(l) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

(f) *Certification by Officer; Exhibits; Copies; Notice of Filing.*

(1) The officer shall certify that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. This certificate shall be in writing and accompany the record of the deposition. The officer shall place the deposition in an envelope or package indorsed with the title of the action and marked 'Deposition of (name of witness)' and, if ordered by the court in which the action is pending pursuant to Rule 5(c), promptly file it with the clerk of that court. Otherwise, the officer shall send it to the attorney who arranged for the transcript or recording, who shall store it under conditions that will protect it against loss, destruction, tampering, or deterioration. Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to and returned with the deposition, and may be inspected and copied by any party, except that (A) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (B) if the person producing the materials requests their return, the officer shall

mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to the deposition if it is to be used at trial.

(2) Unless otherwise ordered by the court or agreed by the parties, the officer shall retain, for the period established for transcripts of court proceedings in the retention schedule for official court reporters, stenographic notes of any deposition taken stenographically or a copy of the recording of any deposition taken by another method. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the transcript or other recording of the deposition to any party or to the deponent; provided that it shall be the duty of the party causing the deposition to be taken to furnish one copy of the transcript, or if the deposition was recorded solely by sound or sound-and-visual as provided for in Rule 30(b)(3), a copy of the recording, to any opposing party, or in the event there is more than one opposing party, a copy may be filed with the clerk for the use of all opposing parties, and the party filing the deposition shall give prompt notice of its filing to all other parties.

(g) *Failure to Attend or to Serve Subpoena; Expenses.*

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by an attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by an attorney because he expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

Reporter's Notes to Rule 30: 1. Rule 30 is, with the exception of minor wording changes, the same as FRCP 30. This rule also closely follows superseded Ark. Stat. Ann. § 28-352 (Repl. 1962), which was patterned after FRCP 30 as it existed prior to the series of amendments thereto beginning in 1970.

2. Section (a) is identical to FRCP 30(a). It is comparable to superseded Ark. Stat. Ann. § 28-348 (Repl. 1962), and works no appreciable change in Arkansas law.

3. Section (b)(1) is identical to FRCP 30(b)(1) and substantially follows superseded Ark. Stat. Ann. § 28-352(a) (Repl. 1962). It does not change Arkansas law. Section (b)(2) is revised from FRCP 30(b)(2). The latter, in subpart (A) refers to one who is bound on a voyage at sea whereas this rule is applicable to any person leaving the state or country. There was no comparable provision under prior Arkansas law and this should resolve the question of when an emergency or rush deposition could be taken.

4. Rule 30(b)(3) is identical to FRCP 30(b)(3). Similar language was found in superseded Ark. Stat. Ann. § 28-352(a) (Repl. 1962).

5. Section 30(b)(4) is identical to FRCP 30(b)(4). Under this provision, the court has the discretion to order that a deposition may be taken by other than stenographic means. Under proper safeguards, a deposition may be taken by photographic-sound devices. *Carson v. Burlington Northern, Inc.*, 52 F. R.

D. (D.C. Neb., 1971). Superseded Ark. Stat. Ann. § 28-352(c) (Repl. 1962), permitted the parties to agree on some form or method of taking a deposition other than stenographically. Where proper safeguards are made, videotaped depositions are certainly proper.

6. Section 30(b)(5) closely follows FRCP 30(b)(5) and establishes a method whereby a party can request that certain documents and tangible items may be brought to the deposition. The procedure described in Rule 34 is applicable and the deponent may refuse to produce the requested documents in which event the moving party is required to present the matter to the court for a determination of whether the documents or items should have been produced. This rule also permits the court to shorten or extend the time limit set by Rule 34 for responding to the request. To such extent, this rule differs from the Federal Rule.

7. With exception of minor wording changes, Section (c) is identical to FRCP 30(c) and substantially the same as superseded Ark. Stat. Ann. § 28-352(c) (Repl. 1962).

8. Section (d) is identical to FRCP 30(d) and substantially follows superseded Ark. Stat. Ann. § 28-352(e) (Repl. 1962).

9. Section (e) is identical to Section (e) of the Federal Rule and follows closely superseded Ark. Stat. Ann. § 28-352(e). Under this and the Federal Rule, if the deponent has not signed the deposition within 30 days of its submission to him, the officer is directed to sign the deposition and give the reason for the deponent's failure or refusal to sign the deposition.

10. Section 30(f)(1) is identical to FRCP 30(f)(1). Section (f)(2) is, however, reworded from the Federal Rule to delete the requirement that the deposition be filed.

11. Section (g) is identical to FRCP 30(g) and is also substantially the same as superseded Ark. Stat. Ann. § 28-352(g) (Repl. 1962).

Additions to Reporter's Notes, 1984 Amendments: Rule 30(f) is amended to remove references to the filing requirement which no longer exists in view of the change to Rule 5(c). The provision for optional filing as a means of giving access to the deposition to multiple parties remains, and the provision for notice of filing formerly found in Rule 30(f)(3) is contained in Rule 30(f)(2).

Addition to Reporter's Note, 1986 Amendment: New subsection (b)(7) is based upon the corresponding federal rule. Although depositions by telephone have been available by stipulation under Rule 29, this subsection authorizes that method by order of the court as well. The second sentence of the new subsection, under which the telephone deposition is deemed "taken" at the place where the witness is to answer the questions (rather than the place where the questions are propounded), is necessary as a definitional provision in light of other rules involving the place of a deposition. *See* Rules 37(a)(1), 37(b)(1), and 45(d).

Addition to Reporter's Notes, 1991 Amendment: Under subdivision (c), "[e]vidence objected to shall be taken subject to the objections." Thus, it is generally not proper for a lawyer to instruct a deponent to refuse to answer a question. The 1991 amendment expressly states that such an instruction is impermissible absent exceptional circumstances or a reasonable, good faith assertion of a privilege. In light of the amendment, a contention that the question seeks irrelevant information beyond the scope of discovery under Rule 26(b)(1) is not a basis for instructing the deponent not to answer, unless exceptional circumstances - such as harassment or irrelevant questions that unnecessarily touch on

sensitive areas - are present. The 1991 amendment is consistent with case law applying Federal Rule 30(c). *See, e.g., Eggleston v. Chicago Journeymen Plumbers' Local Union No. 130*, 657 F.2d 890 (7th Cir. 1981); *International Union of Electrical, Radio & Machine Workers v. Westinghouse Elec. Corp.*, 91 F.R.D. 277 (D.D.C. 1981); *Preyer v. United States Lines, Inc.*, 64 F.R.D. 430 (E.D. Pa. 1973).

Addition to Reporter's Notes, 1997 Amendment: The changes that have been made in subdivisions (b)–(f) of this rule track the 1993 amendments to Federal Rule 30 and are designed in part to take into account the use of video and other recording methods. Provisions in the federal rule limiting the number of depositions were not adopted. The last sentence of subdivision (b)(2), which dealt with use of the deposition of a party unable to obtain counsel, has been deleted, and this matter is now covered by Rule 32(a)(3). The primary change in subdivision (b) is that parties will be authorized to record deposition testimony by nonstenographic means without first having to obtain permission of the court or agreement from other counsel. Under paragraph (3), the party taking the deposition has the choice of the method of recording. Objections to nonstenographic recording of a deposition, when warranted by the circumstances, can be presented to the court by motion pursuant to Rule 26(c). Other parties may arrange, at their own expense, for the recording of a deposition by a mens in addition to the method designated by the person noticing the deposition. A party choosing to record a deposition only by videotape or audiotape should understand that a transcript will be required if the deposition is later to be offered as evidence at trial under amended Rule 32(c) or on a dispositive motion under Rule 56. Revised paragraph (4) of subdivision (b) requires that all depositions be recorded by an officer designated or appointed under Rule 28 and contains special provisions designed to provide basic safeguards to assure the utility and integrity of recordings taken other than stenographically. Paragraph (7) has been amended to allow the taking of a deposition not only by telephone but also by other remote electronic means, such as satellite television, when agreed to by the parties or authorized by the court. Minor changes have been made in subdivision (c). First, the reference to Rule 43(b) has been replaced with a reference to the Arkansas Rules of Evidence. The examination and cross-examination of a deponent are governed by those rules, with the exception of Rule 103, which deals with evidentiary rulings. Second, subdivision (c) has been revised to reflect the changes made in subdivision (b) regarding the method by which a deposition is to be recorded. Finally, the provision that dealt with instructing the deponent not to answer has been deleted and moved to subdivision (d)(1). Unlike its federal counterpart, subdivision (c) does not contain an exception from Rule 615 of the Rules of Evidence. By virtue of this exception in the federal rule, other potential witnesses are not automatically excluded from a deposition at a party's request, although the court can order their exclusion via a protective order. Because such an exception is not included in revised subdivision (c), depositions in Arkansas will continue to be subject to Rule 615. The first sentence of subdivision (d)(1) provides that any objections during a deposition must be made concisely and in a non-argumentative and non-suggestive manner. Depositions frequently have been unduly prolonged, if not unfairly frustrated, by lengthy objections and colloquy, often suggesting how the witness should respond. While objections may, under the revised rule, be made during a deposition, they should ordinarily be limited to those that under Rule 32(d)(3) might be waived if not made at that time, i.e., objections on grounds that might be immediately obviated or cured, such as the form of a question or the responsiveness of an answer. Under Rule 32(b), other objections can, even without the so-called "usual stipulation" preserving objections, be raised for the first time at trial and therefore should be kept to a minimum during a deposition. The second sentence of subdivision (d)(1) addresses an even more disruptive practice, i.e., instructing the deponent not to answer a question. This provision previously appeared, in slightly different form, in subdivision (c), having been added in 1991. The former language has been retained as to "reasonable, good faith claims of privilege," but new grounds based on the federal rule - to enforce a limitation on evidence imposed by the court and to present a

motion under what is now designated as paragraph (3) - have been added. Paragraph (2) of subdivision (d) dispels any doubts regarding the power of the court to limit, by order, the length of a deposition. This provision also expressly authorizes the court to impose the cost resulting from obstructive tactics that unreasonably prolong a deposition on the person engaged in such obstruction. This sanction may be imposed on a non-party witness as well as a party or attorney. Unlike the federal rule, paragraph (2) does not empower a trial court to establish limits on deposition length by local rule, since such rules are not permissible in Arkansas. Paragraph (3) authorizes appropriate sanctions not only when a deposition is unreasonably prolonged, but also when an attorney engages in other practices that frustrate the fair examination of the deponent, such as making improper objections or giving directions not to answer prohibited by paragraph (1). In general, counsel should not engage in any conduct during a deposition that would not be allowed in the presence of a judicial officer. The making of an excessive number of objections may itself constitute sanctionable conduct. Various changes have been made in subdivision (e) to reduce problems sometimes encountered when depositions are taken stenographically. Reporters frequently have difficulties obtaining signatures from deponents and the return of depositions. Under the revision, pre-filing review by the deponent is required only if requested before the deposition is completed. If review is requested, the deponent will be allowed 30 days to review the transcript or recording and to indicate any changes in form or substance. Signature of the deponent will be required only if review is requested and changes are made. Subdivision (f) has been revised to reflect changes made in subdivision (b) as to the methods by which a deposition may be taken. If the court does not order the deposition to be filed pursuant to Rule 5(c), the reporter can transmit the transcript or recording to the attorney taking the deposition or ordering the transcript or record, who then becomes custodian for the court of the original record of the deposition. Pursuant to paragraph (2), as under the prior rule, any other party is entitled to secure a copy of the deposition from the officer designated to take it. New language makes clear that the officer must retain a copy of the record or the stenographic notes, unless otherwise ordered by the court or agreed by the parties. The retention period is the same as that specified for transcripts of court proceedings in the record retention schedule for official court reporters in Arkansas.

Addition to Reporter's Notes, 1998 Amendment: As amended in 1997, Rule 30(f)(1) provided that the officer taking the deposition "shall securely seal" it in an envelope or package and either file it with the clerk, if so ordered, or send it to the attorney who arranged for the deposition. The term "seal" could be read as implying that the attorney who received the deposition was obligated to keep it sealed. Such a result was not intended, and Rule 30(f)(1) has been amended to require that the officer "place" the deposition in an envelope. The obligation that the attorney "store it under conditions that will protect it against loss, destruction, tampering, or deterioration" remains unchanged.

Addition to Reporter's Notes, 2003 Amendment: The penultimate sentence of subdivision (a) has been rewritten to expressly provide that a subpoena is not mandatory if the deponent is a party or a person designated under subdivision (b)(6) to testify on behalf of a party. Notice of the deposition is the sole requirement in these circumstances. -Rule 30 of the Federal Rules of Civil Procedure does not explicitly state that a subpoena is unnecessary when the deponent is a party. Under Fed. R. Civ. P. 37(d), however, sanctions may be imposed against a party or person designated to testify on behalf of a party who does not appear at a deposition "after being served with a proper notice." On the basis of this language, which also appears in the corresponding Arkansas rule, the federal courts "have reasoned that notice alone, without subpoena, is sufficient." 8A Wright, Miller & Marcus, *Federal Practice & Procedure* 2107 (1994).

Addition to Reporter's Notes, 2005 Amendments: Rule 30(d) has been amended and its subsections renumbered. For many years, Arkansas Rule 30 has been substantially similar to Federal Rule 30. The 2005 amendments to Rule 30(d) track changes made in 2000 to the Federal Rule and clarify the terms about behavior during depositions. The amendments confirm that the Rule's limitations extend beyond parties to all persons present at a deposition. They also clarify when a privilege may be asserted against a question. Former subsection (2) has been divided into new subsections (2) and (3), and former (3) has been renumbered as (4). *See generally*, Advisory Committee Note, 2000 Amendments to FRCP 30(d). The Federal Rule's presumptive limitation on the duration of any deposition to one seven-hour day has not been incorporated into the Arkansas Rule.

Addition to Reporter's Notes, 2011 Amendment: Subdivision (f)(2) is revised to clarify that a party taking a deposition is not obligated to provide the opposing party or parties a copy of any sound or sound and video recording of the deposition unless no written transcript was made. Since former subdivision (f)(2) required that the party taking the deposition provide the opposing party a copy of the deposition (if multiple parties, to file a copy with the clerk for use by all parties), the rule could have been read as requiring the party taking the deposition to incur the additional expense of providing a copy of the nonstenographic sound or sound and video recording in addition to the written transcript. Under the amendment, a party taking a deposition only by sound or sound and video recording is still obligated to provide the opposing party with a copy of the deposition or, in a case involving multiple parties to file a copy for use of all opposing parties.

HISTORY

Amended July 9, 1984, effective September 1, 1984; amended November 11, 1991, effective January 1, 1992; amended November 18, 1996, effective March 1, 1997; amended January 22, 1998; amended March 13, 2003; amended February 10, 2005; amended June 2, 2011, effective July 1, 2011.

ARCP Rule 31. Depositions Upon Written Questions.

(a) *Serving Questions; Notice*. (1) Any party may take the testimony of any person, including a party, by deposition upon written questions without leave of court except as provided in paragraph (2). The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(2) A party must obtain leave of court if the person to be examined is confined in prison or if, without the written stipulation of the parties, a plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant or service made under Rule 4(e), except that leave is not required if a defendant has served a notice of taking deposition or otherwise sought discovery, or if special notice is given as provided in Rule 30(b)(2).

(3) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (A) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and (B) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Rule 30(b)(6).

(4) Within 14 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 7 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 7 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) *Officer to Take Responses and Prepare Record*. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 30(c), (e) and (f) to take the testimony of the witness in response to the questions and to prepare, certify and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him.

(c) *Copies; Notice of Filing*. The party causing the deposition to be taken shall furnish one copy of the deposition to any opposing party, or if there is more than one opposing party, a copy may be filed with the clerk for the use of all opposing parties, and the party filing the deposition shall give prompt notice of its filing to all other parties.

Reporter's Notes to Rule 31: 1. Rule 31 is identical to FRCP 31 and is a revised version of superseded Ark. Stat. Ann. § 28-353(1)(a) through (c) (Repl. 1962). Deleted from the Federal Rule by the 1970 amendments thereto was former section (d) which was a part of this superseded statute. That section provided that the court could make such orders as were necessary for the protection of the parties, including the right to require that the deposition be taken upon oral examination. This provision is not retained in Rule 31 in light of Rule 26(c) which provides that the Court may order that one discovery device be used in place of another.

2. The time limits prescribed in Section (a) are taken from the Federal Rule. Superseded Ark. Stat. Ann. § 28-353(1)(a) (Repl. 1962) was patterned [after] the Federal Rule insofar as time limits are concerned as it existed prior to the 1970 amendments. Overall, this rule should have little effect upon Arkansas practice.

Additions to Reporter's Notes, 1984 Amendments: Rule 31(c) is amended to make it consistent with the amendment to Rule 5(c) making filing of discovery documents optional. The same means of giving access to upon written questions as are found in the amended Rule 30 with respect to depositions upon oral examination are provided in the amendment.

Addition to Reporter's Notes, 1997 Amendment: Subdivision (a) has been divided into four numbered paragraphs. The first two paragraphs make the rule consistent with Rule 30 as to the circumstances under which leave of court is required. Paragraph (3) is the former second paragraph, without substantive change. Paragraph (4) is the former third paragraph, but the total time for developing cross-examination, redirect, and recross questions is reduced from 50 days to 28 days.

HISTORY

Amended July 9, 1984; effective September 1, 1984; amended November 18, 1996, effective March 1, 1997.

ARCP Rule 32. Use of Depositions in Court Proceedings.

(a) *Use of Depositions*. At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

> (1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness or for any other purpose permitted by the Arkansas Rules of Evidence.
>
> (2) The deposition of a party or of anyone who, at the time of taking the deposition was an officer, director, or managing agent, or a person designated under Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party, may be used by an adverse party for any purpose.
>
> (3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (A) that the witness is dead; or (B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of this state, unless it appears that the absence of a witness was procured by the party offering the deposition; or (C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (D) the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (E) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used. A deposition taken without leave of court pursuant to a notice under Rule 30(b)(2) shall not be used against a party who demonstrates that, when served with the notice, it was unable through the exercise of diligence to obtain counsel to represent it at the taking of the deposition; nor shall a deposition be used against a party who, having received less than 11 days' notice of a deposition, has promptly upon receiving such notice filed a motion for a protective order under Rule 26(c)(2) requesting that the deposition not be held or be held at a different time or place and such motion is pending at the time the deposition is held.
>
> (4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

Substitution of parties pursuant to Rule 25 does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken in the former action may be used in the latter as if originally taken therefor. A deposition previously taken may also be used as permitted by the Arkansas Rules of Evidence.

(b) *Objections to Admissibility*. Subject to the provisions of Rule 28(b) and subdivision (d)(3) of this rule, objection may be made at the trial or hearing to receiving in evidence any deposition or part thereof

for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(c) *Form of Presentation*. Except as otherwise directed by the court, a party offering deposition testimony pursuant to this rule may offer it in stenographic or nonstenographic form, but, if in nonstenographic form, the party shall also provide the court with a transcript of the portions so offered. The transcript must be prepared by a certified court reporter from the nonstenographic recording. On request of any party in a case tried before a jury, deposition testimony offered other than for impeachment purposes shall be presented in nonstenographic form, if available, unless the court for good cause orders otherwise.

(d) *Effect of Errors and Irregularities in Depositions*.

(1) *As to Notice*. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

(2) *As to Disqualification of Officer*. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(3) *As to Taking of Deposition*.

(A) Objections to the competency of a witness or to the competency, relevancy or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(B) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(C) Objections to the form of written questions submitted under Rule 31 are waived unless served in writing upon the party propounding them within | the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(4) *As to Completion and Return of Deposition*. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such is, or with due diligence might have been ascertained.

Reporter's Notes to Rule 32: 1. With the exception of minor wording changes necessary to adapt FRCP 32 to state practice, Rule 32 is essentially the same as the Federal Rule. This rule tracks Ark. Stat.

Ann. §§ 28-348 and 28-354 (Repl. 1962) and does not work any significant changes in Arkansas practice.

2. Section (c) of FRCP 32 was abrogated in 1972 and the Federal Rules of Evidence now control the effect of taking or using depositions in federal courts. This section is also omitted from Rule 32 as the Uniform Rules of Evidence adopted in this State also control on this same question.

Additions to Reporter's Notes, 1984 Amendments: Rule 32(a)(1) is amended to broaden the uses of depositions at trial beyond impeachment by permitting their use for any purpose permitted by the evidence rules.

Addition to Reporter's Note, 1989 Amendment: As initially adopted, the second paragraph of Rule 32(a)(4) provided that a prior action must have been dismissed before depositions taken for use in it could be used in a subsequent action. The 1989 amendment permits the use of a deposition from a prior action to the extent allowed by the Rules of Evidence. The corresponding federal rule was so amended in 1980. In addition, the 1989 amendment eliminates the requirement that a deposition taken in a prior action must have been filed in order for it to be used in a subsequent action. This change is consistent with Rule 5(c), which, as amended in 1984, does not require that depositions be filed as a matter of course.

Addition to Reporter's Notes, 1997 Amendment: Subdivision (a)(3) has been amended by adding a new paragraph that includes not only the substance of provisions formerly found in Rule 30(b)(2), but also new language dealing with the situation in which a party who receives minimal notice of a deposition is unable to obtain a court ruling on a motion for protective order seeking to delay or change the place of the deposition. Ordinarily, a party does not obtain protection merely by the filing of a motion under Rule 26(c); any such protection is dependent upon the court's ruling. Under the revision, a party receiving less than 11 days' notice of a deposition can, provided that its motion for a protective order is filed promptly, be spared the risks resulting from nonattendance at the deposition held before its motion is ruled upon. Although the revision covers only the risk that the deposition could be used against the non-appearing movant, it should also follow that, when the proposed deponent is the movant, the deponent would have "just cause" for failing to appear for purposes of Rule 37(d)(1). Inclusion of this provision is not intended to signify that 11 days' notice is the minimum advance notice for all depositions or that greater than 10 days should necessarily be deemed sufficient in all situations.

Former subdivision (c) has been redesignated as subdivision (d), without change, and a new subdivision (c) added to reflect the increased opportunities for video and audio recording of depositions under revised Rule 30. Under the new provision, a party may offer deposition testimony in any of the forms authorized under Rule 30(b) but, if offering it in a nonstenographic form, must provide the court with a transcript of the portions so offered. On request of any party in a jury trial, deposition testimony offered other than for impeachment purposes is to be presented in a nonstenographic form if available, unless the court directs otherwise.

Addition to Reporter's Notes, 1998 Amendment: Subdivision (c) requires that the court be furnished with a transcript of any deposition testimony presented at trial in nonstenographic form. It was not clear, however, whether the transcript had to be certified by the officer before whom the deposition was taken. If that were so, the rule would as a practical matter require the presence of a court reporter at video depositions; under Section 9 of the rules providing for certification of court reporters, 'transcripts ... will be accepted only if they are certified by a court reporter who holds a valid certificate under this Rule.'

Such a result would be at odds with Rule 30(b), which contemplates depositions taken by nonstenographic means only. Accordingly, a new second sentence has been added to Rule 32(c) making plain that the transcript must be prepared by a certified court reporter from the audio or video tape recording of the deposition, thereby ensuring that the transcript accurately reflects what is on the tape offered at trial.

HISTORY

Amended July 9, 1984, effective September 1, 1984; amended November 20, 1989, effective January 1, 1990; amended November 11, 1991, effective January 1, 1992; amended November 18, 1996, effective March 1, 1997; amended January 22, 1998.

ARCP Rule 45.1. Subpoena for Interstate Depositions and Discovery

(a) *Purpose.* This rule governs depositions and discovery conducted in Arkansas in connection with a civil action pending in another state.

(b) *Definitions.*

(1) "Foreign jurisdiction" means a state other than Arkansas.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(A) attend and give testimony at a deposition; or

(B) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person.

(c) *Issuance of Subpoena for Interstate Depositions and Discovery.*

(1) To request issuance of a subpoena under this rule, a party must submit a foreign subpoena to the circuit clerk in the county in which discovery is sought to be conducted. A request for the issuance of a subpoena under this rule does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a circuit clerk, the clerk, in accordance with the court’s procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed. At the time of issuance of the subpoena, the circuit clerk shall not open a case and shall not collect a fee other than that provided by Ark. Code Ann. section 21-6-402(b)(1). Return or proof of service shall not be made to the circuit clerk but to the attorney who requested the subpoena, and he or she shall retain it and furnish a copy to any party or to the deponent upon request.

(3) The person to whom the subpoena is directed may within ten days after the service or on or before the time specified in the subpoena for compliance if such time is less than ten days, serve upon the attorney causing the subpoena to be issued written objection to the subpoena or discovery sought. If objection is made, the party who requested the subpoena shall not be entitled to proceed with the deposition or discovery except pursuant to an order of the court. Upon an

objection, the party who requested the subpoena may move to enforce the subpoena by filing a motion, with notice to the subject of the subpoena, for an order to enforce the subpoena and proceed with discovery. The motion shall be filed with the circuit clerk. Upon the filing of the motion, the circuit clerk shall assign the matter a case number and collect the applicable fee. An application under subdivision (f) of this rule for a protective order or to quash or modify the subpoena shall be filed and heard in this case, and no additional fees shall be assessed.

(4) A subpoena under subdivision (c)(2) of this rule must:

(A) conform to the requirements of Rule 45, including the approved Form of Subpoena and Notice to Person Subject to Subpoenas, but may otherwise incorporate the terms used in the foreign subpoena so long as they conform to these rules; and

(B) contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

(d) *Service of Subpoena.* A subpoena issued under subdivision (c) of this rule must be served in compliance with Rule 45(c).

(e) *Deposition, Production, and Inspection.* Provisions of these rules, including Rule 26.1 (j), Rule 34, and Rule 45 (b) and (e), relating to compliance with subpoenas to attend and give testimony, produce designated books, documents, records, electronically stored information, or tangible things apply to subpoenas issued under subdivision (c) of this rule.

(f) *Application to Court.* An application to the court for a protective order or to enforce, quash, or modify a subpoena issued under subdivision (c) of this rule must comply with these rules, including Rule 26(c), Rule 45(b) and (e), and be submitted to the court in the county in which discovery is to be conducted.

COMMENT

Reporter's Notes (2018): Rule 45 (f), "Depositions for Use in Out-of-State Proceedings," was replaced with new Rule 45.1. This new procedure is based on the Uniform Interstate Depositions and Discovery Act that was adopted by the National Conference of Commissioners of Uniform State Laws in 2007.

Rule 45.1 is limited to discovery in state courts, the District of Columbia, Puerto Rico, the United States Virgin Islands, and the territories of the United States, but does not extend to include foreign countries.

Arkansas's adoption of the uniform provision does not include section (2)(5)(C) ("permit inspection of premises under the control of the person") in light of Ark. R. Civ. P. 34(c).

Opinion No. 2011-134

January 27, 2011

The Honorable John T. Vines
State Representative
123 Market Street
Hot Springs, Arkansas 71901-5308

Dear Representative Vines:

This is my opinion on your questions about Certified Court Reporters:

> 1. Is the authority to administer oaths in Section 23 [of the Regulations of the Board of Certified Court Reporter Examiners] limited to court related proceedings as specifically identified therein, or can it be interpreted more broadly to include sworn statements, examinations under oath for insurance claims, or witnesses appearing at hearings before administrative bodies such as the Public Service Commission or the Pollution Control and Ecology Commission?
>
> 2. With the advances in technology, it is now possible to conduct a deposition through the use of interactive video and telephone or Internet access where the participants can hear and see each other. Can a court reporter administer the oath to a deponent and satisfy the requirement of the deposition being taken before an officer authorized to administer oaths in a video conference deposition where the participants can hear and see each other, but are not physically present at the same locale?

RESPONSE

In my opinion, the authority to administer oaths granted by Section 23 is limited to the circumstances set forth in Section 23; and a Certified Court Reporter may administer an oath to a witness in a videoconference deposition.

Question 1 – Is the authority to administer oaths in Section 23 [of the Regulations of the Board of Certified Court Reporter Examiners] limited to court related proceedings as specifically identified therein, or can it be interpreted more broadly to include sworn statements, examinations under oath for insurance claims, or witnesses appearing at hearings before administrative bodies such as the Public Service Commission or the Pollution Control and Ecology Commission?

The rule referred to in your question provides:

> A Certified Court Reporter may administer oaths to witnesses in court proceedings, depositions, grand jury proceedings, or as otherwise authorized by a court of record.

Regulations of the Board of Certified Court Reporter Examiners, § 23 ("Section 23").

The Board of Certified Court Reporter Examiners (the "Board") promulgates and amends its regulations, including Section 23, under authority granted by the Arkansas Supreme Court, subject to the Court's approval. *See* Ark. R. Ct. Rep. Cert. § 3.H. The Court publishes the Board's regulations alongside the Court's own rules. *See, e.g., In re: Rule Providing for Certification of Reporters; Regulations of the Bd. of Certified Court Reporter Examiners,* 354 Ark. Appx. 730 (2003) (per curiam) ("adopt[ing] and publish[ing]" Section 23 without comment on its substance). Accordingly, in my view, the Board's regulations essentially amount to court rules.

Arkansas courts construe court rules using the same canons of construction used to construe statutes. *E.g., Ligon v. Stewart,* 369 Ark. 380, 255 S.W.2d 435 (2007). They construe unambiguous statutes according to the plain meaning of the words used. *E.g., May Const. Co., Inc. v. Town Creek Const. & Dev., LLC,* 2011 Ark. 281, ___ S.W.3d ___, 2011 WL 2477185.

In my view, Section 23 is clear and unambiguous. It authorizes Certified Court Reporters to administer oaths in connection with "court proceedings, depositions, [and] grand jury proceedings," and not otherwise, unless "authorized by a court of

record." The matters and circumstances referred to in your question simply do not fairly come within Section 23's scope, indicated by its words' plain meaning.[1]

My view is consistent with a Court rule relating to Certified Court Reporters. The rule, entitled "Scope," requires that transcripts taken in "court proceedings, depositions, or before any grand jury" be certified by a Certified Court Reporter. Ark. R. Ct. Rep. Cert. § 11(a). The rule does not purport to apply to any other proceedings.

In my opinion, the authority to administer oaths granted by Section 23 is limited to the circumstances set forth in Section 23.[2]

Question 2 – With the advances in technology, it is now possible to conduct a deposition through the use of interactive video and telephone or Internet access where the participants can hear and see each other. Can a court reporter administer the oath to a deponent and satisfy the requirement of the deposition being taken before an officer authorized to administer oaths in a video conference deposition where the participants can hear and see each other, but are not physically present at the same locale?

An Arkansas court rule expressly provides for depositions to "be taken by telephone or other remote electronic means." ARCP 30(b)(7). A predecessor in this office opined that a notary may administer an oath by telephone to a deposition witness not in the same location. Op. Att'y Gen. 89-040. My predecessor reached this conclusion in consideration of the quoted rule's express

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[1] With respect to administrative proceedings before the bodies you specify in your question, oaths are governed by specific regulations. *See* Arkansas Public Service Commission Rules of Practice and Procedure, Rule 3.06 (presiding officer at any Commission hearing "shall . . . administer oaths . . . ."); Arkansas Pollution Control and Ecology Commission, Regulation No. 8, Administrative Procedures, Regulation 8.608(C)(2) (Administrative Hearing Officer "may . . . [a]dminister oaths and affirmations . . . ."). With respect to administrative proceedings before agencies subject to the Administrative Procedure Act, that law provides that the officer presiding over a hearing is empowered "[t]o administer oaths and affirmations." A.C.A. § 25-15-203(3)(A)(ii) (Repl. 2002).

[2] Your question and my answer are limited to the meaning and effect of Section 23. This opinion should not be taken to imply that a person who is a Certified Court Reporter may not be authorized to administer oaths other than under Section 23.

authorization of telephone depositions and the absence of any relevant prohibition in the statute that authorizes notaries to administer oaths. *Id.*

The requirement you refer to in your question is contained in an Arkansas court rule:

> [D]epositions shall be taken before an officer authorized to administer oaths . . . .

ARCP 28(a).

As discussed in my answer to your first question, Section 23 authorizes a Certified Court Reporter to administer an oath to a deposition witness.

In *Clone Component Dist. Inc. v. State,* 819 S.W.2d 593 (Tex. App. – Dallas 1991), the court held that a rule substantially similar to ARCP 28(a) did not require the officer and the witness in a telephone deposition to be in the same location. The court stated that one person is "before" another when in the other's presence, and that, when speaking by telephone, people are in fact in each other's aural and vocal, though not physical, presence. The court held that a person in another's aural and vocal presence is "before" the other person for purposes of the rule.

I agree with my predecessor's reasoning in Op. Att'y Gen. 89-040[3] and with the court's reasoning in *Clone*. Participants in a videoconference are in each other's aural, vocal, and visual presence.[4] A videoconference deposition is therefore held "before" an officer who can see and hear the witness and other participants.

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[3] My predecessor did not refer to ARCP 28(a)'s "before" requirement.

[4] Both my predecessor in Op. Att'y Gen. 89-040 and the court in *Clone* acknowledged that telephone depositions may present difficulties owing to the fact that the officer cannot see the person who takes the oath and testifies, and therefore can later identify the person, if at all, only by the sound of the person's voice. *See* Op. Att'y Gen. 89-040 at 2; *Clone,* 819 S.W.2d at 599. These difficulties obviously will not arise in connection with videoconference depositions.

As noted above, ARCP 30(b)(7) expressly provides for depositions by remote electronic means. And as noted by the *Clone* court, a significant part of such a rule's utility would be lost if the witness and the person administering the oath were required to be in each other's physical presence. *See Clone,* 819 S.W.2d at 598.

In my opinion, then, a Certified Court Reporter may administer an oath to a witness in a videoconference deposition.

Assistant Attorney General J. M. Barker prepared this opinion, which I approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM:JMB/cyh

FRCP Rule 27— Depositions Before Action or Pending Appeal

(a) Before Action.

(1) Petition. A person who desires to perpetuate testimony regarding any matter that may be cognizable in any court of the United States may file a verified petition in the United States district court in the district of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show:

1, that the petitioner expects to be a party to an action cognizable in a court of the United States but is presently unable to bring it or cause it to be brought,

2, the subject matter of the expected action and the petitioner's interest therein,

3, the facts which the petitioner desires to establish by the proposed testimony and the reasons for desiring to perpetuate it,

4, the names or a description of the persons the petitioner expects will be adverse parties and their addresses so far as known, and

5, the names and addresses of the persons to be examined and the substance of the testimony which the petitioner expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) Notice and Service. The petitioner shall thereafter serve a notice upon each person named in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least 20 days before the date of hearing the notice shall be served either within or without the district or state in the manner provided in Rule 4(d) for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 4(d), an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent the provisions of Rule 17(c) apply.

(3) Order and Examination. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

(4) Use of Deposition. If a deposition to perpetuate testimony is taken under these rules or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any action involving the same subject matter subsequently brought in a United States district court, in accordance with the provisions of Rule 32(a).

(b) Pending Appeal. If an appeal has been taken from a judgment of a district court or before the taking of an appeal if the time therefor has not expired, the district court in which the judgment was rendered may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings in the district court. In such case the party who desires to perpetuate the testimony may make a motion in the district court for leave to take the depositions, upon the same notice and service thereof as if the action was pending in the district court. The motion shall show

(1) the names and addresses of persons to be examined and the substance of the testimony which the party expects to elicit from each;

(2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the district court.

(c) Perpetuation by Action. This rule does not limit the power of a court to entertain an action to perpetuate testimony.

[As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 1, 1971, eff. July 1, 1971; Mar. 2, 1987, eff. Aug. 1, 1987.]

FRCP Rule 28. Persons Before Whom Depositions May Be Taken

(a) WITHIN THE UNITED STATES.

(1) *In General.* Within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) an officer authorized to administer oaths either by federal law or by the law in the place of examination; or

(B) a person appointed by the court where the action is pending to administer oaths and take testimony.

(2) *Definition of "Officer."* The term "officer" in Rules 30, 31, and 32 includes a person appointed by the court under this rule or designated by the parties under Rule 29(a).

(b) IN A FOREIGN COUNTRY.

(1) *In General.* A deposition may be taken in a foreign country:

(A) under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

(D) before a person commissioned by the court to administer any necessary oath and take testimony.

(2) *Issuing a Letter of Request or a Commission.* A letter of request, a commission, or both may be issued:

(A) on appropriate terms after an application and notice of it; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) *Form of a Request, Notice, or Commission.* When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in [name of country]." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) *Letter of Request—Admitting Evidence.* Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any

similar departure from the requirements for depositions taken within the United States.

(c) DISQUALIFICATION. A deposition must not be taken before a person who is any party's relative, employee, or attorney; who is related to or employed by any party's attorney; or who is financially interested in the action.

NOTES

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Jan. 21, 1963, eff. July 1, 1963; Apr. 29, 1980, eff. Aug. 1, 1980; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 1, 2007, eff. Dec. 1, 2007.)

NOTES OF ADVISORY COMMITTEE ON RULES—1937

In effect this rule is substantially the same as U.S.C., Title 28, [former] §639 (Depositions *de bene esse;* when and where taken; notice). U.S.C., Title 28, [former] §642 (Depositions, acknowledgements, and affidavits taken by notaries public) does not conflict with subdivision (a).

NOTES OF ADVISORY COMMITTEE ON RULES—1946 AMENDMENT

The added language [in subdivision (a)] provides for the situation, occasionally arising, when depositions must be taken in an isolated place where there is no one readily available who has the power to administer oaths and take testimony according to the terms of the rule as originally stated. In addition, the amendment affords a more convenient method of securing depositions in the case where state lines intervene between the location of various witnesses otherwise rather closely grouped. The amendment insures that the person appointed shall have adequate power to perform his duties. It has been held that a person authorized to act in the premises, as, for example, a master, may take testimony outside the district of his appointment. *Consolidated Fastener Co. v. Columbian Button & Fastener Co*. (C.C.N.D.N.Y. 1898) 85 Fed. 54; *Mathieson Alkali Works v. Arnold, Hoffman & Co*. (C.C.A.1st, 1929) 31 F.(2d) 1.

NOTES OF ADVISORY COMMITTEE ON RULES—1963 AMENDMENT

The amendment of clause (1) is designed to facilitate depositions in foreign countries by enlarging the class of persons before whom the depositions may be taken on notice. The class is no longer confined, as at present, to a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States. In a country that regards the taking of testimony by a foreign official in aid of litigation pending in a court of another country as an infringement upon its sovereignty, it will be expedient to notice depositions before officers of the country in which the examination is taken. See generally *Symposium, Letters Rogatory* (Grossman ed. 1956); Doyle, *Taking Evidence by Deposition and Letters Rogatory and Obtaining Documents in Foreign Territory*, Proc. A.B.A., Sec. Int'l & Comp. L. 37 (1959); Heilpern, *Procuring Evidence Abroad*, 14 Tul.L.Rev. 29

(1939); Jones, *International Judicial Assistance: Procedural Chaos and a Program for Reform*, 62 Yale L.J. 515, 526–29 (1953); Smit, *International Aspects of Federal Civil Procedure*, 61 Colum.L.Rev. 1031, 1056–58 (1961).

Clause (2) of amended subdivision (b), like the corresponding provision of subdivision (a) dealing with depositions taken in the United States, makes it clear that the appointment of a person by commission in itself confers power upon him to administer any necessary oath.

It has been held that a letter rogatory will not be issued unless the use of a notice or commission is shown to be impossible or impractical. See, e.g., *United States v. Matles*, 154 F.Supp. 574 (E.D.N.Y. 1957); *The Edmund Fanning*, 89 F.Supp. 282 (E.D.N.Y. 1950); *Branyan v. Koninklijke Luchtvaart Maatschappij*, 13 F.R.D. 425 (S.D.N.Y. 1953). See also *Ali Akber Kiachif v. Philco International Corp.*, 10 F.R.D. 277 (S.D.N.Y. 1950). The intent of the fourth sentence of the amended subdivision is to overcome this judicial antipathy and to permit a sound choice between depositions under a letter rogatory and on notice or by commission in the light of all the circumstances. In a case in which the foreign country will compel a witness to attend or testify in aid of a letter rogatory but not in aid of a commission, a letter rogatory may be preferred on the ground that it is less expensive to execute, even if there is plainly no need for compulsive process. A letter rogatory may also be preferred when it cannot be demonstrated that a witness will be recalcitrant or when the witness states that he is willing to testify voluntarily, but the contingency exists that he will change his mind at the last moment. In the latter case, it may be advisable to issue both a commission and a letter rogatory, the latter to be executed if the former fails. The choice between a letter rogatory and a commission may be conditioned by other factors, including the nature and extent of the assistance that the foreign country will give to the execution of either.

In executing a letter rogatory the courts of other countries may be expected to follow their customary procedure for taking testimony. See *United States v. Paraffin Wax, 2255 Bags*, 23 F.R.D. 289 (E.D.N.Y. 1959). In many non-common-law countries the judge questions the witness, sometimes without first administering an oath, the attorneys put any supplemental questions either to the witness or through the judge, and the judge dictates a summary of the testimony, which the witness acknowledges as correct. See Jones, *supra*, at 530–32; Doyle, *supra*, at 39–41. The last sentence of the amended subdivision provides, contrary to the implications of some authority, that evidence recorded in such a fashion need not be excluded on that account. See The Mandu, 11 F.Supp. 845 (E.D.N.Y. 1935). *But cf. Nelson v. United States*, 17 Fed.Cas. 1340 (No. 10,116) (C.C.D.Pa. 1816); *Winthrop v. Union Ins. Co.*, 30 Fed.Cas. 376 (No. 17901) (C.C.D.Pa. 1807). The specific reference to the lack of an oath or a verbatim transcript is intended to be illustrative. Whether or to what degree the value or weight of the evidence may be affected by the method of taking or recording the

testimony is left for determination according to the circumstances of the particular case, *cf. Uebersee Finanz-Korporation, A.G. v. Brownell*, 121 F.Supp. 420 (D.D.C. 1954); *Danisch v. Guardian Life Ins. Co*., 19 F.R.D. 235 (S.D.N.Y. 1956); the testimony may indeed be so devoid of substance or probative value as to warrant its exclusion altogether.

Some foreign countries are hostile to allowing a deposition to be taken in their country, especially by notice or commission, or to lending assistance in the taking of a deposition. Thus compliance with the terms of amended subdivision (b) may not in all cases ensure completion of a deposition abroad. Examination of the law and policy of the particular foreign country in advance of attempting a deposition is therefore advisable. See 4 *Moore's Federal Practice*

28.05–28.08 (2d ed. 1950).

NOTES OF ADVISORY COMMITTEE ON RULES—1980 AMENDMENT

The amendments are clarifying.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The amendments are technical. No substantive change is intended.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This revision is intended to make effective use of the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, and of any similar treaties that the United States may enter into in the future which provide procedures for taking depositions abroad. The party taking the deposition is ordinarily obliged to conform to an applicable treaty or convention if an effective deposition can be taken by such internationally approved means, even though a verbatim transcript is not available or testimony cannot be taken under oath. For a discussion of the impact of such treaties upon the discovery process, and of the application of principles of comity upon discovery in countries not signatories to a convention, see *SocieÿAE1teÿAE1 Nationale Industrielle AeÿAE1rospatiale v. United States District Court*, 482 U.S. 522 (1987).

The term "letter of request" has been substituted in the rule for the term "letter rogatory" because it is the primary method provided by the Hague Convention. A letter rogatory is essentially a form of letter of request. There are several other minor changes that are designed merely to carry out the intent of the other alterations.

Rule 29. Stipulations About Discovery Procedure

Unless the court orders otherwise, the parties may stipulate that:

(a) a deposition may be taken before any person, at any time or place, on any notice, and in the manner specified—in which event it may be used in the same way as any other deposition; and

(b) other procedures governing or limiting discovery be modified—but a stipulation extending the time for any form of discovery must have court approval if it would interfere with the time set for completing discovery, for hearing a motion, or for trial.

NOTES

(As amended Mar. 30, 1970, eff. July 1, 1970; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 30, 2007, eff. Dec. 1, 2007.)

NOTES OF ADVISORY COMMITTEE ON RULES—1970 AMENDMENT

There is no provision for stipulations varying the procedures by which methods of discovery other than depositions are governed. It is common practice for parties to agree on such variations, and the amendment recognizes such agreements and provides a formal mechanism in the rules for giving them effect. Any stipulation varying the procedures may be superseded by court order, and stipulations extending the time for response to discovery under Rules 33, 34, and 36 require court approval.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is revised to give greater opportunity for litigants to agree upon modifications to the procedures governing discovery or to limitations upon discovery. Counsel are encouraged to agree on less expensive and time-consuming methods to obtain information, as through voluntary exchange of documents, use of interviews in lieu of depositions, etc. Likewise, when more depositions or interrogatories are needed than allowed under these rules or when more time is needed to complete a deposition than allowed under a local rule, they can, by agreeing to the additional discovery, eliminate the need for a special motion addressed to the court.

Under the revised rule, the litigants ordinarily are not required to obtain the court's approval of these stipulations. By order or local rule, the court can, however, direct that its approval be obtained for particular types of stipulations; and, in any event, approval must be obtained if a stipulation to extend the 30-day

period for responding to interrogatories, requests for production, or requests for admissions would interfere with dates set by the court for completing discovery, for hearing of a motion, or for trial.

Rule 30. Depositions by Oral Examination

(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by oral questions, depose any person, including a party, without leave of court except as provided in Rule 30(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take the deposition before the time specified in Rule 26(d), unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave the United States and be unavailable for examination in this country after that time; or

(B) if the deponent is confined in prison.

(b) Notice of the Deposition; Other Formal Requirements.

(1) *Notice in General.* A party who wants to depose a person by oral questions must give reasonable written notice to every other party. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) *Producing Documents.* If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in the subpoena, must be listed in the notice or in an attachment. The notice to a party deponent may be accompanied by a request under Rule 34 to produce documents and tangible things at the deposition.

(3) *Method of Recording.*

(A) *Method Stated in the Notice.* The party who notices the deposition must state in the notice the method for recording the testimony. Unless the court orders otherwise, testimony may be recorded by audio, audiovisual, or stenographic means. The noticing party bears the recording costs. Any party may arrange to transcribe a deposition.

(B) *Additional Method.* With prior notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to that specified in the original notice. That party bears the expense of the additional record or transcript unless the court orders otherwise.

(4) *By Remote Means.* The parties may stipulate—or the court may on motion order—that a deposition be taken by telephone or other remote means. For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place where the deponent answers the questions.

(5) *Officer's Duties.*

(A) *Before the Deposition.* Unless the parties stipulate otherwise, a deposition must be conducted before an officer appointed or designated under Rule 28. The officer must begin the deposition with an on-the-record statement that includes:

(i) the officer's name and business address;

(ii) the date, time, and place of the deposition;

(iii) the deponent's name;

(iv) the officer's administration of the oath or affirmation to the deponent; and

(v) the identity of all persons present.

(B) *Conducting the Deposition; Avoiding Distortion.* If the deposition is recorded nonstenographically, the officer must repeat the items in Rule 30(b)(5)(A)(i)–(iii) at the beginning of each unit of the recording medium. The deponent's and attorneys' appearance or demeanor must not be distorted through recording techniques.

(C) *After the Deposition.* At the end of a deposition, the officer must state on the record that the deposition is complete and must set out any stipulations made by the attorneys about custody of the transcript or recording and of the exhibits, or about any other pertinent matters.

(6) *Notice or Subpoena Directed to an Organization.* In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. Before or promptly after the notice or subpoena is served, the serving party and the organization must confer in good faith about the matters for examination. A subpoena must advise a nonparty organization of its duty to confer with the

serving party and to designate each person who will testify. The persons designated must testify about information known or reasonably available to the organization. This paragraph (6) does not preclude a deposition by any other procedure allowed by these rules.

(c) Examination and Cross-Examination; Record of the Examination; Objections; Written Questions.

(1) *Examination and Cross-Examination.* The examination and cross-examination of a deponent proceed as they would at trial under the Federal Rules of Evidence, except Rules 103 and 615. After putting the deponent under oath or affirmation, the officer must record the testimony by the method designated under Rule 30(b)(3)(A). The testimony must be recorded by the officer personally or by a person acting in the presence and under the direction of the officer.

(2) *Objections.* An objection at the time of the examination—whether to evidence, to a party's conduct, to the officer's qualifications, to the manner of taking the deposition, or to any other aspect of the deposition—must be noted on the record, but the examination still proceeds; the testimony is taken subject to any objection. An objection must be stated concisely in a nonargumentative and nonsuggestive manner. A person may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the court, or to present a motion under Rule 30(d)(3).

(3) *Participating Through Written Questions.* Instead of participating in the oral examination, a party may serve written questions in a sealed envelope on the party noticing the deposition, who must deliver them to the officer. The officer must ask the deponent those questions and record the answers verbatim.

(d) Duration; Sanction; Motion to Terminate or Limit.

(1) *Duration.* Unless otherwise stipulated or ordered by the court, a deposition is limited to 1 day of 7 hours. The court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.

(2) *Sanction.* The court may impose an appropriate sanction—including the reasonable expenses and attorney's fees incurred by any party—on a person who impedes, delays, or frustrates the fair examination of the deponent.

(3) *Motion to Terminate or Limit.*

(A) *Grounds.* At any time during a deposition, the deponent or a party may move to terminate or limit it on the ground that it is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses the deponent or party. The motion may be filed in the court where the action is

pending or the deposition is being taken. If the objecting deponent or party so demands, the deposition must be suspended for the time necessary to obtain an order.

(B) *Order.* The court may order that the deposition be terminated or may limit its scope and manner as provided in Rule 26(c). If terminated, the deposition may be resumed only by order of the court where the action is pending.

(C) *Award of Expenses.* Rule 37(a)(5) applies to the award of expenses.

(e) REVIEW BY THE WITNESS; CHANGES.

(1) *Review; Statement of Changes.* On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) *Changes Indicated in the Officer's Certificate.* The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

(f) CERTIFICATION AND DELIVERY; EXHIBITS; COPIES OF THE TRANSCRIPT OR RECORDING; FILING.

(1) *Certification and Delivery.* The officer must certify in writing that the witness was duly sworn and that the deposition accurately records the witness's testimony. The certificate must accompany the record of the deposition. Unless the court orders otherwise, the officer must seal the deposition in an envelope or package bearing the title of the action and marked "Deposition of [witness's name]" and must promptly send it to the attorney who arranged for the transcript or recording. The attorney must store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

(2) *Documents and Tangible Things.*

(A) *Originals and Copies.* Documents and tangible things produced for inspection during a deposition must, on a party's request, be marked for identification and attached to the deposition. Any party may inspect and copy them. But if the person who produced them wants to keep the originals, the person may:

(i) offer copies to be marked, attached to the deposition, and then used as originals—after giving all parties a fair opportunity to verify the copies by comparing them with the originals; or

(ii) give all parties a fair opportunity to inspect and copy the originals after they are marked—in which event the originals may be used as if attached to the deposition.

(B) *Order Regarding the Originals.* Any party may move for an order that the originals be attached to the deposition pending final disposition of the case.

(3) *Copies of the Transcript or Recording.* Unless otherwise stipulated or ordered by the court, the officer must retain the stenographic notes of a deposition taken stenographically or a copy of the recording of a deposition taken by another method. When paid reasonable charges, the officer must furnish a copy of the transcript or recording to any party or the deponent.

(4) *Notice of Filing.* A party who files the deposition must promptly notify all other parties of the filing.

(g) FAILURE TO ATTEND A DEPOSITION OR SERVE A SUBPOENA; EXPENSES. A party who, expecting a deposition to be taken, attends in person or by an attorney may recover reasonable expenses for attending, including attorney's fees, if the noticing party failed to:

(1) attend and proceed with the deposition; or

(2) serve a subpoena on a nonparty deponent, who consequently did not attend.

NOTES

(As amended Jan. 21, 1963, eff. July 1, 1963; Mar. 30, 1970, eff. July 1, 1970; Mar. 1, 1971, eff. July 1, 1971; Nov. 20, 1972, eff. July 1, 1975; Apr. 29, 1980, eff. Aug. 1, 1980; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 29, 2015, eff. Dec. 1, 2015.)

NOTES OF ADVISORY COMMITTEE ON RULES—1937

Note to Subdivision (a). This is in accordance with common practice. See U.S.C., Title 28, [former] §639 (Depositions *de bene esse;* when and where taken; notice), the relevant provisions of which are incorporated in this rule; Calif.Code Civ.Proc. (Deering, 1937) §2031; and statutes cited in respect to notice in the *Note* to Rule 26(a). The provision for enlarging or shortening the time of notice has been added to give flexibility to the rule.

Note to Subdivisions (b) and (d). These are introduced as a safeguard for the protection of parties and deponents on account of the unlimited right of discovery given by Rule 26.

Note to Subdivisions (c) and (e). These follow the general plan of [former] Equity Rule 51 (Evidence Taken Before Examiners, Etc.) and U. S. C., Title 28, [former] §§640 (Depositions *de bene esse;* mode of taking), and [former] 641

(Same; transmission to court), but are more specific. They also permit the deponent to require the officer to make changes in the deposition if the deponent is not satisfied with it. See also [former] Equity Rule 50 (Stenographer–Appointment–Fees).

Note to Subdivision (f). Compare [former] Equity Rule 55 (Depositions Deemed Published When Filed).

Note to Subdivision (g). This is similar to 2 Minn. Stat. (Mason, 1927) §9833, but is more extensive.

NOTES OF ADVISORY COMMITTEE ON RULES—1963 AMENDMENT

This amendment corresponds to the change in Rule 4(d)(4). See the Advisory Committee's Note to that amendment.

NOTES OF ADVISORY COMMITTEE ON RULES—1970 AMENDMENT

Subdivision (a). This subdivision contains the provisions of existing Rule 26(a), transferred here as part of the rearrangement relating to Rule 26. Existing Rule 30(a) is transferred to 30(b). Changes in language have been made to conform to the new arrangement.

This subdivision is further revised in regard to the requirement of leave of court for taking a deposition. The present procedure, requiring a plaintiff to obtain leave of court if he serves notice of taking a deposition within 20 days after commencement of the action, is changed in several respects. First, leave is required by reference to the time the deposition is to be taken rather than the date of serving notice of taking. Second, the 20-day period is extended to 30 days and runs from the service of summons and complaint on any defendant, rather than the commencement of the action. *Cf*. Ill. S.Ct.R. 19–1, S–H Ill.Ann.Stat. §101.19–1. Third, leave is not required beyond the time that defendant initiates discovery, thus showing that he has retained counsel. As under the present practice, a party not afforded a reasonable opportunity to appear at a deposition, because he has not yet been served with process, is protected against use of the deposition at trial against him. See Rule 32(a), transferred from 26(d). Moreover, he can later redepose the witness if he so desires.

The purpose of requiring the plaintiff to obtain leave of court is, as stated by the Advisory Committee that proposed the present language of Rule 26(a), to protect "a defendant who has not had an opportunity to retain counsel and inform himself as to the nature of the suit." Note to 1948 amendment of Rule 26(a), quoted in 3A Barron & Holtzoff, *Federal Practice and Procedure* 455–456 (Wright ed. 1958). In order to assure defendant of this opportunity, the period is lengthened to 30 days. This protection, however, is relevant to the time of taking the deposition, not to the time that notice is served. Similarly, the protective period should run from the service of process rather than the filing of the complaint with the court. As stated in the note to Rule 26(d), the courts have used the service of notice as a

convenient reference point for assigning priority in taking depositions, but with the elimination of priority in new Rule 26(d) the reference point is no longer needed. The new procedure is consistent in principle with the provisions of Rules 33, 34, and 36 as revised.

Plaintiff is excused from obtaining leave even during the initial 30-day period if he gives the special notice provided in subdivision (b)(2). The required notice must state that the person to be examined is about to go out of the district where the action is pending and more than 100 miles from the place of trial, or out of the United States, or on a voyage to sea, and will be unavailable for examination unless deposed within the 30-day period. These events occur most often in maritime litigation, when seamen are transferred from one port to another or are about to go to sea. Yet, there are analogous situations in nonmaritime litigation, and although the maritime problems are more common, a rule limited to claims in the admiralty and maritime jurisdiction is not justified.

In the recent unification of the civil and admiralty rules, this problem was temporarily met through addition in Rule 26(a) of a provision that depositions de bene esse may continue to be taken as to admiralty and maritime claims within the meaning of Rule 9(h). It was recognized at the time that "a uniform rule applicable alike to what are now civil actions and suits in admiralty" was clearly preferable, but the de bene esse procedure was adopted "for the time being at least." See Advisory Committee's note in Report of the Judicial Conference: Proposed Amendments to Rules of Civil Procedure 43–44 (1966).

The changes in Rule 30(a) and the new Rule 30(b)(2) provide a formula applicable to ordinary civil as well as maritime claims. They replace the provision for depositions de bene esse. They authorize an early deposition without leave of court where the witness is about to depart and, unless his deposition is promptly taken, (1) it will be impossible or very difficult to depose him before trial or (2) his deposition can later be taken but only with substantially increased effort and expense. *Cf. S.S. Hai Chang*, 1966 A.M.C. 2239 (S.D.N.Y. 1966), in which the deposing party is required to prepay expenses and counsel fees of the other party's lawyer when the action is pending in New York and depositions are to be taken on the West Coast. Defendant is protected by a provision that the deposition cannot be used against him if he was unable through exercise of diligence to obtain counsel to represent him.

The distance of 100 miles from place of trial is derived from the *de bene esse* provision and also conforms to the reach of a subpoena of the trial court, as provided in Rule 45(e). See also S.D.N.Y. Civ.R. 5(a). Some parts of the de bene esse provision are omitted from Rule 30(b)(2). Modern deposition practice adequately covers the witness who lives more than 100 miles away from place of trial. If a witness is aged or infirm, leave of court can be obtained.

Subdivision (b). Existing Rule 30(b) on protective orders has been transferred to Rule 26(c), and existing Rule 30(a) relating to the notice of taking deposition has been transferred to this subdivision. Because new material has been added, subsection numbers have been inserted.

Subdivision (b)(1). If a subpoena duces tecum is to be served, a copy thereof or a designation of the materials to be produced must accompany the notice. Each party is thereby enabled to prepare for the deposition more effectively.

Subdivision (b)(2). This subdivision is discussed in the note to subdivision (a), to which it relates.

Subdivision (b)(3). This provision is derived from existing Rule 30(a), with a minor change of language.

Subdivision (b)(4). In order to facilitate less expensive procedures, provision is made for the recording of testimony by other than stenographic means— *e.g*., by mechanical, electronic, or photographic means. Because these methods give rise to problems of accuracy and trustworthiness, the party taking the deposition is required to apply for a court order. The order is to specify how the testimony is to be recorded, preserved, and filed, and it may contain whatever additional safeguards the court deems necessary.

Subdivision (b)(5). A provision is added to enable a party, through service of notice, to require another party to produce documents or things at the taking of his deposition. This may now be done as to a nonparty deponent through use of a subpoena duces tecum as authorized by Rule 45, but some courts have held that documents may be secured from a party only under Rule 34. See 2A Barron & Holtzoff, Federal Practice and Procedure §644.1 n. 83.2, §792 n. 16 (Wright ed. 1961). With the elimination of "good cause" from Rule 34, the reason for this restrictive doctrine has disappeared. *Cf*. N.Y.C.P.L.R. §3111.

Whether production of documents or things should be obtained directly under Rule 34 or at the deposition under this rule will depend on the nature and volume of the documents or things. Both methods are made available. When the documents are few and simple, and closely related to the oral examination, ability to proceed via this rule will facilitate discovery. If the discovering party insists on examining many and complex documents at the taking of the deposition, thereby causing undue burdens on others, the latter may, under Rules 26(c) or 30(d), apply for a court order that the examining party proceed via Rule 34 alone.

Subdivision (b)(6). A new provision is added, whereby a party may name a corporation, partnership, association, or governmental agency as the deponent and designate the matters on which he requests examination, and the organization shall then name one or more of its officers, directors, or managing agents, or other persons consenting to appear and testify on its behalf with respect to matters known or reasonably available to the organization. *Cf*. Alberta Sup.Ct.R.

255. The organization may designate persons other than officers, directors, and managing agents, but only with their consent. Thus, an employee or agent who has an independent or conflicting interest in the litigation—for example, in a personal injury case—can refuse to testify on behalf of the organization.

This procedure supplements the existing practice whereby the examining party designates the corporate official to be deposed. Thus, if the examining party believes that certain officials who have not testified pursuant to this subdivision have added information, he may depose them. On the other hand, a court's decision whether to issue a protective order may take account of the availability and use made of the procedures provided in this subdivision.

The new procedure should be viewed as an added facility for discovery, one which may be advantageous to both sides as well as an improvement in the deposition process. It will reduce the difficulties now encountered in determining, prior to the taking of a deposition, whether a particular employee or agent is a "managing agent." See Note, *Discovery Against Corporations Under the Federal Rules*, 47 Iowa L.Rev. 1006–1016 (1962). It will curb the "bandying" by which officers or managing agents of a corporation are deposed in turn but each disclaims knowledge of facts that are clearly known to persons in the organization and thereby to it. *Cf. Haney v. Woodward & Lothrop, Inc*., 330 F.2d 940, 944 (4th Cir. 1964). The provisions should also assist organizations which find that an unnecessarily large number of their officers and agents are being deposed by a party uncertain of who in the organization has knowledge. Some courts have held that under the existing rules a corporation should not be burdened with choosing which person is to appear for it. *E.g., United States v. Gahagan Dredging Corp*., 24 F.R.D. 328, 329 (S.D.N.Y. 1958). This burden is not essentially different from that of answering interrogatories under Rule 33, and is in any case lighter than that of an examining party ignorant of who in the corporation has knowledge.

Subdivision (c). A new sentence is inserted at the beginning, representing the transfer of existing Rule 26(c) to this subdivision. Another addition conforms to the new provision in subdivision (b)(4).

The present rule provides that transcription shall be carried out unless all parties waive it. In view of the many depositions taken from which nothing useful is discovered, the revised language provides that transcription is to be performed if any party requests it. The fact of the request is relevant to the exercise of the court's discretion in determining who shall pay for transcription.

Parties choosing to serve written questions rather than participate personally in an oral deposition are directed to serve their questions on the party taking the deposition, since the officer is often not identified in advance. Confidentiality is preserved, since the questions may be served in a sealed envelope.

Subdivision (d). The assessment of expenses incurred in relation to motions made under this subdivision (d) is made subject to the provisions of Rule 37(a).

The standards for assessment of expenses are more fully set out in Rule 37(a), and these standards should apply to the essentially similar motions of this subdivision.

Subdivision (e). The provision relating to the refusal of a witness to sign his deposition is tightened through insertion of a 30-day time period.

Subdivision (f)(1). A provision is added which codifies in a flexible way the procedure for handling exhibits related to the deposition and at the same time assures each party that he may inspect and copy documents and things produced by a nonparty witness in response to subpoena duces tecum. As a general rule and in the absence of agreement to the contrary or order of the court, exhibits produced without objection are to be annexed to and returned with the deposition, but a witness may substitute copies for purposes of marking and he may obtain return of the exhibits. The right of the parties to inspect exhibits for identification and to make copies is assured. *Cf*. N.Y.C.P.L.R. §3116(c).

Notes of Advisory Committee on Rules—1971 Amendment

The subdivision permits a party to name a corporation or other form of organization as a deponent in the notice of examination and to describe in the notice the matters about which discovery is desired. The organization is then obliged to designate natural persons to testify on its behalf. The amendment clarifies the procedure to be followed if a party desires to examine a non-party organization through persons designated by the organization. Under the rules, a subpoena rather than a notice of examination is served on a non-party to compel attendance at the taking of a deposition. The amendment provides that a subpoena may name a non-party organization as the deponent and may indicate the matters about which discovery is desired. In that event, the non-party organization must respond by designating natural persons, who are then obliged to testify as to matters known or reasonably available to the organization. To insure that a non-party organization that is not represented by counsel has knowledge of its duty to designate, the amendment directs the party seeking discovery to advise of the duty in the body of the subpoena.

Notes of Advisory Committee on Rules—1972 Amendment

Subdivision (c). Existing. Rule 43(b), which is to be abrogated, deals with the use of leading questions, the calling, interrogation, impeachment, and scope of cross-examination of adverse parties, officers, etc. These topics are dealt with in many places in the Rules of Evidence. Moreover, many pertinent topics included in the Rules of Evidence are not mentioned in Rule 43(b), e.g. privilege. A reference to the Rules of Evidence generally is therefore made in subdivision (c) of Rule 30.

Notes of Advisory Committee on Rules—1980 Amendment

Subdivision (b)(4). It has been proposed that electronic recording of depositions be authorized as a matter of course, subject to the right of a party to seek an

order that a deposition be recorded by stenographic means. The Committee is not satisfied that a case has been made for a reversal of present practice. The amendment is made to encourage parties to agree to the use of electronic recording of depositions so that conflicting claims with respect to the potential of electronic recording for reducing costs of depositions can be appraised in the light of greater experience. The provision that the parties may stipulate that depositions may be recorded by other than stenographic means seems implicit in Rule 29. The amendment makes it explicit. The provision that the stipulation or order shall designate the person before whom the deposition is to be taken is added to encourage the naming of the recording technician as that person, eliminating the necessity of the presence of one whose only function is to administer the oath. See Rules 28(a) and 29.

Subdivision (b)(7). Depositions by telephone are now authorized by Rule 29 upon stipulation of the parties. The amendment authorizes that method by order of the court. The final sentence is added to make it clear that when a deposition is taken by telephone it is taken in the district and at the place where the witness is to answer the questions rather than that where the questions are propounded.

Subdivision (f)(1). For the reasons set out in the Note following the amendment of Rule 5(d), the court may wish to permit the parties to retain depositions unless they are to be used in the action. The amendment of the first paragraph permits the court to so order.

The amendment of the second paragraph is clarifying. The purpose of the paragraph is to permit a person who produces materials at a deposition to offer copies for marking and annexation to the deposition. Such copies are a "substitute" for the originals, which are not to be marked and which can thereafter be used or even disposed of by the person who produces them. In the light of that purpose, the former language of the paragraph had been justly termed "opaque." Wright & Miller, *Federal Practice and Procedure: Civil* §2114.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The amendments are technical. No substantive change is intended.

EFFECTIVE DATE OF AMENDMENT PROPOSED NOVEMBER 20, 1972

Amendment of this rule embraced by the order entered by the Supreme Court of the United States on November 20, 1972, effective on the 180th day beginning after January 2, 1975, see section 3 of Pub. L. 93–595, Jan. 2, 1975, 88 Stat. 1959, set out as a note under section 2074 of this title.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (a). Paragraph (1) retains the first and third sentences from the former subdivision (a) without significant modification. The second and fourth sentences are relocated.

Paragraph (2) collects all provisions bearing on requirements of leave of court to take a deposition.

Paragraph (2)(A) is new. It provides a limit on the number of depositions the parties may take, absent leave of court or stipulation with the other parties. One aim of this revision is to assure judicial review under the standards stated in Rule 26(b)(2) before any side will be allowed to take more than ten depositions in a case without agreement of the other parties. A second objective is to emphasize that counsel have a professional obligation to develop a mutual cost-effective plan for discovery in the case. Leave to take additional depositions should be granted when consistent with the principles of Rule 26(b)(2), and in some cases the ten-per-side limit should be reduced in accordance with those same principles. Consideration should ordinarily be given at the planning meeting of the parties under Rule 26(f) and at the time of a scheduling conference under Rule 16(b) as to enlargements or reductions in the number of depositions, eliminating the need for special motions.

A deposition under Rule 30(b)(6) should, for purposes of this limit, be treated as a single deposition even though more than one person may be designated to testify.

In multi-party cases, the parties on any side are expected to confer and agree as to which depositions are most needed, given the presumptive limit on the number of depositions they can take without leave of court. If these disputes cannot be amicably resolved, the court can be requested to resolve the dispute or permit additional depositions.

Paragraph (2)(B) is new. It requires leave of court if any witness is to be deposed in the action more than once. This requirement does not apply when a deposition is temporarily recessed for convenience of counsel or the deponent or to enable additional materials to be gathered before resuming the deposition. If significant travel costs would be incurred to resume the deposition, the parties should consider the feasibility of conducting the balance of the examination by telephonic means.

Paragraph (2)(C) revises the second sentence of the former subdivision (a) as to when depositions may be taken. Consistent with the changes made in Rule 26(d), providing that formal discovery ordinarily not commence until after the litigants have met and conferred as directed in revised Rule 26(f), the rule requires leave of court or agreement of the parties if a deposition is to be taken before that time (except when a witness is about to leave the country).

Subdivision (b). The primary change in subdivision (b) is that parties will be authorized to record deposition testimony by nonstenographic means without first having to obtain permission of the court or agreement from other counsel.

Former subdivision (b)(2) is partly relocated in subdivision (a)(2)(C) of this rule. The latter two sentences of the first paragraph are deleted, in part because they are redundant to Rule 26(g) and in part because Rule 11 no longer applies to discovery requests. The second paragraph of the former subdivision (b)(2), relating to use of depositions at trial where a party was unable to obtain counsel in time for an accelerated deposition, is relocated in Rule 32.

New paragraph (2) confers on the party taking the deposition the choice of the method of recording, without the need to obtain prior court approval for one taken other than stenographically. A party choosing to record a deposition only by videotape or audiotape should understand that a transcript will be required by Rule 26(a)(3)(B) and Rule 32(c) if the deposition is later to be offered as evidence at trial or on a dispositive motion under Rule 56. Objections to the nonstenographic recording of a deposition, when warranted by the circumstances, can be presented to the court under Rule 26(c).

Paragraph (3) provides that other parties may arrange, at their own expense, for the recording of a deposition by a means (stenographic, visual, or sound) in addition to the method designated by the person noticing the deposition. The former provisions of this paragraph, relating to the court's power to change the date of a deposition, have been eliminated as redundant in view of Rule 26(c)(2).

Revised paragraph (4) requires that all depositions be recorded by an officer designated or appointed under Rule 28 and contains special provisions designed to provide basic safeguards to assure the utility and integrity of recordings taken other than stenographically.

Paragraph (7) is revised to authorize the taking of a deposition not only by telephone but also by other remote electronic means, such as satellite television, when agreed to by the parties or authorized by the court.

Subdivision (c). Minor changes are made in this subdivision to reflect those made in subdivision (b) and to complement the new provisions of subdivision (d)(1), aimed at reducing the number of interruptions during depositions.

In addition, the revision addresses a recurring problem as to whether other potential deponents can attend a deposition. Courts have disagreed, some holding that witnesses should be excluded through invocation of Rule 615 of the evidence rules, and others holding that witnesses may attend unless excluded by an order under Rule 26(c)(5). The revision provides that other witnesses are not automatically excluded from a deposition simply by the request of a party. Exclusion, however, can be ordered under Rule 26(c)(5) when appropriate; and, if exclusion is ordered, consideration should be given as to whether the excluded witnesses likewise should be precluded from reading, or being otherwise informed about, the testimony given in the earlier depositions. The revision addresses only the matter of attendance by potential deponents, and does not attempt to resolve issues concerning attendance by others, such as members of the public or press.

Subdivision (d). The first sentence of new paragraph (1) provides that any objections during a deposition must be made concisely and in a non-argumentative and non-suggestive manner. Depositions frequently have been unduly prolonged, if not unfairly frustrated, by lengthy objections and colloquy, often suggesting how the deponent should respond. While objections may, under the revised rule, be made during a deposition, they ordinarily should be limited to those that under Rule 32(d)(3) might be waived if not made at that time, *i.e*., objections on grounds that might be immediately obviated, removed, or cured, such as to the form of a question or the responsiveness of an answer. Under Rule 32(b), other objections can, even without the so-called "usual stipulation" preserving objections, be raised for the first time at trial and therefore should be kept to a minimum during a deposition.

Directions to a deponent not to answer a question can be even more disruptive than objections. The second sentence of new paragraph (1) prohibits such directions except in the three circumstances indicated: to claim a privilege or protection against disclosure (*e.g*., as work product), to enforce a court directive limiting the scope or length of permissible discovery, or to suspend a deposition to enable presentation of a motion under paragraph (3).

Paragraph (2) is added to this subdivision to dispel any doubts regarding the power of the court by order or local rule to establish limits on the length of depositions. The rule also explicitly authorizes the court to impose the cost resulting from obstructive tactics that unreasonably prolong a deposition on the person engaged in such obstruction. This sanction may be imposed on a non-party witness as well as a party or attorney, but is otherwise congruent with Rule 26(g).

It is anticipated that limits on the length of depositions prescribed by local rules would be presumptive only, subject to modification by the court or by agreement of the parties. Such modifications typically should be discussed by the parties in their meeting under Rule 26(f) and included in the scheduling order required by Rule 16(b). Additional time, moreover, should be allowed under the revised rule when justified under the principles stated in Rule 26(b)(2). To reduce the number of special motions, local rules should ordinarily permit—and indeed encourage—the parties to agree to additional time, as when, during the taking of a deposition, it becomes clear that some additional examination is needed.

Paragraph (3) authorizes appropriate sanctions not only when a deposition is unreasonably prolonged, but also when an attorney engages in other practices that improperly frustrate the fair examination of the deponent, such as making improper objections or giving directions not to answer prohibited by paragraph (1). In general, counsel should not engage in any conduct during a deposition that would not be allowed in the presence of a judicial officer. The making of an excessive number of unnecessary objections may itself constitute sanctionable conduct, as may the refusal of an attorney to agree with other counsel on a fair apportionment of the time allowed for examination of a deponent or a refusal to

agree to a reasonable request for some additional time to complete a deposition, when that is permitted by the local rule or order.

Subdivision (e). Various changes are made in this subdivision to reduce problems sometimes encountered when depositions are taken stenographically. Reporters frequently have difficulties obtaining signatures—and the return of depositions—from deponents. Under the revision pre-filing review by the deponent is required only if requested before the deposition is completed. If review is requested, the deponent will be allowed 30 days to review the transcript or recording and to indicate any changes in form or substance. Signature of the deponent will be required only if review is requested and changes are made.

Subdivision (f). Minor changes are made in this subdivision to reflect those made in subdivision (b). In courts which direct that depositions not be automatically filed, the reporter can transmit the transcript or recording to the attorney taking the deposition (or ordering the transcript or record), who then becomes custodian for the court of the original record of the deposition. Pursuant to subdivision (f)(2), as under the prior rule, any other party is entitled to secure a copy of the deposition from the officer designated to take the deposition; accordingly, unless ordered or agreed, the officer must retain a copy of the recording or the stenographic notes.

COMMITTEE NOTES ON RULES—2000 AMENDMENT

Subdivision (d). Paragraph (1) has been amended to clarify the terms regarding behavior during depositions. The references to objections "to evidence" and limitations "on evidence" have been removed to avoid disputes about what is "evidence" and whether an objection is to, or a limitation is on, discovery instead. It is intended that the rule apply to any objection to a question or other issue arising during a deposition, and to any limitation imposed by the court in connection with a deposition, which might relate to duration or other matters.

The current rule places limitations on instructions that a witness not answer only when the instruction is made by a "party." Similar limitations should apply with regard to anyone who might purport to instruct a witness not to answer a question. Accordingly, the rule is amended to apply the limitation to instructions by any person. The amendment is not intended to confer new authority on nonparties to instruct witnesses to refuse to answer deposition questions. The amendment makes it clear that, whatever the legitimacy of giving such instructions, the nonparty is subject to the same limitations as parties.

Paragraph (2) imposes a presumptive durational limitation of one day of seven hours for any deposition. The Committee has been informed that overlong depositions can result in undue costs and delays in some circumstances. This limitation contemplates that there will be reasonable breaks during the day for lunch and other reasons, and that the only time to be counted is the time occupied by the actual deposition. For purposes of this durational limit, the deposition of

each person designated under Rule 30(b)(6) should be considered a separate deposition. The presumptive duration may be extended, or otherwise altered, by agreement. Absent agreement, a court order is needed. The party seeking a court order to extend the examination, or otherwise alter the limitations, is expected to show good cause to justify such an order.

Parties considering extending the time for a deposition—and courts asked to order an extension—might consider a variety of factors. For example, if the witness needs an interpreter, that may prolong the examination. If the examination will cover events occurring over a long period of time, that may justify allowing additional time. In cases in which the witness will be questioned about numerous or lengthy documents, it is often desirable for the interrogating party to send copies of the documents to the witness sufficiently in advance of the deposition so that the witness can become familiar with them. Should the witness nevertheless not read the documents in advance, thereby prolonging the deposition, a court could consider that a reason for extending the time limit. If the examination reveals that documents have been requested but not produced, that may justify further examination once production has occurred. In multi-party cases, the need for each party to examine the witness may warrant additional time, although duplicative questioning should be avoided and parties with similar interests should strive to designate one lawyer to question about areas of common interest. Similarly, should the lawyer for the witness want to examine the witness, that may require additional time. Finally, with regard to expert witnesses, there may more often be a need for additional time—even after the submission of the report required by Rule 26(a)(2)—for full exploration of the theories upon which the witness relies.

It is expected that in most instances the parties and the witness will make reasonable accommodations to avoid the need for resort to the court. The limitation is phrased in terms of a single day on the assumption that ordinarily a single day would be preferable to a deposition extending over multiple days; if alternative arrangements would better suit the parties, they may agree to them. It is also assumed that there will be reasonable breaks during the day. Preoccupation with timing is to be avoided.

The rule directs the court to allow additional time where consistent with Rule 26(b)(2) if needed for a fair examination of the deponent. In addition, if the deponent or another person impedes or delays the examination, the court must authorize extra time. The amendment makes clear that additional time should also be allowed where the examination is impeded by an "other circumstance," which might include a power outage, a health emergency, or other event.

In keeping with the amendment to Rule 26(b)(2), the provision added in 1993 granting authority to adopt a local rule limiting the time permitted for depositions has been removed. The court may enter a case-specific order directing shorter depositions for all depositions in a case or with regard to a specific witness. The

court may also order that a deposition be taken for limited periods on several days.

Paragraph (3) includes sanctions provisions formerly included in paragraph (2). It authorizes the court to impose an appropriate sanction on any person responsible for an impediment that frustrated the fair examination of the deponent. This could include the deponent, any party, or any other person involved in the deposition. If the impediment or delay results from an "other circumstance" under paragraph (2), ordinarily no sanction would be appropriate.

Former paragraph (3) has been renumbered (4) but is otherwise unchanged.

Subdivision (f)(1). This subdivision is amended because Rule 5(d) has been amended to direct that discovery materials, including depositions, ordinarily should not be filed. The rule already has provisions directing that the lawyer who arranged for the transcript or recording preserve the deposition. Rule 5(d) provides that, once the deposition is used in the proceeding, the attorney must file it with the court.

"Shall" is replaced by "must" or "may" under the program to conform amended rules to current style conventions when there is no ambiguity.

GAP Report. The Advisory Committee recommends deleting the requirement in the published proposed amendments that the deponent consent to extending a deposition beyond one day, and adding an amendment to Rule 30(f)(1) to conform to the published amendment to Rule 5(d) regarding filing of depositions. It also recommends conforming the Committee Note with regard to the deponent veto, and adding material to the Note to provide direction on computation of the durational limitation on depositions, to provide examples of situations in which the parties might agree—or the court order—that a deposition be extended, and to make clear that no new authority to instruct a witness is conferred by the amendment. One minor wording improvement in the Note is also suggested.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The language of Rule 30 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

The right to arrange a deposition transcription should be open to any party, regardless of the means of recording and regardless of who noticed the deposition.

"[O]ther entity" is added to the list of organizations that may be named as deponent. The purpose is to ensure that the deposition process can be used to reach information known or reasonably available to an organization no matter what abstract fictive concept is used to describe the organization. Nothing is gained by wrangling over the place to fit into current rule language such entities

as limited liability companies, limited partnerships, business trusts, more exotic common-law creations, or forms developed in other countries.

COMMITTEE NOTES ON RULES—2015 AMENDMENT

Rule 30 is amended in parallel with Rules 31 and 33 to reflect the recognition of proportionality in Rule 26(b)(1).

Committee Notes on Rules—2020 Amendment

Rule 30(b)(6) is amended to respond to problems that have emerged in some cases. Particular concerns raised have included overlong or ambiguously worded lists of matters for examination and inadequately prepared witnesses. This amendment directs the serving party and the named organization to confer before or promptly after the notice or subpoena is served about the matters for examination. The amendment also requires that a subpoena notify a nonparty organization of its duty to confer and to designate each person who will testify. It facilitates collaborative efforts to achieve the proportionality goals of the 2015 amendments to Rules 1 and 26(b)(1).

Candid exchanges about the purposes of the deposition and the organization's information structure may clarify and focus the matters for examination, and enable the organization to designate and to prepare an appropriate witness or witnesses, thereby avoiding later disagreements. It may be productive also to discuss "process" issues, such as the timing and location of the deposition, the number of witnesses and the matters on which each witness will testify, and any other issue that might facilitate the efficiency and productivity of the deposition.

The amended rule directs that the parties confer either before or promptly after the notice or subpoena is served. If they begin to confer before service, the discussion may be more productive if the serving party provides a draft of the proposed list of matters for examination, which may then be refined as the parties confer. The process of conferring may be iterative. Consistent with Rule 1, the obligation is to confer in good faith about the matters for examination, but the amendment does not require the parties to reach agreement. In some circumstances, it may be desirable to seek guidance from the court.

When the need for a Rule 30(b)(6) deposition is known early in the case, the Rule 26(f) conference may provide an occasion for beginning discussion of these topics. In appropriate cases, it may also be helpful to include reference to Rule 30(b)(6) depositions in the discovery plan submitted to the court under Rule 26(f)(3) and in the matters considered at a pretrial conference under Rule 16.

Rule 31. Depositions by Written Questions

(a) When a Deposition May Be Taken.

(1) *Without Leave.* A party may, by written questions, depose any person, including a party, without leave of court except as provided in Rule 31(a)(2). The deponent's attendance may be compelled by subpoena under Rule 45.

(2) *With Leave.* A party must obtain leave of court, and the court must grant leave to the extent consistent with Rule 26(b)(1) and (2):

(A) if the parties have not stipulated to the deposition and:

(i) the deposition would result in more than 10 depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by the third-party defendants;

(ii) the deponent has already been deposed in the case; or

(iii) the party seeks to take a deposition before the time specified in Rule 26(d); or

(B) if the deponent is confined in prison.

(3) *Service; Required Notice.* A party who wants to depose a person by written questions must serve them on every other party, with a notice stating, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice must also state the name or descriptive title and the address of the officer before whom the deposition will be taken.

(4) *Questions Directed to an Organization.* A public or private corporation, a partnership, an association, or a governmental agency may be deposed by written questions in accordance with Rule 30(b)(6).

(5) *Questions from Other Parties.* Any questions to the deponent from other parties must be served on all parties as follows: cross-questions, within 14 days after being served with the notice and direct questions; redirect questions, within 7 days after being served with cross-questions; and recross-questions, within 7 days after being served with redirect questions. The court may, for good cause, extend or shorten these times.

(b) Delivery to the Officer; Officer's Duties. The party who noticed the deposition must deliver to the officer a copy of all the questions served and of the notice. The officer must promptly proceed in the manner provided in Rule 30(c), (e), and (f) to:

(1) take the deponent's testimony in response to the questions;

(2) prepare and certify the deposition; and

(3) send it to the party, attaching a copy of the questions and of the notice.

(c) NOTICE OF COMPLETION OR FILING.

(1) *Completion.* The party who noticed the deposition must notify all other parties when it is completed.

(2) *Filing.* A party who files the deposition must promptly notify all other parties of the filing.

NOTES

(As amended Mar. 30, 1970, eff. July 1, 1970; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 29, 2015, eff. Dec. 1, 2015.)

NOTES OF ADVISORY COMMITTEE ON RULES—1937

This rule is in accordance with common practice. In most of the states listed in the *Note* to Rule 26(a), provisions similar to this rule will be found in the statutes which in their respective statutory compilations follow those cited in the *Note* to Rule 26(a).

NOTES OF ADVISORY COMMITTEE ON RULES—1970 AMENDMENT

Confusion is created by the use of the same terminology to describe both the taking of a deposition upon "written interrogatories" pursuant to this rule and the serving of "written interrogatories" upon parties pursuant to Rule 33. The distinction between these two modes of discovery will be more readily and clearly grasped through substitution of the word "questions" for "interrogatories" throughout this rule.

Subdivision (a). A new paragraph is inserted at the beginning of this subdivision to conform to the rearrangement of provisions in Rules 26(a), 30(a), and 30(b).

The revised subdivision permits designation of the deponent by general description or by class or group. This conforms to the practice for depositions on oral examination.

The new procedure provided in Rule 30(b)(6) for taking the deposition of a corporation or other organization through persons designated by the organization is incorporated by reference.

The service of all questions, including cross, redirect, and recross, is to be made on all parties. This will inform the parties and enable them to participate fully in the procedure.

The time allowed for service of cross, redirect, and recross questions has been extended. Experience with the existing time limits shows them to be unrealistically short. No special restriction is placed on the time for serving the notice of taking the deposition and the first set of questions. Since no party is required to serve cross questions less than 30 days after the notice and questions are served, the defendant has sufficient time to obtain counsel. The court may for cause shown enlarge or shorten the time.

Subdivision (d). Since new Rule 26(c) provides for protective orders with respect to all discovery, and expressly provides that the court may order that one discovery device be used in place of another, subdivision (d) is eliminated as unnecessary.

Notes of Advisory Committee on Rules—1987 Amendment

The amendments are technical. No substantive change is intended.

Notes of Advisory Committee on Rules—1993 Amendment

Subdivision (a). The first paragraph of subdivision (a) is divided into two subparagraphs, with provisions comparable to those made in the revision of Rule 30. Changes are made in the former third paragraph, numbered in the revision as paragraph (4), to reduce the total time for developing cross-examination, redirect, and recross questions from 50 days to 28 days.

Committee Notes on Rules—2007 Amendment

The language of Rule 31 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

The party who noticed a deposition on written questions must notify all other parties when the deposition is completed, so that they may make use of the deposition. A deposition is completed when it is recorded and the deponent has either waived or exercised the right of review under Rule 30(e)(1).

Rule 32. Using Depositions in Court Proceedings

(a) USING DEPOSITIONS.

(1) *In General.* At a hearing or trial, all or part of a deposition may be used against a party on these conditions:

(A) the party was present or represented at the taking of the deposition or had reasonable notice of it;

(B) it is used to the extent it would be admissible under the Federal Rules of Evidence if the deponent were present and testifying; and

(C) the use is allowed by Rule 32(a)(2) through (8).

(2) *Impeachment and Other Uses.* Any party may use a deposition to contradict or impeach the testimony given by the deponent as a witness, or for any other purpose allowed by the Federal Rules of Evidence.

(3) *Deposition of Party, Agent, or Designee.* An adverse party may use for any purpose the deposition of a party or anyone who, when deposed, was the party's officer, director, managing agent, or designee under Rule 30(b)(6) or 31(a)(4).

(4) *Unavailable Witness.* A party may use for any purpose the deposition of a witness, whether or not a party, if the court finds:

(A) that the witness is dead;

(B) that the witness is more than 100 miles from the place of hearing or trial or is outside the United States, unless it appears that the witness's absence was procured by the party offering the deposition;

(C) that the witness cannot attend or testify because of age, illness, infirmity, or imprisonment;

(D) that the party offering the deposition could not procure the witness's attendance by subpoena; or

(E) on motion and notice, that exceptional circumstances make it desirable—in the interest of justice and with due regard to the importance of live testimony in open court—to permit the deposition to be used.

(5) *Limitations on Use.*

(A) *Deposition Taken on Short Notice.* A deposition must not be used against a party who, having received less than 14 days' notice of the deposition, promptly moved for a protective order under Rule 26(c)(1)(B) requesting that it not be taken or be taken at a different time or place—and this motion was still pending when the deposition was taken.

(B) *Unavailable Deponent; Party Could Not Obtain an Attorney.* A deposition taken without leave of court under the unavailability provision of Rule 30(a)(2)(A)(iii) must not be used against a party who shows that, when served with the notice, it could not, despite diligent efforts, obtain an attorney to represent it at the deposition.

(6) *Using Part of a Deposition.* If a party offers in evidence only part of a deposition, an adverse party may require the offeror to introduce other parts that in fairness should be considered with the part introduced, and any party may itself introduce any other parts.

(7) *Substituting a Party.* Substituting a party under Rule 25 does not affect the right to use a deposition previously taken.

(8) *Deposition Taken in an Earlier Action.* A deposition lawfully taken and, if required, filed in any federal- or state-court action may be used in a later action involving the same subject matter between the same parties, or their representatives or successors in interest, to the same extent as if taken in the later action. A deposition previously taken may also be used as allowed by the Federal Rules of Evidence.

(b) OBJECTIONS TO ADMISSIBILITY. Subject to Rules 28(b) and 32(d)(3), an objection may be made at a hearing or trial to the admission of any deposition testimony that would be inadmissible if the witness were present and testifying.

(c) FORM OF PRESENTATION. Unless the court orders otherwise, a party must provide a transcript of any deposition testimony the party offers, but may provide the court with the testimony in nontranscript form as well. On any party's request, deposition testimony offered in a jury trial for any purpose other than impeachment must be presented in nontranscript form, if available, unless the court for good cause orders otherwise.

(d) WAIVER OF OBJECTIONS.

(1) *To the Notice.* An objection to an error or irregularity in a deposition notice is waived unless promptly served in writing on the party giving the notice.

(2) *To the Officer's Qualification.* An objection based on disqualification of the officer before whom a deposition is to be taken is waived if not made:

(A) before the deposition begins; or

(B) promptly after the basis for disqualification becomes known or, with reasonable diligence, could have been known.

(3) *To the Taking of the Deposition.*

(A) *Objection to Competence, Relevance, or Materiality.* An objection to a deponent's competence—or to the competence, relevance, or materiality of testimony—is not waived by a failure to make the objection before or during

the deposition, unless the ground for it might have been corrected at that time.

(B) *Objection to an Error or Irregularity.* An objection to an error or irregularity at an oral examination is waived if:

(i) it relates to the manner of taking the deposition, the form of a question or answer, the oath or affirmation, a party's conduct, or other matters that might have been corrected at that time; and

(ii) it is not timely made during the deposition.

(C) *Objection to a Written Question.* An objection to the form of a written question under Rule 31 is waived if not served in writing on the party submitting the question within the time for serving responsive questions or, if the question is a recross-question, within 7 days after being served with it.

(4) *To Completing and Returning the Deposition.* An objection to how the officer transcribed the testimony—or prepared, signed, certified, sealed, endorsed, sent, or otherwise dealt with the deposition—is waived unless a motion to suppress is made promptly after the error or irregularity becomes known or, with reasonable diligence, could have been known.

Notes

(As amended Mar. 30, 1970, eff. July 1, 1970; Nov. 20, 1972, eff. July 1, 1975; Apr. 29, 1980, eff. Aug. 1, 1980; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 30, 2007, eff. Dec. 1, 2007; Mar. 26, 2009, eff. Dec. 1, 2009.)

Notes of Advisory Committee on Rules—1937

This rule is in accordance with common practice. In most of the states listed in the *Note* to Rule 26, provisions similar to this rule will be found in the statutes which in their respective statutory compilations follow those cited in the *Note* to Rule 26.

Notes of Advisory Committee on Rules—1970 Amendment

As part of the rearrangement of the discovery rules, existing subdivisions (d), (e), and (f) of Rule 26 are transferred to Rule 32 as new subdivisions (a), (b), and (c). The provisions of Rule 32 are retained as subdivision (d) of Rule 32 with appropriate changes in the lettering and numbering of subheadings. The new rule is given a suitable new title. A beneficial byproduct of the rearrangement is that provisions which are naturally related to one another are placed in one rule.

A change is made in new Rule 32(a), whereby it is made clear that the rules of evidence are to be applied to depositions offered at trial as though the deponent were then present and testifying at trial. This eliminates the possibility of certain technical hearsay objections which are based, not on the contents of deponent's

testimony, but on his absence from court. The language of present Rule 26(d) does not appear to authorize these technical objections, but it is not entirely clear. Note present Rule 26(e), transferred to Rule 32(b); see 2A Barron & Holtzoff, *Federal Practice and Procedure* 164–166 (Wright ed. 1961).

An addition in Rule 32(a)(2) provides for use of a deposition of a person designated by a corporation or other organization, which is a party, to testify on its behalf. This complements the new procedure for taking the deposition of a corporation or other organization provided in Rules 30(b)(6) and 31(a). The addition is appropriate, since the deposition is in substance and effect that of the corporation or other organization which is a party.

A change is made in the standard under which a party offering part of a deposition in evidence may be required to introduce additional parts of the deposition. The new standard is contained in a proposal made by the Advisory Committee on Rules of Evidence. See Rule 1–07 and accompanying Note, *Preliminary Draft of Proposed Rules of Evidence for the United States District Courts and Magistrates* 21–22 (March, 1969).

References to other rules are changed to conform to the rearrangement, and minor verbal changes have been made for clarification. The time for objecting to written questions served under Rule 31 is slightly extended.

NOTES OF ADVISORY COMMITTEE ON RULES—1972 AMENDMENT

Subdivision (e). The concept of "making a person one's own witness" appears to have had significance principally in two respects: impeachment and waiver of incompetency. Neither retains any vitality under the Rules of Evidence. The old prohibition against impeaching one's own witness is eliminated by Evidence Rule 607. The lack of recognition in the Rules of Evidence of state rules of incompetency in the Dead Man's area renders it unnecessary to consider aspects of waiver arising from calling the incompetent party witness. Subdivision (c) is deleted because it appears to be no longer necessary in the light of the Rules of Evidence.

NOTES OF ADVISORY COMMITTEE ON RULES—1980 AMENDMENT

Subdivision (a)(1). Rule 801(d) of the Federal Rules of Evidence permits a prior inconsistent statement of a witness in a deposition to be used as substantive evidence. And Rule 801(d)(2) makes the statement of an agent or servant admissible against the principal under the circumstances described in the Rule. The language of the present subdivision is, therefore, too narrow.

Subdivision (a)(4). The requirement that a prior action must have been dismissed before depositions taken for use in it can be used in a subsequent action was doubtless an oversight, and the courts have ignored it. See Wright & Miller, *Federal Practice and Procedure: Civil* §2150. The final sentence is added to reflect the fact that the Federal Rules of Evidence permit a broader use of

depositions previously taken under certain circumstances. For example, Rule 804(b)(1) of the Federal Rules of Evidence provides that if a witness is unavailable, as that term is defined by the rule, his deposition in any earlier proceeding can be used against a party to the prior proceeding who had an opportunity and similar motive to develop the testimony of the witness.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The amendment is technical. No substantive change is intended.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (a). The last sentence of revised subdivision (a) not only includes the substance of the provisions formerly contained in the second paragraph of Rule 30(b)(2), but adds a provision to deal with the situation when a party, receiving minimal notice of a proposed deposition, is unable to obtain a court ruling on its motion for a protective order seeking to delay or change the place of the deposition. Ordinarily a party does not obtain protection merely by the filing of a motion for a protective order under Rule 26(c); any protection is dependent upon the court's ruling. Under the revision, a party receiving less than 11 days notice of a deposition can, provided its motion for a protective order is filed promptly, be spared the risks resulting from nonattendance at the deposition held before its motion is ruled upon. Although the revision of Rule 32(a) covers only the risk that the deposition could be used against the non-appearing movant, it should also follow that, when the proposed deponent is the movant, the deponent would have "just cause" for failing to appear for purposes of Rule 37(d)(1). Inclusion of this provision is not intended to signify that 11 days' notice is the minimum advance notice for all depositions or that greater than 10 days should necessarily be deemed sufficient in all situations.

Subdivision (c). This new subdivision, inserted at the location of a subdivision previously abrogated, is included in view of the increased opportunities for video-recording and audio-recording of depositions under revised Rule 30(b). Under this rule a party may offer deposition testimony in any of the forms authorized under Rule 30(b) but, if offering it in a nonstenographic form, must provide the court with a transcript of the portions so offered. On request of any party in a jury trial, deposition testimony offered other than for impeachment purposes is to be presented in a nonstenographic form if available, unless the court directs otherwise. Note that under Rule 26(a)(3)(B) a party expecting to use nonstenographic deposition testimony as substantive evidence is required to provide other parties with a transcript in advance of trial.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The language of Rule 32 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and

terminology consistent throughout the rules. These changes are intended to be stylistic only.

Former Rule 32(a) applied "[a]t the trial or upon the hearing of a motion or an interlocutory proceeding." The amended rule describes the same events as "a hearing or trial."

The final paragraph of former Rule 32(a) allowed use in a later action of a deposition "lawfully taken and duly filed in the former action." Because of the 2000 amendment of Rule 5(d), many depositions are not filed. Amended Rule 32(a)(8) reflects this change by excluding use of an unfiled deposition only if filing was required in the former action.

Committee Notes on Rules—2009 Amendment

The times set in the former rule at less than 11 days and within 5 days have been revised to 14 days and 7 days. See the Note to Rule 6.

References in Text

The Federal Rules of Evidence, referred to in subd. (a)(2), (8), are set out in this Appendix.

Effective Date of Amendment Proposed November 20, 1972

Amendment of this rule embraced by the order entered by the Supreme Court of the United States on November 20, 1972, effective on the 180th day beginning after January 2, 1975, see section 3 of Pub. L. 93–595, Jan. 2, 1975, 88 Stat. 1959, set out as a note under section 2074 of this title.

SECTION 2:

COURT PROCEEDINGS

Rules Providing for Certification of Court Reporters

Section 1. Members of the board.

A. The Board of Certified Court Reporters Examiners hereafter referred to as the "Board," shall be composed of seven members who shall be appointed by this Court. Four of the members shall be judges of the Circuit or Appellate Courts and shall be appointed for terms of three years. Initially, one of the four shall be appointed for a term of one year, one for a term of two years, and two for a term of three years. Three of the Board members shall have been court reporters in and citizens of Arkansas for at least five years prior to their appointment. Of the court reporters appointed to the board, at least one shall be a machine shorthand writer, at least one shall be a mask dictation/voice writer, at least one shall be an official court reporter, and at least one shall be a freelance court reporter. Initially, one of the three shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Members of the Board shall serve without compensation but shall be reimbursed for their travel and other expenses in the performance of their duties.

B. Members shall be appointed to serve a three year term and may be reappointed to two additional three-year terms. A member whose term has expired shall continue to serve until a successor is appointed and qualified. The Court shall fill any vacancy by appointing a member for the duration of an unexpired term and may remove any member for cause. A member who has been appointed to complete an unexpired term shall be eligible for reappointment to serve two terms of three years each.

C. Each member shall take an oath that he or she will fairly and impartially and to the best of his ability administer this Rule.

HISTORY

Amended and effective September 21, 2017.

Section 2. Officers of the board; meetings

A. At the first meeting of the Board, the Board will organize by electing one of its members as chairman and one as secretary, each of whom shall serve for one year and until his successor is elected. The Clerk of this Court shall serve as treasurer.

B. The Board shall meet at least twice a year at such time and places as the Board shall designate.

COMMENT

Amended and effective January 15, 2009.

Section 3. Duties of the board.

The Board is charged with the duty and invested with the power and authority:

A. To determine the eligibility of applicants for certification.

B. To determine the content of examinations to be given to applicants for certification as certified court reporters.

C. To determine the applicant's ability to make a verbatim record of court proceedings by any recognized system designated by the Board.

D. To issue certificates to those found qualified as certified court reporters.

E. To set a fee to be paid by each applicant at the time the application is filed and an annual license fee.

F. To develop a records retention schedule for court reporters for cases pending in state trial courts.

G. To develop, implement, and enforce a continuing education requirement for court reporters certified pursuant to this Rule.

H. To promulgate, amend and revise regulations relevant to the above duties and to implement this Rule. Such regulations are to be consistent with the provisions of this Rule and shall not be effective until approved by this Court.

I. To provide a system and procedure for receiving complaints against court reporters, investigating such complaints, filing formal disciplinary Complaints against reporters, and for hearing, consideration, and determination of validity of charges and appropriate sanctions to be imposed upon any reporter.

J. To hire an executive secretary to assist the Board with its duties.

HISTORY

Amended and effective January 15, 2009; amended and effective September 21, 2017.

Section 4. Application for certification.

Every applicant for certification as a certified court reporter shall file with the clerk of this court a written application in the form prescribed by the Board. The application form along with the rules and regulations governing this Board and court reporters shall be available on the Board's website.

HISTORY

Amended and effective January 15, 2009; amended and effective by per curiam order June 26, 2014; amended and effective by per curiam order September 15, 2016; amended and effective by per curiam order September 21, 2017.

Section 5. Eligibility for certification.

Applicants shall:

a. be at least 18 years of age,

b. be of good moral character,

c. not be a convicted felon

d. submit an official background check from the designated state authority or from the National Crime Information Center, and

e. not have been adjudicated or found guilty, or entered a plea of guilty or nolo contendere to, any felony, or to any misdemeanor that reflects adversely on the applicant's honesty, trustworthiness, or fitness as a reporter in other respects, or to any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a felony.

HISTORY

Amended and effective February 22, 2009; amended and effective September 21, 2017.

Section 6. Admission without examination.

Upon application and payment of the fee within four months of the effective date of the rule, any court reporter serving in that capacity on or before July 5, 1983, shall be issued a certificate without examination, provided the application and fee are accompanied by letters of recommendation from either a Circuit, Chancery, or Court of Appeals Judge and two attorneys who are licensed to practice law in the State of Arkansas, who certify that the applicant was a practicing court reporter on or before July 5, 1983.

Section 7. Discipline

(a) **Sanctions.** For violations of this Rule or "Regulations of the Board of Certified Court Reporter Examiners," other than those related to the nonpayment of fees outlined in Section 9 of the Rule, the Board for good cause shown, and by a majority of four (4) votes from the Board concurring, after a public hearing by the Board, may sanction a reporter by ordering a public admonition, or by suspending or revoking any certificate issued by the Board. Discipline by consent, as set out in Section 8 of this Rule, may also be utilized by the Board for any violations of the aforementioned Rule or Regulations.

(b) **Definitions.**

1. "Revoke a certificate" means to unconditionally prohibit the conduct authorized by the certificate. If a reporter's certificate is revoked, the reporter is not eligible to apply for a new reporter's certificate for a period of five (5) years after the date the revocation order becomes effective after final Board action or after final action by the Supreme Court of Arkansas, if there is an appeal.

2. "Suspend a certificate" means to prohibit, whether absolutely or subject to conditions which are reasonably related to the grounds for suspension, for a defined period of time,

the conduct authorized by the certificate. No suspension shall be for less than one (1) month nor for more than sixty (60) months.

3. "Admonition" means a written order or opinion of the Board stating the specific misconduct or failure to perform duties by the reporter.

4. "Special Prosecutor" refers to an individual, who is charged with the duties of investigating complaints presented to the Board, which pertain to alleged violations of the Rules and Regulations; drafting proposed Complaints for the Board's review, which outline the alleged violations of the Rules and Regulations; serving as a prosecutorial officer before and during any hearing or proceeding, which result from the investigation and/or filing of the Complaint; and performing additional tasks as assigned by the Board.

(c) **Subpoenas.** The Board has the authority to issue subpoenas for any witness(es), and for the production of papers, books, accounts, documents, records, or other evidence and testimony relevant to a hearing held pursuant to Section 7 upon the request of any party. Such process shall be issued by and under the seal of the Board and be signed by the Chair or the Executive Secretary. The subpoenas shall be served in any manner provided by the Arkansas Rules of Civil Procedure for service of process. The Board shall provide for its use a seal of such design as it may deem appropriate. The Circuit Court of Pulaski County shall have the power to enforce process.

(d) **Special Prosecutor.**

(1) When requested in writing by the Board to so serve, the Executive Director of the Arkansas Supreme Court Office of Professional Conduct ("Office") may, if time, work demands, and resources of that Office permit, act as the investigating, charging, and prosecutorial officer for Complaints of this Board. Any expenses of that Office attributed to handling a Complaint from this Board shall be paid to the Bar of Arkansas account from funds available to this Board after review and approval by the Chairperson of this Board of any such expense claims. By agreement between this Board and the Office, reasonable reimbursement for attorney time may be made by the Board to the Office.

(2) The Board may employ on contract, from funds within its budget, such attorneys as it deems necessary for the investigation, charging, and prosecution of Complaints before the Board.

(e) **Immunity.** The Board, its individual members, and any employees and agents of the Board, including the Executive Director and staff of the Office of Professional Conduct when acting for the Board, are absolutely immune from suit or action for their activities in discharge of their duties hereunder to the full extent of judicial immunity in Arkansas.

(f) **Confidentiality.** Subject to the exceptions listed in (4) below in this subsection:

(1) All communications, Complaints, formal Complaints, testimony, and evidence filed with, given to or given before the Board, or filed with or given to any of its employees and agents during the performance of their duties, that are based upon a Complaint charging a reporter with violation of the Board Rules, shall be absolutely privileged and confidential; and

(2) All actions and activities arising from or in connection with an alleged violation of the Board Rules by a reporter certified by the Board are absolutely privileged and confidential.

(3) These provisions of privilege and confidentiality shall apply to complainants.

(4) Exceptions.

(i.) Except as expressly provided in these Rules, disciplinary proceedings under these Rules are not subject to the Arkansas Rules of Civil Procedure regarding discovery.

(ii.) The records of public hearings conducted by the Board are public information.

(iii.) In the case of revocation, the Board is authorized to release any information that it deems necessary for that purpose.

(iv.) The Board is authorized to release information:

(a) For statistical data purposes;

(b) To a corresponding reporter disciplinary authority or an authorized agency or body of a foreign jurisdiction engaged in the regulation of reporters;

(c) To the Commission on Judicial Discipline and Disability;

(d) To any other committee, commission, agency or body within the State empowered to investigate, regulate, or adjudicate matters incident to the legal profession when such information will assist in the performance of those duties; and

(e) To any agency, body, or office of the federal government or this State charged with responsibility for investigation and evaluation of a reporter's qualifications for appointment to a governmental position of trust and responsibility.

(5) Any reporter against whom a formal Complaint is pending shall have disclosure of all information in the possession of the Board and its agents concerning that Complaint, including any record of prior Complaints about that reporter, but excepting "attorney work product" materials.

(6) The reporter about whom a Complaint is made may waive, in writing, the confidentiality of the information.

(g) **Procedure.**

1. Standard of Proof. Formal charges of misconduct, petitions for reinstatement, and petitions for transfer to or from inactive status shall be established by a preponderance of the evidence.

2. Burden of Proof. The burden of proof in proceedings seeking discipline is on the Board or its special prosecutor. The burden of proof in proceedings seeking reinstatement is on the reporter seeking such action.

3. Limitations on Actions. The institution of disciplinary actions pursuant to these Procedures shall be exempt from all statutes of limitation.

4. Evidence and Procedures. Except as noted in these Rules, the Arkansas Rules of Evidence and the Arkansas Rules of Civil Procedure shall not generally apply to discipline proceedings before the Board.

5. Pleadings. All pleadings filed before the Board shall be captioned "Before the Supreme Court Board of Certified Court Reporter Examiners" and be styled "In re_____" to reflect the name of the respondent reporter.

(h) **Ex Parte Communication.**

(1) Members of the Board shall not communicate "ex parte" with any complainant, attorney acting as Board prosecutor, the Executive Director, or the staff of the Office of Professional Conduct, or the respondent reporter or his or her counsel regarding a pending or impending investigation or disciplinary matter except as explicitly provided for by law or these Rules, or for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits of the case or Complaint.

(2) A violation of this rule may be cause for removal of any member from the Board before which a matter is pending.

(i) **Probable cause determination.** Before a formal Complaint may be prepared on any reporter, the written approval of four (4) members of the Board shall be given to the draft complaint as prepared. Before any formal Complaint may be served on a reporter, it shall be approved by the signature of the Board Chair.

(j) **Complaint.** The Complaint to be served upon a reporter shall state with reasonable specificity each Board Rule alleged to have been violated by the reporter and summarize the conduct or omission by the reporter that supports the Rule violation. Affidavits of those persons having knowledge of the facts and court records and documents may be attached as exhibits to the Complaint.

(k) **Service of Complaint.** The Complaint shall be served by one of the following methods:

1. By certified, restricted delivery, return receipt mail to the reporter at the address of record for the reporter currently on file with the Board,

2. By personal service as provided by the Arkansas Rules of Civil Procedure or an Investigator with the Office of Professional Conduct; or,

3. When reasonable attempts to accomplish service by (k)(1) and (k)(2) have been unsuccessful, then a warning order, in such form as prescribed by the Board, shall be published weekly for two consecutive weeks in a newspaper of general circulation within this State or within the locale of the respondent reporter's address of record. In addition, a

copy of the formal Complaint and warning order shall be sent to the respondent reporter's address of record by regular mail.

4. A reporter's failure to provide an accurate, current mailing address to the Board or the failure or refusal to receipt certified mailing of a formal Complaint, shall be deemed a waiver of confidentiality for the purposes of the issuance of a warning order.

5. Unless good cause is shown for a reporter's non-receipt of a certified mailing of a formal Complaint, the reporter shall be liable for the actual costs and expenses for service or the attempted service of a formal Complaint, to include all expenses associated with the effectuation of service. Such sums will be due and payable to the Board before any response to a formal Complaint will be accepted or considered by the Board.

6. After service has been effected by any of the aforementioned means, subsequent mailings by the Board to the respondent reporter may be by regular mail to the reporter's address of record, to the address at which service was accomplished, to any counsel for the reporter, or to such address as may have been furnished by the reporter, as the appropriate circumstance may dictate, except that notices of hearings and letters or orders of admonition, suspension, or revocation shall also be sent by certified, return receipt mail or be served upon the reporter in a manner authorized in Section 7(k)(2).

7. Service on a non-resident reporter may be accomplished pursuant to any option available herein, or in any manner prescribed by the law of the jurisdiction to which the service is directed.

(l) **Time and Manner of Response; Rebuttal.**

(1) Upon service of a formal Complaint, pursuant to Section 7(k) or after the date of the first publication, pursuant to Section 7(k)(3), the respondent reporter shall have twenty (20) days in which to file a written response in affidavit form with the Board of Certified Court Reporters Examiners by filing the response at the Office of the Clerk of the Arkansas Supreme Court, 625 Marshall Street, Little Rock, AR 72201, except when service is upon a non-resident of this State, in which event the respondent reporter shall have thirty (30) days within which to file a response. In the event that a response has not been filed with the Board of Certified Court Reporters Examiners within twenty (20) days or within thirty (30) days, as the appropriate case may be, following the date of service, and an extension of time has not been granted, the Executive Secretary shall proceed to issue the Complaint to the Board by mail as a "failed to respond" case.

(2) At the written request of a reporter, the Board Chair is authorized to grant an extension of reasonable length for the filing of a response.

(3) The Executive Secretary shall provide a copy of the reporter's response to the complainant within seven (7) calendar days of receiving it and advise that the complainant has ten (10) calendar days in which to rebut or refute any allegations or information contained in the reporter's response. The Executive Secretary shall include any rebuttal made by the complainant as a part of the material submitted to the Board for decision and any such rebuttal shall be provided to the respondent reporter for informational purposes only, with no response required. If any rebuttal submitted

contains allegations of violations of Board Rules not previously alleged, a supplemental or amended Complaint may be prepared and served on the respondent reporter, who shall be permitted surrebuttal in the manner prescribed herein for filing a response to a Complaint.

(4) The calculation of the time limitations specified herein shall commence on the day following service upon the respondent reporter. If the due date of a response, rebuttal, or surrebuttal falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next regular business day.

(m) **Failure to Respond; Reconsideration.**

(1) A reporter's failure to provide, in the prescribed time and manner, a written response to a formal Complaint served in compliance with Section 7(k) shall constitute separate and distinct grounds for the imposition of sanctions notwithstanding the merits of the underlying, substantive allegations of the Complaint; or,

(2) May be considered for enhancement of sanctions imposed upon a finding of violation of the Rules.

(3) The separate imposition or the enhancement of sanctions for failure to respond may be accomplished by the Board's notation of such failure in the appropriate sanction order and shall not require any separate or additional notice to the respondent reporter.

(4) Failure to timely respond to a formal Complaint shall constitute an admission of all factual allegations of the Complaint and an admission of all alleged violations of Rules and Regulations violations in the Complaint.

(5) Failure to timely respond to a formal Complaint shall extinguish a respondent reporter's right to a public hearing on the formal Complaint.

(6) Reconsideration:

(a) Provided, however, that in a case where a timely response was not filed by a respondent reporter, within ten (10) calendar days after receiving a written notice from the Board setting the case for hearing, the respondent reporter may file with the Board, through the Office of the Clerk of the Arkansas Supreme Court, a petition for reconsideration in affidavit form, stating under oath clear, compelling, and cogent evidence of unavoidable circumstances sufficient to excuse or justify the failure to file a timely response to the Complaint.

(b) Upon the filing of a petition for reconsideration for failure to timely file a response to a Complaint, the Executive Secretary of the Board shall provide each member of the Board a copy of the petition for reconsideration for a vote by written ballot on granting or denying the petition, the ballot to be marked and returned to the Executive Secretary within a reasonable time.

(c) If four (4) members of the Board, upon a finding of clear and convincing evidence, vote to grant the petition for reconsideration, the Board shall permit the

reporter to submit a belated affidavit of response to the substantive allegations of the formal Complaint and the matter shall proceed as though the response had been made timely.

(d) If four (4) Board members vote to deny the petition for reconsideration, the case shall be placed on the agenda at the next meeting of the Board, and the Board shall determine the appropriate sanction from a review of the file, without giving consideration or weight to any response that may have been untimely filed.

(n) **Pretrial procedure.**

(1) The Board Chair may set and conduct such pretrial conferences as the Chair deems needed for the case. The Board Chair shall also issue an order setting any Complaint for hearing before the Board.

(2) The Board Chair shall hear and decide all pretrial matters and all motions, including any motion to dismiss the Complaint or any part thereof.

(o) **Hearings.**

(1) Hearings shall be conducted at such times and places as the Board may designate.

(2) A hearing shall not be conducted unless at least five (5) Board members are present.

(3) After hearing all the testimony and receiving all the evidence in a case, the Board shall deliberate in private and reach a decision on the Complaint.

At least four (4) votes are required to find a Rule or Regulation violation and to order a sanction. The same four (4) Board members are not required to vote for both the rule violation(s) and the sanction.

(4) If at least four (4) Board members agree on the Rule or Regulation violated by the reporter, and on a sanction, an Order consistent with such vote shall be prepared and provided to the Board Chair for review and approval. Upon approval, such Order shall be filed with the Clerk of the Arkansas Supreme Court and a filed copy shall be promptly provided to the respondent reporter and any counsel for the reporter.

(5) In addition to any available disciplinary sanction, the Board may also order a reporter to pay:

(a) The costs of the investigation and hearing, excluding any attorney's fees,

(b) A fine not to exceed $1,000.00 and

(c) Full restitution to any person or entity which has suffered a financial loss due to the reporter’s violation of any Board Rule or Regulation, but only to the extent of the costs of any reporter's transcript and fees and expenses associated with a transcript of any court proceeding or deposition.

HISTORY

Amended and effective January 15, 2009; amended and effective April 14, 2011; amended and effective September 21, 2017.

Section 8. Surrender of certificate — Discipline by consent.

(a) **Surrender of Certificate.** A reporter may surrender his or her certificate upon the conditions agreed to by the reporter and the Board:

(1) In lieu of disciplinary proceedings where serious misconduct by the reporter is admitted by the reporter to exist, or

(2) On a voluntary surrender basis of his or her certificate at any time where there is no pending Complaint against the reporter.

(3) No petition to the Supreme Court for voluntary surrender of a certificate by a reporter shall be granted until referred to and approved by the Board and the recommendations of the Board are received by the Supreme Court.

(b) **Discipline by Consent.**

(1) A reporter against whom a formal Complaint has been served may, at any stage of the proceedings not less than ten (10) business days prior to the commencement of a public hearing tender a written conditional acknowledgment and admission of violation of some or all of the Rules and Regulations alleged, in exchange for a stated disciplinary sanction in accordance with the following:

(2) With service of a Complaint, the respondent reporter shall be advised in writing that if a negotiated disposition by consent is contemplated that the respondent reporter should contact the Board Chair or the Board's special prosecutor to undertake good faith discussion of a proposed disposition. All discipline by consent proposals must be approved in writing by the Board Chair, or by the Board's special prosecutor before the consent proposal can be submitted to the Board.

(3) Upon a proposed disposition acceptable to the respondent reporter and the Board Chair or representative, the respondent reporter shall execute and submit a consent proposal on a document prepared by the Board setting out the necessary factual circumstances, admissions of violation of the Board Rules and Regulations, and the terms of the proposed sanction.

(4) The consent proposal, along with copies of the formal Complaint, and the recommendations of the Board Chair or representative, shall be presented to the Board by written ballot to either accept or reject the proposed disposition. The decision shall be determined by four (4) concurring votes of the Board. The respondent reporter will be notified immediately in writing of the Board's decision. Rejection will result in the continuation of the formal Complaint process.

(5) No appeal is available from a disciplinary sanction entered by the consent process.

(6) The Board shall file written evidence of the terms of any public sanction discipline by consent, in the form of an order, with the Clerk of the Supreme Court.

(c) **Serious Misconduct.** If the discipline by consent involves allegations of serious misconduct, for which a suspension or revocation of the certificate is to be imposed, the Supreme Court shall also approve any agreed consent proposal and any sanction.

(1) The Board shall present to the Supreme Court, under such procedures as the Supreme Court may direct, any discipline by consent proposal involving serious misconduct, which the Board has reached with a respondent reporter.

(2) If the Supreme Court does not approve the proposed discipline by consent or the voluntary surrender of the certificate, the matter shall be referred back to the Board which shall resume the proceedings at the stage at which they were suspended when the consent proposal was made and submitted to the Supreme Court.

HISTORY

Amended and effective January 15, 2009; amended and effective April 14, 2011.

Section 9. Appeal

(a) Within thirty (30) days of receipt of written findings of the Board issuing an admonition, or suspending or revoking a certificate, the aggrieved court reporter may appeal said findings to the Supreme Court of Arkansas for review de novo upon the record. Such appeal shall be prosecuted by filing a written notice of appeal with the Clerk of the Supreme Court of Arkansas with a copy thereof to the Chair of the Board. The notice of appeal shall specify the party taking the appeal; shall designate the order of the Board from which appeal is sought; and, shall designate the contents of the record on appeal. The notice shall also contain a statement that the transcript, or specific portions thereof, have been requested.

(b) The Executive Secretary of the Board shall prepare the record for appeal consisting of the pleadings, orders, and other documents of the case, and include therein the transcript of proceedings that is provided by the respondent reporter. The Chair of the Board shall certify the record prepared by the Executive Secretary.

(c) The respondent reporter shall be responsible for obtaining the transcript of any case proceedings and hearings and for timely providing same to the Executive Secretary of the Board. It shall be the responsibility of the appellant to transmit such record to the Supreme Court Clerk. The record on appeal shall be filed with the Supreme Court Clerk within ninety (90) days from filing of the first notice of appeal, unless the time is extended by timely filed order of the Board. In no event shall the time be extended more than seven (7) months from the date of entry of the initial order of the Board. Such appeals shall be processed in accord with pertinent portions of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas.

HISTORY

Amended and effective January 15, 2009.

Section 10. Funds — Disbursement of.

All fees and other monies accruing under the Rule shall be deposited by the Clerk of this Court in an account called, "Certified Court Reporters Fund." All expenses incurred by the Board shall be paid out of this fund as authorized and directed by the Board. Travel and other necessary expenses of the members of the Board shall be paid from said fund.

HISTORY

Amended and effective January 15, 2009.

Section 11. Scope

a. After the effective date of this Rule, all transcripts taken in court proceedings, depositions, or before any grand jury will be accepted only if they are certified by a court reporter who holds a valid certificate under this Rule. Provided, however, that depositions taken outside this state for use in this state are acceptable if they comply with the Arkansas Rules of Civil Procedure.

b. *Disciplinary Authority.* An Arkansas certified court reporter is subject to the disciplinary authority of this jurisdiction, regardless of where the court reporter's conduct occurs. A court reporter not certified in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the court reporter provides or offers to provide any court reporter services in this jurisdiction. A court reporter may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

HISTORY

Amended and effective January 15, 2009.

Section 12. Effective Date

The effective date of this Rule is February 1, 1984.

Section 13. Continuing education requirement

Reporters certified pursuant to this rule must acquire thirty (30) continuing education credits every three years through activities approved by the Board or a committee of the Board. At least three of the continuing education credits shall be ethics, which may include topics such as professionalism. Such three year period shall be known as the "reporting period." Each reporting period shall begin on January 1 and extend through December 31 three years hence. The reporting period for reporters newly certified pursuant to this Rule shall begin January 1 following certification by the Board. If a reporter acquires, during such reporting period, approved continuing education in excess of (30) thirty hours, the excess credit may be carried forward and applied to the education requirement for the succeeding reporting period only. The maximum number of continuing education hours one may carry forward is ten (10).

A continuing education credit is presumed to be 60 minutes in length. However, the Board in its discretion may grant greater or lesser credits per hour of education as each individual program may warrant. Court reporters certified pursuant to this rule who maintain a residence address

outside the State of Arkansas are subject to this requirement. However, continuing education activities approved by the appropriate authority in their resident jurisdiction shall be applicable to this requirement.

To establish compliance with this continuing education requirement the Board may accept continuing education hours acquired to meet the continuing education requirements of the National Court Reporters Association or the National Verbatim Reporters Association.

Exceptions to Requirement.

In cases where extreme hardship or extenuating circumstances are shown, the Board may grant a waiver of the continuing education requirement or extensions of time within which to fulfill the requirements. Such waivers or extensions shall be considered only upon written request from the certificate holder. As a condition of any waiver or extension, the Board may set such terms and conditions as may be appropriate under the circumstances.

Any reporter certified pursuant to this rule who attains the age of 65 or 30 years of certification, during any reporting period, and who has completed two "reporting periods" of continuing education requirements, is exempt from all requirements of this rule for that reporting period as well as all subsequent reporting periods.

HISTORY

Amended February 28, 2019, effective January 1, 2020.

Continuing Education Activities Content.

Continuing education credit may be obtained by attending or participating in Board approved seminars, conventions, or workshops, or other activities approved by the Board. To be approved for continuing education credit the activity must: be presented by individuals who have the necessary experience or academic skills to present the activity; include quality written materials; and, the course must be subject to evaluation. The continuing education activity must contribute directly to the competence and professionalism of court reporters. The Board is authorized to approve continuing education activities which include but are not limited to the following subject areas: language; academic knowledge; statutes and regulations; reporting technology and business practice; and, ethical practices-professionalism.

Administrative Procedures.

The Board shall be the authority for approval of continuing education programs. Such authority may be delegated by the Board to a committee. It is presumed that program approval will be sought and determined well in advance of the educational activity. However, the Board or its committee may approve an educational activity after the event.

The Board is authorized to develop appropriate forms and other administrative procedures as necessary to efficiently administer this continuing education requirement.

The Board shall require that reporters certified pursuant to this rule maintain and provide such records as necessary to establish compliance with this continuing education requirement. The

Board may also require that sponsors provide evidence of attendance at programs in such form as the Board may direct.

On or before January 31 after the conclusion of the immediately preceding reporting period, the Board shall provide a final report by first class mail to reporters whose reporting period concluded the preceding December 31. The number of continuing education credits stated on the final report shall be presumed correct unless the reporter notifies the Board otherwise. In the event the final report shows that the reporter has failed to acquire 30 continuing education credits for the applicable reporting period, the reporter shall be in noncompliance with the requirements of this rule.

In the event of noncompliance, the certificate of the affected reporter shall be subject to suspension or revocation as set forth in the following section. Prior to initiation of suspension or revocation proceedings, the Board shall provide notice to allow the reporter to achieve compliance. Board approved continuing education credits obtained subsequent to the relevant reporting period and prior to a vote of suspension or revocation shall be accepted in order to cure noncompliance. However, such hours will be subject to a late filing fee in an amount not to exceed $100.00.

HISTORY

Amended February 28, 2019, effective January 1, 2020.

Suspension of License - Reinstatement.

After a Board vote of suspension or revocation of a certificate, the Board shall notify the affected reporter by way of certified mail, restricted delivery, return receipt requested. In addition, the Board shall file the order of suspension or revocation with the Clerk of this Court and provide such other notice as the Board may consider appropriate.

HISTORY

Amended and effective January 15, 2009; Sections 7(a), (i) and 8(b)(4) amended by per curiam order April 14, 2011; amended and effective by per curiam order September 21, 2017; amended February 28, 2019, effective January 1, 2020.

CONTINUING EDUCATION CATEGORIES AND CREDITS

Programs or Activities that Qualify

1. Attendance at any program, seminar, or other activity approved by the Arkansas Board of Certified Court Reporter Examiners; or, the Board or Commission of another jurisdiction, provided such program or activity, otherwise complies with the Arkansas rules.

2. A program approved by a generally recognized court reporter's organization such as the NSVRA or NCRA: **hour for hour credit based upon a 60 minute hour**. **HOWEVER, PROGRAM OR ACTIVITY MUST ALSO COMPLY WITH THE ARKANSAS RULES. FOR EXAMPLE, ARKANSAS DOES NOT ACCEPT SELF-STUDY OR CORRESPONDENCE COURSES.**

3. Participating as a panelist at any approved seminar: **4 CE credits per hour**

4. Participating as a solo instructor at any approved seminar: **6 CE credits per hour**

5. Attendance at any approved continuing **legal** education seminar: **CE credit same as for attorneys**

6. Attaining advanced certification in the court reporting profession offered by any state or national organization which is in addition to basic certification by any jurisdiction: **5 CE credits;** and, attending a refresher course for such certification: **5 CE credits**

7. Attaining a score of 95% or more on any national or state sponsored speed contest: **5 CE credits**

8. CE credits for academic courses taken at an accredited post high school institution, college, or university: **15 CE credits for each academic hour of credit successfully completed; or, 5 CE credits for each academic hour audited.** In the event the institution, college, or university operates on a less than full semester standard, CE credits will be prorated accordingly.

   a. Passing a college level equivalency placement test for an academic subject: **4 CE credits**

   b. Successfully completing an adult education course in an academic subject at an accredited school: **hour for hour credit with a maximum of 10 credits**

   c. Academic subject presumes content reasonably expected to enhance the skills, relevant knowledge, or communication abilities of a court reporter.

9. Miscellaneous CE credits

   a. Writing an article consisting of a minimum of 500 words related to court reporting for publication in any generally recognized journal or magazine published for the court reporting profession: **3 CE credits**

   b. Presenting a seminar or class to lawyers, law students, paralegals, or any related group, (including training of applicants for court reporter certification,) on the profession of court reporting: **5 CE credits for each hour taught**

   c. Alternative CE programs or activities: Programs or activities presented by way of live satellite, video tape, or telephone conferences may qualify for CE credit on an hour for hour

basis. However, such programs must otherwise comply with the requirements of Section 13 of the Rules for the Board of Certified Court Reporter Examiners. Video tape presentations must be accompanied by a competent moderator or monitor. Satellite and telephone conference activities must provide an opportunity for questions and answers. **Computer interactive activities may also qualify for credit. Such programs must be participated in contemporaneous with the live program.**

d. Participants in the Maude Parkman Mentor Program who act as a freelance or official mentor, and who meet the requirements set out by the mentor committee, shall be entitled to a maximum of 10 continuing education (CE) credits per year. Likewise, newly certified reporters who successfully complete the requirements as set out by the mentor committee shall be entitled to a maximum of 10 CE credits. Newly certified reporters may receive 5 of those 10 credits by completing the official mentor component, or 5 of the 10 credits by completing the freelance component, or 10 credits for completing both components. Partial completion of either component by a newly certified reporter shall not be recognized for CE credit. Such CE credits are available to newly certified reporters only during the first three-year period they are required to get CE. The mentor committee shall be responsible for documenting participation in the program by mentors or new reporters in order to secure CE credit. Entitlement to continuing education credit attaches at the time the requirements set out by the mentor committee are completed.

10. CE credit not available: Self study and correspondence courses will not qualify for continuing education credit.

Regulations of the Board of Court Reporter Examiners

Section 1

The following definitions are set forth: The word "Section" refers to sections of the per curiam of July 5, 1983. "Board" hereinafter referred to, is the Certified Court Reporter Examiners Board. "Certified Court Reporter", or its abbreviation, "CCR", means any person holding a valid regular or temporary certificate in one of the methods approved herein as a certified verbatim reporter. The Certificate shall reflect the method of certification according to the system tested. "Verbatim Reporting" means the making of a verbatim record of court proceedings, depositions, or proceedings before any grand jury by means of manual or machine shorthand or mask dictation. No system of direct electrical recording shall be considered a means of verbatim reporting.

Section 2

Any court reporter serving in that capacity on or before January 1, 1983 may be issued a certificate as a Certified Court Reporter without examination provided the application is made prior to May 1, 1984 and is accompanied by a recommendation of a Circuit, Chancery or Court of Appeals Judge and two attorneys licensed to practice law in this state who certify that the applicant was a practicing court reporter on or before January 1, 1983.

Section 3

The Board shall set the following fees for the administration of these regulations:

(a) $75.00 application fee for in-state applicants; $150.00 application fee for out-of- state applicants;

(b) $50.00 certificate renewal fee.

(c) $100.00 penalty fee for failure to timely remit certificate renewal fee as set forth in Section 9 of these regulations

Section 4

Applicants, other than those certified without examination pursuant to Section 6 of the Rule Providing for Certification of Court Reporters or those certified pursuant to Section 26 of these Regulations, shall file not later than 30 days prior to the next examination date, a written application in the form prescribed by the Court, together with an application fee as set forth in Section 3 of these Regulations, with the Clerk of the Supreme Court. Said application fee shall not be refunded in the event the applicant decides not to take the examination or fails the examination. Said application shall state by which method the applicant will test, and certification will be issued solely in that method if the applicant successfully passes the examination.

Section 5

Applicants and/or applications shall be screened by the Board and those deemed eligible for certification will be advised and provided all necessary information. Any applicant whose

application is denied shall be promptly notified of the action of the Board and the application fee shall be refunded.

HISTORY

Amended and effective by per curiam order September 15, 2016.

Section 6

a. Applicants for certification, deemed eligible by the Board, shall receive certification upon submitting the application, paying the application fee, and either successfully passing the certification examination or utilizing the provisions of Section 26. Certification shall be issued solely in the method by which the applicant successfully tested.

b. Upon receiving certification, the court reporter must complete two "reporting periods" of continuing education requirements before being eligible for the age/years of service exemption specified in Section 13 of Rule Providing for Certification of Court Reporters.

HISTORY

Amended and effective by per curiam order September 15, 2016; amended by per curiam order February 28, 2019, effective January 1, 2020.

Section 7

Examinations for certification shall be held at least semi-annually at times and places set by the Board.

Section 8

Certification granted by the Board shall remain in effect upon payment of the annual certificate renewal fees to the Clerk of the Supreme Court on or before January 1 of each year, unless suspended or revoked pursuant to Section 7 of the Rules of the Board of Certified Court Reporter Examiners.

Section 9

All certificate renewal fee payments must be postmarked on or before January 1. The Clerk of the Supreme Court shall provide a list of those reporters in violation of the January 1 deadline not later than January 15 to the Executive Secretary of the Board. The Executive Secretary shall thereafter cause a certified letter to be sent to each reporter in violation of the January 1 deadline. The letter shall inform the reporters in violation that their certificate shall be suspended on a date not to exceed 21 calendar days from the certified delivery date of the letter unless all delinquent renewal fees and a $100.00 penalty fee are received by the Clerk of the Supreme Court within the 21 calendar days. If all delinquent renewal and penalty fees are not received within the 21 calendar days, the certificate shall be suspended but may be reinstated during the remainder of the calendar year in which the certificate expired for failure to timely renew, if the Board finds, based on a sworn affidavit(s) or other credible evidence, that the applicant has retained the professional skills required for original certification and has paid all delinquent renewal and

penalty fees. After December 31 of the calendar year in which the certificate expired, an expired certificate shall not be subject to renewal without examination.

Section 10

Each certified reporter shall procure a seal upon which shall be engraved the name, certificate number of the reporter, and the words "Arkansas Supreme Court-Certified Court Reporter", said seal to be included with signature, on all transcript certificates, to ensure compliance with Section 11 of the Rule Providing for Certification of Court Reporters.

HISTORY

Amended and effective by per curiam order June 26, 2014.

Section 11

[Repealed]

HISTORY

Repealed by per curiam order June 26, 2014.

Section 13

A. In the event of an emergency where no certified court reporter is immediately available, a judge of a circuit court may, in his or her discretion, grant:

i. a one hundred eighty calendar day emergency certificate to an individual who currently holds a valid court reporting license or certification from another state or a national court reporting association. The emergency certificate may be renewed once; or

ii. a seven calendar day non-renewable emergency certificate to any other individual. A copy of the emergency certificate shall be filed with the Clerk of the Arkansas Supreme Court and the Secretary of this Board.

B. A circuit judge shall not grant an emergency certificate to a court reporter whose license or certification is at the time of the issuance of the emergency certificate revoked or suspended.

Section 14

The tests shall be as follows:

(a) A written knowledge test consisting of spelling, vocabulary, punctuation, general knowledge, rules governing preparation of transcripts (Rules of the Supreme Court and Court of Appeals 3-1, 3-2, 3-3 and 3-4), and rules governing the regulation of the court reporting profession (Sections 19 and 22 of the Regulations of the Board of Certified Court Reporter Examiners) with a minimum of 70% accuracy.

(b) (1) Five minutes of one-voice dictation of literary at 180 words per minute. (2) Five minutes of one-voice dictation of jury charge at 200 words per minute. (3) Five minutes of two-voice dictation of Q and A at 225 words per minute.

(c) Applicants shall be required to transcribe each dictation test with 95% accuracy.

(d) If an applicant passes one or more parts of the test but fails one or more parts, the applicant will not be required to retake the part or parts passed.

(e) For in-state applicants, a new application and application fee of $75.00 will be required for all subsequent testing. For out-of-state applicants, a new application and application fee of $150.00 will be required for all subsequent testing.

(f) Certification will be restricted to the method of reporting used by the applicant at the time of testing, and said method will be reflected on the certificate issued to the applicant upon successfully passing the certification examination.

(g) Each individual successfully passing the certification examination shall, prior to receiving certification from the Board, participate in an orientation session at a time and place set by the Board.

HISTORY

Section (a) amended and effective by per curiam order June 26, 2014; amended and effective September 21, 2017; amended and effective April 5, 2018.

Section 15

Applicants for testing must furnish their own equipment and supplies for reporting and transcribing dictation test. No applicant is permitted to use an open microphone or other backup recording device during testing.

Section 16

The content and depth of this examination shall be a continuing subject of review by the Board, and may be altered by amendments to these regulations.

Section 17

The Executive Secretary of the Board will forward the files containing the names and pertinent information including address, phone number, and email address for all individuals who have passed the certification test or were granted certification pursuant to Section 26 to the Supreme Court Clerk's office where said files will be maintained and stored.

The Executive Secretary will maintain and store all other files pertaining to test results, including all verbatim notes or records, transcripts, and other papers used in connection with testing for a period of two years following the date of testing, at which time the Executive Secretary may dispose of said files.

It shall be the responsibility of the certified court reporter to provide the Office of the Supreme Court Clerk with written notification of any change of address within fourteen (14) working days. For the purposes of these regulations, written notification by certified or first class mail to the most recent address provided to the Office of the Clerk shall be deemed sufficient.

HISTORY

Amended and effective by per curiam order June 26, 2014; amended and effective by per curiam order September 15, 2016

Section 18

Any person desiring to file a grievance against a Certified Court Reporter may file a written statement on a form provided by the Board, attaching any pertinent documentary evidence thereto, with the Board of Certified Court Reporters Examiners through the Office of the Clerk of the Arkansas Supreme Court, for delivery to the Executive Secretary of the Board for investigation and determination of probable cause for a formal Complaint.

Section 19.

Pursuant to Section 7 of the Rule Providing for Certification of Court Reporters, the Board may issue an admonition or revoke or suspend any certificate issued after proper notice and hearing, on the following grounds:

(a) Conviction of any felony, or having been adjudicated or found guilty, or entered a plea of guilty or *nolo contendere* to, any felony, or to any misdemeanor that reflects adversely on the reporter's honesty, trustworthiness, or fitness as a reporter in other respects, or to any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a felony. A court reporter who falls within this provision, shall notify the Board upon entry of the judgment or sentencing order in the criminal case.

(b) misrepresentation or omission of material facts in obtaining certification.

(c) any intentional violation of, noncompliance with or gross negligence in complying with any rule or directive of the Supreme Court of Arkansas, any other court of record within this State, or this Board.

(d) fraud, dishonesty, gross incompetence or habitual neglect of duty.

(e) unprofessional conduct, which shall include, but not be limited to:

> (1) failing to deliver a transcript to a client or court in a timely manner as determined by statute, court order, or agreement;
>
> (2) intentionally producing an inaccurate transcript;
>
> (3) producing an incomplete transcript except upon order of a court, agreement of the parties, or request of a party;

(4) failing to disclose as soon as practical to the parties or their attorneys existing or past financial, business, professional or family relationships, including contracts for court reporting services, which might reasonably create an appearance of partiality;

(5) advertising or representing falsely the qualifications of a certified court reporter or that an unlicensed individual is a certified court reporter;

(6) failing to charge all parties or their attorneys to an action the same price for an original transcript and failing to charge all parties or their attorneys the same price for a copy of a transcript or for like services performed in an action;

(7) failing to disclose upon request an itemization in writing of all rates and charges to all parties in an action or their attorneys;

(8) reporting of any proceeding by any person, who is a relative of a party or their attorney, unless the relationship is disclosed and any objection thereto is waived on the record by all parties;

(9) reporting of any proceeding by any person, who is financially interested in the action, or who is associated with a firm, which is financially interested in the action;

(10) failing to notify all parties, or their attorneys, of a request for a deposition transcript, or any part thereof, in sufficient time for copies to be prepared and delivered simultaneously with the original;

(11) going "off the record" during a deposition when not agreed to by all parties or their attorneys unless otherwise ordered by the court;

(12) giving, directly or indirectly, benefiting from or being employed as a result of any gift, incentive, reward or anything of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed $100 in the aggregate for each recipient each year; and

(13) charging an unreasonable rate for a copy of an original deposition transcript, or an official reporter charging fees in violation of Ark. Code Ann. Section 16-13-506.

HISTORY

Amended and effective September 21, 2017.

Section 20.

No persons shall use the title "Certified Court Reporter," or its abbreviation "CCR," in conjunction with their names to indicate they are qualified verbatim reporters in this state, without having a valid certificate issued by the Board or an emergency certificate issued by a circuit judge pursuant to Section 13 of these Regulations.

HISTORY

Amended by per curiam order June 26, 2014.

Section 21. Official Court Reporter Records Retention Schedule

Part 1. Scope.

A. This records retention schedule applies to all official court reporters in the State of Arkansas. "Official court reporter" as used in this retention schedule means a court reporter, certified by the Arkansas Board of Certified Court Reporter Examiners, who is regularly employed by a circuit judge, or a "substitute court reporter," who serves in the absence of the regularly employed court reporter.

B. The term "records" as used in this retention schedule refers to any and all verbatim records produced by an official court reporter and all physical exhibits received or proffered in evidence in any court hearing, trial, or proceeding.

Part 2. Court Ordered Retention of Specific Records.

Upon the motion of any party demonstrating good cause or upon the court's own motion, the trial judge may enter an order directing that the records be retained for an additional period beyond the time established in PART 6. At the end of each additional court-ordered retention period, the judge may enter a new order extending the retention period.

Part 3. Responsibility for Storage; Sanctions.

A. During the period which the records are required to be retained, it shall be the responsibility of the official court reporter to maintain his or her records in an orderly, secure, and identifiable manner. It is highly recommended that space be provided in the county courthouse in the county where the official court reporter maintains an office or resides. If that is not feasible, it shall be the responsibility of the official court reporter to provide adequate space for the records.

B. When physical exhibits include firearms, contraband, or other similar items, such items may be transferred to the sheriff or other appropriate governmental agency for storage and safekeeping. The sheriff or governmental agency shall sign a receipt for such items and shall acknowledge that the items shall not be disposed of until authorized by subsequent court order. Other items of physical evidence which present storage problems may be transferred to the attorney of record for storage and safekeeping subject to approval of the trial court and upon appropriate documentation. Forms of orders and receipts for the transfer and disposal of exhibits are appended to Regulation 21.

C. If an official court reporter leaves his or her position for any reason other than his or her death, the reporter shall, within thirty (30) days, deliver or cause to be delivered, those records as defined in PART 1, to the trial court and retained by the court until a subsequent official court reporter is employed or retained, at which time the records shall be transferred to that reporter. A former official court reporter who maintains Arkansas certification may, with the court's permission, temporarily retrieve his or her former records necessary to prepare an appeal transcript or other documents which a party may request.

D. If an official court reporter dies while still in possession of those records subject to retention as defined in PART 1, the trial court shall take possession of those records within thirty (30) days of the official court reporter's death. The trial court shall retain possession of the records until a

subsequent official court reporter is employed or retained. At that time the records shall be transferred to the possession of the subsequent official court reporter who shall safely maintain the records subject to the direction of the trial court.

E. If an official court reporter is unavailable and the trial court employs a substitute official court reporter, the trial court shall take possession of all records obtained by the substitute official court reporter during his or her service upon the conclusion of his or her employment.

F. Any person who fails to comply with or who interferes with these transfer provisions may be ordered to appear and show cause why he or she should not be held in contempt of court.

Part 4. Methods of Disposal of Records.

A. Paper records may be disposed of by burning or shredding.

B. Audio recordings/files or digital media may be erased.

C. Upon their written request, physical exhibits, other than weapons or contraband shall be returned to the party or attorney who proffered same. If no request is made within the time period for retention, the court reporter may dispose of the exhibit.

D. Exhibits such as weapons or contraband shall be disposed of in the following manner: (1) weapons, in whatever form, unless otherwise ordered by the trial court, shall be transferred to the sheriff, or his or her designee, in the county where the case was tried, for disposal pursuant to law; (2) contraband, in whatever form, shall be transferred to the sheriff, or his or her designee, in the county where the case was tried, for disposal pursuant to law.

Part 5. Log of Records, Sanctions.

A. Each official court reporter shall maintain an accurate, orderly log of his or her records which also notes the date and method of destruction of each record listed. Any work papers maintained by the reporter for the purpose of identifying the record of court proceedings shall suffice, as long as they are legible. When an official court reporter leaves his or her position for whatever reason, the trial court shall take possession of the log no later than the date he or she takes possession of the records as set out in PART 3. When a subsequent official court reporter is employed or retained, the log shall be transferred to the possession of the subsequent official court reporter who shall safely maintain the log subject to the direction of the trial court.

B. Any person who fails to comply with or who interferes with this Section may be ordered to appear and show cause why he or she should not be held in contempt of court.

Part 6. Official Court Reporter Retention Schedule.

TYPE OF CASE	**PERIOD OF RETENTION**
Criminal Cases	
Death Penalty	Permanently
Life in Prison w/o Parole	Permanently

Other Felonies (transcript lodged with appellate court)	90 days after Mandate issues
Other Felonies (no transcript prepared)	5 years from date of verdict or sentencing
Misdemeanors	2 years from date of sentencing
Grand Jury Proceedings	1 year subsequent to adjournment
Civil Circuit	
All Cases (transcript lodged with appellate court)	90 days after Mandate issues
All Cases (no transcript prepared)	2 years from date of final order of trial court
Juvenile Division of Circuit Court	
All Cases (transcript lodged with appellate court)	90 days after Mandate issues
(cases where no transcript is prepared);	
Delinquency	3 years from date of final order of trial court or on date of expungement order, whichever occurs first
Families in Need of Services (FINS)	3 years from date of final order of trial court
Dependent/Neglect	7 years from date of final order of trial court

Part 7. Effective Date. This Official Court Reporter Records Retention Schedule is effective immediately upon publication. It applies to records of cases already tried and those to be tried.

HISTORY

Amended and effective by per curiam order September 21, 2017.

Section 22

A. The purpose of this rule is to ensure the integrity of the record and to avoid the appearance or potential for deferential treatment of parties to an action. Court reporters serve as officers of the court and both the appearance and existence of impartiality are no less important for officers who take depositions than for judicial officers and other persons whose responsibilities are integral to the administration of justice.

B. The court reporter taking the deposition, or the firm or any other person or entity with whom such court reporter has a principal and agency relationship or is otherwise associated, shall not enter into a contractual or financial agreement, arrangement or relationship for court reporting

services, whether written or oral, with any attorney, party to an action, insurance company, third-party administrator, or any other person or entity that has a financial interest in an action, which gives the appearance that the impartiality and independence of the court reporter has been compromised. Specific examples of arrangements that are prohibited include ones that:

(1) establish rates and terms for court reporting services that extend beyond a single case, action, or proceeding;

(2) include a court reporter on any list of preferred providers of court reporting services after exchanging information and reaching an agreement specifying the prices or other terms upon which future court reporting services will be provided, whether or not the services actually are ever ordered;

(3) allow the format of the transcript to be manipulated to affect pricing;

(4) require the court reporter taking the deposition to relinquish control of an original deposition transcript and copies of the transcript before it is certified;

(5) fail to offer comparable services, in both quality and price, to all parties or otherwise require the court reporter to provide special financial terms or other services that are not offered at the same time and on the same terms to all other parties in the litigation;

(6) allow the court reporter to communicate directly with a party of interest, other than a pro se party, except to provide invoices; and

(7) base the compensation of the court reporter on the outcome or otherwise give the court reporter a financial interest in the action.

C. These prohibitions do not apply to situations where fees or special services may be negotiated, provided that they are the same for all parties and are negotiated on a case-by-case basis. Also, these prohibitions do not extend to governmental entities, if they are required by law to obtain court reporting services on a long-term basis through competitive bidding.

D. Any violation of these prohibitions shall be enforceable by the court in which the underlying action is pending. Without otherwise limiting the inherent powers and discretion of the court, a deposition taken in violation of these prohibitions shall constitute a violation of Rule 28(d) of the Arkansas Rules of Civil Procedure (disqualification for interest), and be subject to all sanctions for such a violation under the Rules of Civil Procedure. In addition, any court reporter, firm, attorney, or party that willfully violates these prohibitions may be subject to fine or sanction by the court, and a court reporter may be subject to disciplinary proceedings before the Board of Certified Court Reporter Examiners.

E. These rules shall be applicable to all court reporting services provided on or after February 21, 2008.

Section 23

A Certified Court Reporter may administer oaths to witnesses in court proceedings, depositions, grand jury proceedings, or as otherwise authorized by a court of record.

Section 24. Freelance Court Reporters Records Retention Schedule

Part 1. Scope.

a. This records retention schedule applies to all freelance court reporters in the State of Arkansas. "Freelance court reporter," as used in this retention schedule, means a court reporter, certified by the Arkansas Board of Certified Court Reporter Examiners, who is not regularly employed by a circuit judge, and not acting in the capacity of a substitute official court reporter.

b. The term "source material," as used in this records retention schedule, refers to any notes, audio files, or exhibits that the freelance court reporter may use to prepare a transcript.

c. This records retention schedule applies to any type of deposition or proceeding in which a freelance court reporter is employed to take a record regardless of whether a transcript is prepared.

Part 2. Court Ordered Retention of Specific Records.

Upon the motion of any party demonstrating good cause or upon the court's own motion, the trial judge may enter an order directing that the records be retained for an additional period beyond the time established in Part 6 of this Rule. At the end of each additional court-ordered retention period, the judge may enter a new order extending the retention period.

Part 3. Responsibility for Storage.

During the period in which the records are required to be retained, it shall be the responsibility of the court reporter to maintain his or her records in an orderly, secure, and identifiable manner.

Part 4. Methods of Disposal of Records.

a. Paper records may be disposed of by burning or shredding.

b. Audio recordings/files or digital media may be erased.

Part 5. Log of Records.

Each court reporter shall maintain an accurate, orderly log of his or her records that notes the date and method of destruction of each record listed.

Part 6. Records Retention Schedule.

a. The court reporter shall maintain any notes and/or audio files that he or she used to prepare a transcript for a minimum of one year from the date upon which the proceedings occurred.

b. If a transcript is not prepared from the proceedings at which the court reporter appeared, the court reporter shall maintain all source material that he or she would use to prepare a transcript for a minimum of five years from the date upon which the proceedings occurred. If the court reporter intends to destroy the material, he or she must give written notice to the parties at least forty-five days prior to the day upon which the destruction of the material will occur.

1. It shall be the responsibility of the parties to provide the court reporter with written notification of any change of address.

2. For the purposes of these Regulations, written notification by certified or first class mail to the most recent address provided to the court reporter shall be deemed sufficient.

c. All electronic copies of prepared transcripts shall be retained for a minimum of five years from the date upon which the proceedings occurred.

HISTORY

Addition of section 24 by per curiam order June 26, 2014; amended and effective September 21, 2017.

Section 25. Preparation of a Transcript of a Deposition

A transcript of a deposition shall be prepared by a certified court reporter and shall comply with the following requirements:

a. The transcript shall be on plain typewriting or computer or word processor printing of the first impression, not copies;

b. The transcript shall be on 8 ½ x 11 paper;

c. The transcript shall be fastened on the left of the page.

d. The transcript shall have no fewer than 25 typed lines on standard 8 ½ x 11 paper;

e. There shall be no fewer than 9 or 10 characters to the typed inch;

f. The left-hand margins of the transcript shall be set at no more than 1 3/4 of an inch;

g. The right-hand margins of the transcript shall be set at no more than 3/8 of an inch;

h. Each question and answer in the transcript shall begin on a separate line;

i. Each question and answer in the transcript shall begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;

j. The carry-over "Q" and "A" lines shall begin at the left-hand margin;

k. Colloquy material, quoted material, parentheticals, and exhibit markings shall begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;

l. All transcripts shall be prepared in the lower case;

m. All transcripts shall be prepared on only one side of the paper, not front and back.

HISTORY

Addition of new section (25) by per curiam order June 26, 2014.

Section 26

A court reporter, who has successfully completed a national certification exam, received the accompanying certification, and remains in good standing with the national certification, may petition the Board for certification. As used in this Section, "national certification exam" means an exam given by The National Court Reporters Association and/or the National Verbatim Reporters Association. As used in this Section, "the accompanying certification" is limited to a registered professional reporter certificate (RPR) or a certified verbatim reporter certificate (CVR).

Applicants for this alternative certification must file a written application in the form prescribed by the Court, together with documentation establishing the successful completion of the national certification and an application fee as set forth in Section 3 of these Regulations, with the Clerk of the Supreme Court. Applicants and/or applications shall be screened by the Board based upon the criteria outlined in Section 5 of the Rule Providing for Certification of Court Reporters, and those deemed eligible for certification shall be promptly notified.

Prior to receiving the certification from the Board, the applicant must participate in an orientation session at a time and place set by the Board. Certification shall be issued solely in the method by which the applicant is nationally certified.

Upon receiving certification from the Board, the court reporter shall be subject to all applicable Rules and Regulations promulgated by the Board and/or the Supreme Court including but not limited to: Section 13 regarding continuing education requirements, Section 8 regarding payment of certification renewal fees, Section 19, Section 22, applicable records retention policies, and applicable transcript preparation regulations.

Ark. R. Sup. Ct. & Ct. App. 3-1

Rule 3-1 - Preparation of the Record

(a) *Generally* . All records shall begin with the style of the court in which the controversy was heard, the name of the judge presiding when the decree, judgment or order was rendered and its date, the names of all the parties litigant, and the nature of the suit or motion. For example: "Trial before A.B., judge of the circuit court on the ____ day of _____ , ____;
John Doe, Plaintiff

vs.

Action on Promissory Note"

Jane Doe, Defendant

(b) *Dates* . Whenever an order of the court is mentioned, the date shall be specifically stated, rather than by reference to the day and year "aforesaid".
(c) *Duplications* . No part of the record shall be copied more than once. When a particular record recurs, a reference should be made to pages in the preceding part of the record.
(d) *Depositions* . When depositions are taken on interrogatories and included in the record, the answers must be placed immediately after the questions to which they are responsive.
(e) *Record on second appeal* . When a cause has been once before the Court and a record is again required (for the purpose of correcting error which occurred on retrial), the second record shall begin where the former ended; that is, with the judgment of the appellate court, which should be entered of record in the circuit court, omitting the opinion of the appellate court. The appeal or supersede as bond should be the last entry included.
(f) *Table of contents* . Every record shall include a table of contents which refers to the pages in the record where the matter identified is copied. For example:
Complaint ..... Page 1

Answer ..... Page 4

Motion for Summary Judgment ..... Page 6

Exhibit A - Medical Records (completely redacted and filed under seal, Pages 8S15)

Brief in Support of Summary Judgment (internal redactions with complete version filed under seal) ..... Page 16

Response to Motion for Summary ..... Page 27

Exhibit A - Medical Records (internal redactions with complete version filed under seal) .....Page 29

Brief Opposing Summary Judgment.....Page 34

Judgment. . . . . Page 45

Notice of Appeal.....Page 47

Transcript of Hearing.....Page 49

The record shall be consecutively paginated, including any papers under seal. The table of contents shall also list all documents filed under seal.

(g)*Fee for index.* Clerks may add to their fee for the record a reasonable charge for these items where no charge is fixed by statute.

(h)*Record fee and costs certified.* The fee for the production of the record must be certified in all cases; in addition, all costs in the circuit court must be reported, and by whom paid.

(i)*Clerk's record and reporter's transcript-Paper size and preparation.* The transcript must be prepared in plain typewriting or computer or word processor printing of the first impression, not copies, on 8 1/2" x 11" paper. The record, as defined in paragraph (m) [paragraph (n)] of this Rule, shall be fastened on the left of the page. All transcripts shall be prepared by certified court reporters and comport with the following rules:

(1) No fewer than 25 typed lines on standard 81/2" x 11" paper;

(2) No fewer than 9 or 10 characters to the typed inch;

(3) Left-hand margins to be set at no more than 13/4";

(4) Right-hand margins to be set at no more than 3/8";

(5) Each question and answer to begin on a separate line;

(6) Each question and answer to begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;

(7) Carry-over "Q" and "A" lines to begin at the left-hand margin;

(8) Colloquy material, quoted material, parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;

(9) All transcripts to be prepared in the lower case;

(10) All transcripts shall be prepared on only one side of the paper, not front and back;

(11) All transcripts of depositions shall comply with these Rules.

(j)*Exhibits.* Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical exhibits other than documents shall not be transmitted by the clerk of the circuit court except by order of the Court.

(k)*Folding of record.* Records must be transmitted to the Clerk without being folded or creased.

(l)*Surveys.* Real property surveys which form a part of the record shall not be fastened to the record.

(m) *Record in volumes.* Where the record is too large to be conveniently bound in one volume, it shall be divided into separate volumes of convenient size and numbered sequentially.

(n) *Definition of record* The term "record" in civil cases, and as used in these Rules, refers only to the pleadings, judgment, decree, order appealed, transcript, exhibits, and certificates.

Ark. R. Sup. Ct. & Ct. App. 3-1

Amended and effective by per curiam order June 26, 2014.

casetext

FEDERAL TRANSCRIPTS

GUIDELINES FOR PREPARATION

§ 520 Transcript Format

The Judicial Conference first adopted the uniform transcript format in 1944 to assure that each party is treated equally throughout the country. JCUS-SEP 1944, Appendix.

(a) Although the Conference has made some adjustments from time to time, the format has remained substantially the same.

(b) The format requirements must be followed because minor changes result in significant monetary losses to parties. No court, judge, supervisor, reporter, or transcriber may authorize a deviation from the requirements set forth by the Judicial Conference.

(c) The per-page transcript rates are based on strict adherence to the prescribed format.

(d) The format standards incorporate government standards for archival materials and assure that all transcripts produced in federal courts are produced on the same basis.

§ 520.15 Electronic Transcripts

(a) Transcripts may be sold via electronic media in PDF, ASCII, or other format requested by the ordering party and agreed to by the court reporter or transcriber, whether they represent originals, first copies, or additional copies.

(b) Each page of transcript sold via electronic media must be formatted consistent with the Judicial Conference's approved transcript format guidelines, and electronic media transcripts may not contain any protection or programming codes that would prevent copying or transferring the data. JCUS-SEP 1991, p. 65 and JCUS-SEP 2012, p 26.

§ 520.16 Compressed Transcript

(a) A compressed transcript captures two or more standard pages of transcript and reproduces them on a single page.

(b) As with electronic media, court reporters and transcribers who have the capability may sell compressed transcripts on a per standard transcript-page basis, regardless if two or more standard transcript pages are compressed onto a single page of paper.

(c) There is no requirement to provide such service.

§ 520.20 Realtime Translation

The transcript format guidelines prescribed by the Judicial Conference apply to realtime translation with the exceptions outlined in § 320.50.30 (Production).

§ 520.23 Paper

(a) Size

Paper size is to be 8-1/2 X 11 inches.

(b) Weight

The weight of paper is to be at least 13 pounds for both originals and copies.

(c) Type

The paper type for both originals and copies is to be of chemical wood or better quality.

(d) Color

White paper is to be used for both originals and copies.

§ 520.30 Margins

(a) The use of preprinted solid left and right marginal lines is required.

(b) The use of preprinted top and bottom marginal lines is optional.

(c) All preprinted lines must be placed on the page so that text actually begins 1-3/4 inches from the left side of the page and ends 3/8 inch from the right side of the page.

§ 520.33 Line Numbers

Each page of transcription is to bear numbers indicating each line of transcription on the page.

§ 520.36 Typing

§ 520.36.05 Ink Color

Black ink is to be used for both originals and copies.

§ 520.36.10 Type Size

The letter character size is to be 10 letters to the inch. This provides for approximately 63 characters to each line. (Type should be letter quality.)

§ 520.36.15 Number of Lines Per Page

(a) Line of Text Per Page Requirement

(1) Except as provided in (b) below, each page of transcription is to contain 25 lines of text.

(2) The last page may contain fewer lines if it is less than a full page of transcription.

(3) Page numbers or notations cannot be considered part of the 25 lines of text.

(b) Exception

(1) An exception to the above requirement of 25 lines of text will be allowed when daily or hourly transcript of jury trials is produced and the exception is approved by the presiding judicial officer.

(2) The exception allows a page break before and after sidebar conferences, bench conferences, and hearings on motions.

(3) Court reporters are required to reduce the page count for billing purposes by one-half page for every page of transcript that includes a sidebar conference, bench conference, or hearing on motions that is marked by such a page break.

(4) This exception as defined above will make it easier for a judge to provide portions of a transcript to a jury for review. JCUS-MAR 1996, pp. 26-27.

§ 520.36.25 Spacing

Lines of transcript text are to be double spaced.

§ 520.36.30 Upper and Lower Case

Upper and lower case is preferred, but all upper case may be used.

§ 520.36.35 Indentations

(a) Question and Answer (Q and A)

(1) All Q and A designations must begin at the left margin.

(A) A period following the Q and A designation is optional.

(B) The statement following the Q and A must begin on the fifth space from the left margin.

(C) Subsequent lines must begin at the left margin.

(2) Since depositions read at a trial have the same effect as oral testimony, the indentations for Q and A must be the same as described above.

(A) In the transcript, each question and answer read from a deposition must be preceded by a quotation mark.

(B) At the conclusion of the reading, a closing quotation mark must be used.

(b) Colloquy

(1) Speaker identification must begin on the tenth space from the left margin followed directly by a colon.

(2) The statement must begin on the third space after the colon.

(3) Subsequent lines must begin at the left margin.

(c) Quotations

Quoted material other than depositions must begin on the tenth space from the left margin, with additional quoted lines beginning at the tenth space from the left margin, with appropriate quotation marks used.

§ 520.36.40 Interruptions of Speech and Simultaneous Discussions

(a) Interruptions of speech must be denoted by the use of a dash at the point of interruption, and again at the point the speaker resumes speaking.

(b) At the discretion of the transcriber, simultaneous discussions may also be noted in this manner.

§ 520.36.45 Punctuation and Spelling

Punctuation and spelling must be appropriate standard usage. For example, if a question in Q and A is indeed a question, it must be followed by a question mark.

§ 520.36.50 Page Heading

(a) A page heading (also known as a “header”) is brief descriptive information noted to aid in locating a person or event in a transcript.

(b) A page heading must be provided on each page of witness testimony; it is optional for other types of persons and/or event notations.

(c) Listing the last name of the witness or other party and the type of examination or other event is sufficient.

(d) Page headings must appear above line 1 on the same line as the page number.

(e) This information is not to be counted as a line of transcript.

§ 520.36.55 Parenthetical Notations

(a) Parenthetical notations are generally marked by parentheses; however, brackets may be used.

(b) Parenthetical notations must begin with an open parenthesis or bracket on the fifth space from the left margin, with the remark beginning on the sixth space from the left margin.

(c) Parenthetical notations are used for:

(1) customary introductory statements such as call to order of court or swearing in a witness, and

(2) indicating non-verbal behavior, pauses, and readback/playback.

For types of parenthetical notations, **see:** § 520.40.20(a).

§ 520.36.60 Legibility

The original transcript and each copy are to be legible without any interlineations materially defacing the transcript.

§ 520.40 Content

§ 520.40.10 Verbal

Except as noted below, the transcript must contain all words and other verbal expressions uttered during the course of the proceeding.

(a) Striking of Portions of the Proceeding

No portion of the proceeding must be omitted from the record by an order to strike. Regardless of requesting party, the material ordered stricken, as well as the order to strike, must all appear in the transcript.

(b) Editing of Speech

(1) The transcript must provide an accurate record of words spoken in the course of proceedings. All grammatical errors, changes of thought, contractions, misstatements, and poorly constructed sentences must be transcribed as spoken.

(2) In the interest of readability, false starts, stutters, uhms and ahs, and other verbal tics are not normally included in transcripts; but such verbalizations must be transcribed whenever their exclusion could change a statement's meaning.

(c) Reporting of Audio/Video Recordings

Generally, audio/video recordings played in court are entered as an exhibit in a proceeding. Since such recordings are under the direct control of the court, audio/video recordings need not be transcribed unless the court so directs.

(d) Private Communications and Off the Record Conversations

Private communications and off the record conversations inadvertently recorded must not be included in the transcript.

(e) Call to Order, Swearing in, or Affirmation of Witnesses or Jurors

(1) Standard summary phrases must be used for customary introductory statements such as the call to order of court and the swearing in or affirmation of witnesses.

(2) These must appear in parentheses or brackets and begin with an open parenthesis or bracket on the fifth space from the left margin, with the remark beginning on the sixth space from the left margin.

(3) The following phrases can be employed:

- (Call to Order of the Court),
- (The Jury Is Sworn),
- (The Witness Is Sworn), and
- (The Witness Is Affirmed).

(f) Identification of Speaker

(1) All speakers must be properly identified throughout the transcript, initially by their full name, thereafter by the following designations or courtesy titles, in capital letters indented ten spaces from the left margin:

(2) Proper Transcript:

Speaker	**Identification**
the judge	THE COURT
attorney	MR., MRS., MS., OR MISS + (last name)

Speaker	Identification
witness	THE WITNESS (in colloquy)
interpreter	THE INTERPRETER
defendant (in criminal cases)	THE DEFENDANT

(g) Testimony Through Interpreter

When interpreters are used, it will be assumed that answers are made in a foreign language and interpreted unless a parenthetical "(in English)" is inserted.

§ 520.40.20 Nonverbal

(a) Designation of Portions of Proceedings and Time of Occurrence (Parenthetical Notations)

(1) Parenthetical notations in a transcript are a court reporter's or electronic court recorder operator's own words, enclosed in parentheses or brackets, recording some action or event. Parenthetical notations should be as short as possible but consistent with clarity and standard word usage.

(2) The following parenthetical notations should be used to designate portions of proceedings. Designations requiring a time notation are listed first:

(A) Proceedings Started, Recessed, and Adjourned, with Time of Day and Any Future Date Indicated where Appropriate

Examples:

- (Recess at 11:30 a.m.)
- (Recess at 12:30 p.m., until 1:30 p.m.)
- (Proceedings concluded at 5 p.m.)

(B) Jury In/Out

(i) Examples:

- (Jury out at 10:35 a.m.)
- (Jury in at 10:55 a.m.)

(ii) If a jury is involved, it is essential to indicate by the proper parenthetical notation whether the proceeding occurred:

- in the presence of the jury,
- out of the presence of the jury,
- out of the hearing of the jury,
- prior to the jury entering the courtroom, or
- after the jury left the courtroom.

(3) Defendant Present/Not Present

In criminal trials, this designation must be made if not stated in the record by the judge.

(4) Bench/Side Bar Conferences

(A) This designation must note whether the bench/side bar conference is on or off the record. If all the attorneys in court are not participating in the bench/side bar conference, the parenthetical notation must so indicate.

(B) Examples:

- (Bench conference on the record)
- (Bench conference off the record with Mr. Smith, Mrs. Jones, and Mr. Adams)
- (At side bar on the record)
- (At side bar)
- (End of discussion at side bar)

(5) Discussions off the Record

This designation must note where the discussion took place.

(6) Chambers Conferences

(A) This designation must note the presence or absence of parties in chambers.

(B) Examples:

- (Discussion off the record in chambers with defendant not present)
- (Discussion on the record in chambers with defendant present)

(b) Speaker/Event Identification

(1) References to speakers and events that occur throughout proceedings must be properly noted in capital letters and centered on the appropriate line.

(2) Examples:

- AFTER RECESS
- DIRECT EXAMINATION
- CROSS EXAMINATION
- REDIRECT EXAMINATION
- RECROSS EXAMINATION
- FURTHER REDIRECT EXAMINATION
- PLAINTIFF'S EVIDENCE
- PLAINTIFF RESTS
- DEFENDANT'S EVIDENCE
- DEFENDANT RESTS
- PLAINTIFF'S EVIDENCE IN REBUTTAL

(c) Nonverbal Behavior and Pauses

(1) It is the responsibility of the attorneys, as well as the judge in some instances, to note for the record any significant nonverbal behavior (i.e., physical gestures, and lengthy pauses on the part of a witness.)

(2) If counsel or the court refers to the witness's affirmative or negative gesture, parenthetical phrases may be used to indicate physical gestures.

(3) Examples:

- (Nods head up and down)
- (Shakes head from side to side)
- (Indicating)

(d) Readback and/or Playback

All readbacks and/or playbacks and the party requesting must be noted parenthetically as follows:

(1) If the question and/or answer requested to be read or played back appears on the same page as the request, the following parenthetical must be used:

(The last question and/or answer was read/played back)

(2) If, however, the question and/or answer, or both, appear on a previous page, the court reporter or audio operator should replay or restate the question and/or answer both, in full, with appropriate quotation marks and parentheses. The following parenthetical should be used for playbacks:

(The record was replayed)

(e) Indiscernible or Inaudible Speech on Electronic Sound Recording

(1) Incomplete records of proceedings are unacceptable in a court of law. It is therefore highly undesirable to have any portion of a transcript labeled "indiscernible" or "inaudible."

(2) Every effort must be made to produce a complete transcript. The use of "inaudible" or "indiscernible" should be used only when it is impossible to transcribe the record.

§ 520.43 Title Page

§ 520.43.10 Contents

Each transcript is to include a title page indicating:

(a) court name;

(b) district;

(c) case name;

(d) civil or criminal docket case number;

(e) name and title of judge or other judicial officer presiding;

(f) type of proceeding;

(g) date and time of proceeding;

(h) volume number (if multi-volume);

(i) name and address of each attorney and name of party represented;

(j) whether a jury was present;

(k) court reporter's name, address, and telephone number, if steno based;

(l) audio operator's name, plus name, address, and telephone number of transcription company, if electronic sound recording equipment based;

(m) method by which the proceedings were recorded; and

(n) method by which the transcript was produced.

(o) Examples of this statement include the following:

(1) Proceedings recorded by mechanical stenography, transcript produced by notereading.

(2) Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

(3) Proceedings recorded by shorthand/stenomask, transcript produced from dictation.

(4) Proceedings recorded by electronic sound recording, transcript produced by transcription service.

§ 520.43.20 Record of Appearance

Beginning on the title page, the court reporter is to include the complete record of appearances.

§ 520.43.30 Cost

The court reporter may charge for the title page as a full page of transcript.

§ 520.46 Indexes

Each volume is to contain an index that is to be numbered. It is preferable to have the index at the end. The court reporter may charge for the index page as a full page of transcript.

§ 520.46.10 Requirement

(a) The index must indicate the pages at which each of the following begins:

- DIRECT EXAMINATION,
- CROSS EXAMINATION,
- REDIRECT EXAMINATION,
- RECROSS EXAMINATION,
- FURTHER DIRECT EXAMINATION, and
- RECALL OF EACH WITNESS.

(b) The index must also indicate on behalf of whom the witness or witnesses were called, such as:

- PLAINTIFF'S WITNESSES,
- WITNESSES FOR THE GOVERNMENT,
- DEFENDANT'S WITNESSES, and
- WITNESSES FOR THE DEFENSE

(c) A separate table in the index must indicate the page at which any exhibit was marked for identification and received in evidence.

§ 520.46.20 Master Index for Longer Transcripts

In a protracted case (i.e., a transcript of one thousand pages or more) in addition to the individual index, there may be a master index in a separate volume that compiles all of the individual indexes.

§ 520.46.30 Keyword Indexing Service

(a) Keyword indexing services provide an index of key words in the transcript and corresponding page number(s) in which the words appear.

(b) No charge is permitted in addition to the normal page rates for keyword indexing services.

(c) If the keyword indexing service is provided via electronic media, no additional charge is permitted for the cost of the electronic media itself.

§ 520.50 Numbering

§ 520.50.10 Pages

(a) The pages of the transcript are to be numbered in a single series of consecutive numbers for each proceeding, regardless of the number of days involved.

(b) The court reporter must place the page number at the top right corner of the page flush with the right margin above the first line of transcription.

(c) The page number does not count as a line of transcript.

(d) The pagination of the transcript of the further proceedings in the same matter must follow consecutively the pagination of earlier proceedings, unless the presiding official directs otherwise.

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SECOND DIVISION

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

^,

Plaintiff,

vs. CASE NO. ^

^,

Defendant.

ORAL DEPOSITION OF **\WITNAME**

APPEARANCES:

ATTORNEYS

*** For the Plaintiff ***

ATTORNEYS

*** For the Defendant ***

ALSO PRESENT:
^

TAKEN BEFORE Garold W. Pritsch, Certified Court Reporter, LS Certificate No. 329, Bushman Court Reporting, 620 West Third Street, Suite 302, Little Rock, Arkansas 72201 on **\MONTH \DATE, 2018** at \PLACE, \CITY, Arkansas commencing at \TIME.m.

I N D E X

Page

ANSWERS AND DEPOSITION OF \WITNAME, a witness produced at the request of \Defendant\Defendants\Plaintiff\Plaintiffs, taken in the above styled and numbered cause on the \DATE of \MONTH, 2018, before Garold W. Pritsch, Certified Court Reporter, LS Certificate No. 329, a Notary Public in and for Garland County, Arkansas, taken at the offices of \PLACE, \CITY, Arkansas at \TIME.m.

S T I P U L A T I O N S

IT IS STIPULATED and AGREED by and between the parties through their respective counsel that the deposition of \WITNAME may be taken at the time and place designated pursuant to the \Arkansas\Federal Rules of Civil Procedure.

\WITNAME

The witness hereinbefore named, having been duly cautioned and sworn or affirmed to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY STPHAO:

IN THE _____ COURT OF _____COUNTY, ARKANSAS

_____ PLAINTIFF

V DOCKET NO.

_____ DEFENDANT

ORAL DEPOSITION OF (NAME OF WITNESS)

TAKEN IN (CITY), ARKANSAS

(DATE), 1996

APPEARANCES

FOR THE PLAINTIFF:

Firm Name
Address
City, State
By (Name of appearing atty.)

FOR THE DEFENDANT:

Firm Name
Address
City, State
By (Name of appearing atty.)

ALSO PRESENT:

_____ FOR _____

(List anyone else present during the proceedings, i.e. video reporter, another party to the action, attorney representing a client who is not a named party)

DEPOSITION TITLE SHEET

IN THE CIRCUIT COURT OF ROUNDABOUT COUNTY, ARKANSAS

SANTA MARIA HOSPITAL,	PLAINTIFF	
V.		NO. CIV-94-525
JOHN S. DOE, M.D. and Q. T. OFFA, M.D.,	DEFENDANTS	

DEPOSITION OF: JOHN S. DOE, M.D.

DATE: JANUARY 3, 1995

LOCATION: LITTLE ROCK, ARKANSAS

APPEARANCES

On Behalf of the Plaintiff:

Dooright & Doowrong, P.a.
P.O. Box 100
Big Boulder, AR 22017
By: Mr. Dudley Dooright, Esq.

On Behalf of the Defendant:

Over N. Uppem, P.A.
123 Ave. U
Huntington, AR 70000
By: Spruce T. Uppem, Esq.

Also Appearing:

Q.T. Offa, M.D., Defendant

DEPOSITION TITLE SHEET

IN THE PROBATE COURT
OF BOULDER COUNTY, ARKANSAS

IN THE MATTER OF: DOCKET NO._____
THE ESTATE OF JOHN A. DOE, DECEASED

ORAL DEPOSITION OF JOETTA DOE HUNTER

TAKEN IN WARM SPRINGS, ARKANSAS

JULY 4, 1995

APPEARANCES:

ON BEHALF OF THE ESTATE: Nock M. Out, Esq.
Down & Out, P.A. 1007 Avenue M
Richmine, AR 70001

ON BEHALF OF
MRS. RUNNING DOE: Spruce T. Uppem, Esq.
Over & Uppem, PA. 123 Ave. U
Hard Rock, AR 70002

ALSO PRESENT: _____

_____

_____

DEPOSITION TITLE SHEET - PROBATE

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E212121

HANDSOME JACK, EMPLOYEE/CLAIMANT

V

MARIE LEBOW, EMPLOYER/RESPONDENT

BAYOU DWELLERS, INC. INSURED/RESPONDENT

DEPOSITION OF HANDSOME JACK

TAKEN JANUARY 1, 1993

NEW ORLEANS, ARKANSAS

APPEARANCES:

On Behalf of the Claimant: Justine R. Cuit
Paradise Law Firm
1001 Paradise Row
New Orleans, AR 60002

On Behalf of the Respondents: Allie R. Gatore
Gatore & Crock, P. A.
No. 9 Bayou Ridge
New Orleans, AR 60101

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

UNITED STATES OF AMERICA, PLAINTIFF

V. NO. 93-71-004HS

CENTURIAN DEVELOPMENT, DEFENDANT

ORAL DEPOSITION OF REGINIS R. CENTRY

DATE: JULY 14, 1994

LOCATION: MT. IDA, ARKANSAS

APPEARANCES:

ON BEHALF OF THE PLAINTIFF: Ima Ringer
1042 Avenue J
Fort Worth, AR 70303

ON BEHALF OF THE DEFENDANT: Lockhart N. Load
1401 Escroitaire Rd.
Mountain Folk, AR 70606

(Proceedings recorded by shorthand/machine shorthand/Stenomask. Transcript produced from dictation/notereading/computer.)

DEPOSITION TITLE SHEET FEDERAL COURT

Job Booking Sheet

Date: _____ Video: Yes No

Hearing or Deposition By Telephone: Yes No

Time: _____

Attorney Name: _____

Location of Job: _____

_____

_____

Who's on the other side: _____

Deponent: _____

How Long: _____ T/A Time: _____

How many depositions: _____ Trial Date: _____

Contact Name and Phone Number: _____

Reporter Requested: _____

Don't Forget to Ask For Confirmation!!!

DATE: _____ TIME: _____

ADDRESS: _____

ESTIMATED TIME: _____

IN THE (CHANCERY/CIRCUIT/PROBATE) COURT OF ____ COUNTY, ARKANSAS
IN THE UNITED STATES (DISTRICT/BANKRUPTCY) COURT
(EASTERN/WESTERN) DISTRICT OF ARKANSAS
(NAME OF CITY) DIVISION

_____

_____

V.

_____ DOCKET NO. _____

_____

APPEARANCES

ON BEHALF OF_____ _____

ON BEHALF OF_____ _____

(ORIG/COPY) (ORIG/COPY)

WITNESSES: FOR PURPOSES: EVIDENCE/DISCOVERY/ALL

_____ SIGNATURE: WAIVED/RESERVED

_____ WAIVED/RESERVED

ALSO PRESENT: _____

OTHER STIPULATIONS: _____

TRANSCRIPT DUE DATE: _____

BILLING INSTRUCTIONS: _____

BUSHMAN COURT REPORTING

REPORTER WORKSHEET 88736

Fax: 501-262-2639

Resource	**Garold Pritsch**		
Job No.	88736	**Scheduled Date**	12/19/2018 11:07:48 AM
Job Date	01/03/2019	**Job Time**	01:30 PM
Due Date	01/17/2019	**Notation**	
Witness	Annie Hill; Aaron Hill		
Case Name	Examination Under Oath of Annie Hill		
Cause No.			
Location	Neely & Guynn Law Firm 10515 W. Markham Street Suite J2 Little Rock, AR 72205 Phone: 501-823-0621 Room No.: Contact: Efrem Neely Detail:		
Remarks	2-3 hrs; reg t/a;		

Client	Munson, Rowlett, Moore & Boone, P.A. 400 W. Capitol Ave. Suite 1900 Little Rock, AR 72201 Phone: 501-374-6535 Fax: 501-374-5906
Contact	John Moore
Ordered By	Debbie Northern
Requested Service	Service Item Units

WITNESS: (1)_____ Pgs _____ (2)_____ Pgs _____

(3)_____ Pgs _____ (4)_____ Pgs_____

EVIDENT: _____ **DISCOVER:** _____ **FED RULES:** _____ **SIGT:** _____ **STANDARD:** _____

BILL TO: **DELIVER TO:**

1. _____ 1. _____

_____E-TRAN ASCII/COND _____

2. _____ 2. _____

_____E-TRAN ASCII/COND _____

3. _____ 3. _____

_____E-TRAN ASCII/COND _____

4. _____ 4. _____

_____E-TRAN ASCII/COND _____

TIME STARTED: _____ TIME ENDED: _____ REGULAR MEDICAL TECHNICAL EXPEDITE

DATE DELIVERED: _____ HOW DELIVERED: _____

(Required Please) (Required Please)

REPORTER REIMBURSEMENTS: EXHIBIT COPY EXPENSE: _____ POSTAGE/FEDEX: _____

MILEAGE: _____ OTHER: _____

(Please attach a copy of the title page with appearances)

			1	2	3	4
Hours Reg. Time:		**Bill To:**				
Hourly Rate:		**Job No.**				
Hours Overtime:		**Invoice No.**				
Hourly Rate:		Appearance Fee:				
Original Pages:		Page Amount:				
Page Rate:		Exhibits:				
Orginal Exhibits:		Color Exhibits:				
Page Rate:		E-TRAN/PDF/COND:				
Color/Special Exhibits:		Mileage:				
Page Rate:		Postage:				
Prefiled Testimony:		**Total Invoice**				
Page Rate:		Reporter:				
Other:		Bushman:				
Rate:		Other:				
		Reporter Expense:				
		Reporter Miscellaneous:				

DEPOSITION OF_____

LOCATION_____DATE_____ TIME _____

DIRECTIONS

_____

_____

COURT STYLE _____DOCKET NO. _____

ATTORNEYS _____FOR _____

_____FOR _____

MISCELLANEOUS _____DUE DATE _____

DELIVERY/BILLING INSTRUCTIONS _____

BILLING: APPEARANCE FEE $ _____

TRANSCRIPT _____PAGES @___$/PAGE _____

EXHIBITS _____PAGES @___$/PAGE _____

POSTAGE _____

MILEAGE _____MILES @___$0.___/MILE _____

TRAVEL TIME _____HOURS @___$0.___/HOUR _____

TOTAL $ $_____

DATE DELIVERED/MAILED _____TYPIST _____

DELIVERED BY: HAND/US MAIL/UPS/FED EX/OTHER _____

SAMPLE JOB WORKSHEET

WITNESS OATH

Do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

INTERPRETER OATH

Do you solemnly swear or affirm that you will faithfully interpret from (state the language) into English and from English into (state the language) the proceedings in an accurate manner to the best of your skill and knowledge?

ANSWERS AND DEPOSITION OF \WITNAME, a witness produced at the request of \Defendant\Defendants\Plaintiff\Plaintiffs, taken in the above styled and numbered cause on the \DATE of \MONTH, 2006, before Garold W. Pritsch, Certified Court Reporter, LS Certificate No. 329, a Notary Public in and for Garland County, Arkansas, taken at the offices of \PLACE, \CITY, Arkansas at \TIME.m.

S T I P U L A T I O N S

IT IS STIPULATED and AGREED by and between the parties through their respective counsel that the deposition of \WITNAME may be taken at the time and place designated pursuant to the \Arkansas\Federal Rules of Civil Procedure, and that all objections, except as to the form of the question, were reserved until the time of trial.

\WITNAME

The witness hereinbefore named, having been duly cautioned and sworn or affirmed to tell the truth, the whole truth, and nothing but the truth, testified as follows:

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

JOHN DOE,
Plaintiff,

vs. CASE NO. CV13-100-2

WILLIAM SMITH,
Defendant.

EXCERPT FROM THE

ORAL DEPOSITION OF

JOHN DOE

APPEARANCES:

MR. PATRICK R. JAMES, Attorney at Law
James, House & Downing
801 West Third Street
Little Rock, Arkansas 72201

*** For the Plaintiff ***

MR. THOMAS S. STONE and
MR. TODD WOOTEN, Attorneys at Law
Dover Dixon Horne
425 West Capitol Avenue, Suite 3700
Little Rock, Arkansas 72201

*** For the Defendant ***

TAKEN BEFORE Garold W. Pritsch, Certified Court Reporter, LS Certificate No. 329, Bushman Court Reporting, 620 West Third Street, Suite 302, Little Rock, Arkansas 72201 on **October 28th, 2016** at James, House & Downing, 801 West Third Street, Little Rock, Arkansas commencing at 9:28 a.m.

ANSWERS AND DEPOSITION OF JOHN DOE, a witness produced at the request of Defendant, taken in the above styled and numbered cause on the 28th of October, 2016, before Garold W. Pritsch, Certified Court Reporter, LS Certificate No. 329, a Notary Public in and for Garland County, Arkansas, taken at the offices of James, House & Downing, 801 West Third Street, Little Rock, Arkansas at 9:28 a.m.

JOHN DOE

The witness hereinbefore named, having been duly cautioned and sworn or affirmed to tell the truth, the whole truth, and nothing but the truth, testified as follows:

EXAMINATION

BY MR. STONE:

Q. Okay. So let me ask you this. Your arrangement with Mr. James is he pays you -- he pays you, what a joke. You pay him by the hour, correct, for his hourly work?

A. That's right.

MR. JAMES: I'd object and assert -- slow down, slow down.

I'm going to object and assert the attorney-client privilege.

MR. STONE: That's not -- that's not attorney-client privilege, how you bill is not, but if you're going to come in the courthouse and ask them to give you some kind of contingent fee, then I'm going to object to that because you didn't tell me that in the discovery.

MR. JAMES: I would expect you, but I still think it's privileged.

MR. STONE: Really?

MR. JAMES: Yeah.

MR. STONE: All right. Let's just find out. How about certifying that question for me? We'll just take it to the Judge and see

what he says. And if he does say yes, we'll be back.

All right. Now, are you asking the court reporter to strike his answer that he snuck in there before you could object?

MR. JAMES: Yes. Thank you. It's probably a good idea.

MR. STONE: Yeah, but I'm not -- my answer to that is too late. He's already answered it.

MR. JAMES: Well, then don't throw it out and bait me.

MR. STONE: Why not? I thought you were going to do it anyway, so I was going to get the objection out of the way.

C E R T I F I C A T E

STATE OF ARKANSAS*
* ss
COUNTY OF GARLAND*

I, GAROLD W. PRITSCH, Certified Court Reporter, a Notary Public in and for the aforesaid county and state, do hereby certify that the witness, JOHN DOE, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein; that the testimony of said witness was taken by me in machine shorthand notes and was thereafter reduced to typewritten form by me or under my direction and supervision; that the foregoing transcript is a true and accurate record of the testimony given to the best of my understanding and ability.

In accordance with Rule 30(e) of the Rules of Civil Procedure, review of the transcript was not requested by the deponent or any party thereto.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

GIVEN UNDER MY HAND and SEAL OF OFFICE on this 6th day of November, 2016.

_____
Garold W. Pritsch, CCR, LS No. 329, Notary Public in and for Garland County, Arkansas

My Commission expires February 27, 2020.

STATE OF ARKANSAS)
)SS.
COUNTY OF GARLAND) CERTIFIED QUESTIONS

TO: Clerk of the Chancery Court of Razorback County,Arkansas Razorback County Courthouse
RE: Jane Doe v. John Doe
Razorback County Chancery Court, No. 93-597

I hereby certify that the following question was asked by Turn N. Green, Plaintiff's attorney, during the deposition of John Doe, in the above captioned matter, taken on May 2, 1994, in the offices of Green & Black, P.S., Summitup, Arkansas.

CERTIFIED QUESTION NO. 1, TR.87:1 (if you know the page and line)

Q I submit for the record that it could lead to discoverable evidence, and I'll ask you the question again: What is your occupation? And your answer was: Investments. I'll ask you what is the type of investments, and I'll give you one more opportunity to answer it before I have the question certified.

A Have the question certified.

Q Thank you, sir.

MR. GREEN: Certify the question.

MR. BROWN: And go on and interpose my objection to relevancy.

Respectfully submitted this 21st day of January, 1994.
Typit Faster, CCR-CVR-CM #3 Right Avenue, West Lake, AR 71111, Certificate Number 1001

ERRATA SHEET OF \WITNAME

PAGE #	LINE #	ERROR	CORRECTION & REASON

ERRATA SHEET

(Upon completion, please sign and date this sheet below.)

Page _____ Line _____ Change:_____

To:_____

Reason:_____

Page _____ Line _____ Change:_____

To:_____

Reason: _____

Page _____ Line_____ Change:_____

To: _____

Reason: _____

Page _____ Line_____ Change: _____

To:_____

Reason:_____

Page _____ Line_____ Change:_____

To: _____

Reason: _____

_____ _____ Page____ of_____

JOHN DOE DATE

PAGE #	LINE #	ERROR	CORRECTION

Signature_____ Date_____ Page___of_____

WITNESS SIGNATURE PAGE

I, \WITNAME, the witness, hereby certify that I have thoroughly read the transcript of my deposition taken on the \DAY day of \MONTH, 2019, and have made any necessary changes or corrections to make the transcript a true and accurate accounting of my testimony given on that day.

_____

Signature

_____

Date

****

STATE OF_____*
* ss.
COUNTY OF_____*

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for_____ County,_____. Given under my hand and seal of office on this_____day of_____, 2019.

_____

My commission expires_____.

SIGNATURE OF WITNESS

I, (name of witness), hereby certify that the above and foregoing deposition is a full, true, correct and complete transcript of the proceeding (mark the appropriate box):

( ) had at the time of the taking of my deposition.

OR

( ) subject to the notations on the attached Errata Sheet made by me or at my direction.

_____ _____

NAME OF WITNESS DATE

****

STATE OF ARKANSAS)
)SS
COUNTY OF RAZORBACK)

SUBSCRIBED AND SWORN TO before me this day of , 1996.

My commission expires:

_____ _____

(SEAL) Notary Public

SIGNATURE PAGE

I, JOHN DOE, do hereby certify that I have read the foregoing pages of typewritten transcript of my testimony given under oath on the day of , 1993, and that the said transcript and corrections, if any, that appear on the attached errata sheet, are true and correct to the best of my memory and belief. Further, that I have signed my name to this signature page and authorize that the same be attached to the original transcript.

_____ _____

Date JOHN DOE

STATE OF ARKANSAS)
)SS.
COUNTY OF RAZORBACK)

SUBSCRIBED AND SWORN TO before me this day of , 1996.

My commission expires:

_____ _____

(SEAL) Notary Public

SIGNATURE OF DEPONENT CERTIFICATE

I, JANE DOE, do hereby certify that I have read the foregoing deposition and that, to the best of my knowledge and belief, said deposition is true and accurate with the exception of the following corrections listed below:

PAGE	LINE	CORRECTION
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____ _____
Date JANE DOE

STATE OF ARKANSAS)
) SS.
COUNTY OF RAZORBACK)

SUBSCRIBED AND SWORN TO before me this day of , 1996.

My commission expires:

_____ _____
(SEAL) Notary Public

January 4, 2019

Ms.
C/O Mr. Beau Britton
Wood, Schnipper & Britton
123 Market Street
Hot Springs, Arkansas 71901

RE: v.

Dear Ms. ,

Enclosed you will find an exact copy of the original transcript of your deposition taken before me on the 19th day of December 2018 at Wood, Schnipper & Britton in Hot Springs, Arkansas.

Under the Rules of Civil Procedure, you are allowed thirty (30) days in which to read, correct if necessary and sign your transcript. If the deposition is not signed by you and returned to me within 30 days, a Certificate of Noncompliance must be affixed to the unsigned original or a certified copy of the transcript. The transcript may then be used in court without the benefit of any corrections you might wish to make.

In reading through your transcript, please do not make any notes or marks on the individual pages. An Errata Sheet has been provided for that purpose on page 129. If there are no corrections, please indicate such on that page. After reading the transcript, you will need to sign and date it on page 130, and, if possible, have a notary public attest to your signature on the lower half of that same page.

When you have finished reviewing your transcript, please return the Errata Sheet and Signature Page to me at the address above as soon as possible. When I receive them, I will distribute the information to the appropriate parties.

If you have any questions, please don't hesitate to contact our office during normal business hours at 372-5115. Your prompt attention in this matter will be greatly appreciated by all.

Sincerely,

Garold W. Pritsch

January 4, 2019

Mr.
C/O Mr. Brent J. Eubanks
Humphries, Odum & Eubanks
1901 Broadway Street
Little Rock, Arkansas 72206

RE: v.

Dear Mr. ,

Enclosed you will find an exact copy of the original transcript of your deposition taken before me on the 27th day of December 2018 at Humphries, Odum & Eubanks in Little Rock, Arkansas.

Under the Rules of Civil Procedure, you are allowed thirty (30) days in which to read, correct if necessary and sign your transcript. If the deposition is not signed by you and returned to me within 30 days, a Certificate of Noncompliance must be affixed to the unsigned original or a certified copy of the transcript. The transcript may then be used in court without the benefit of any corrections you might wish to make.

In reading through your transcript, please do not make any notes or marks on the individual pages. An Errata Sheet has been provided for that purpose on page 93. If there are no corrections, please indicate such on that page. After reading the transcript, you will need to sign and date it on page 94 and, if possible, have a notary public attest to your signature on the lower half of that same page.

When you have finished with your transcript, please return it to me at the address above as soon as possible. When I receive the transcript back, I will distribute the information to the appropriate parties.

If you have any questions, please don't hesitate to contact our office during normal business hours at 372-5115. Your prompt attention in this matter will be greatly appreciated by all.

Sincerely,

Garold W. Pritsch

INSTRUCTIONS TO WITNESS CONCERNING THE READING AND SIGNING OF DEPOSITION

[Your attorney has furnished you with] [Enclosed is] a copy of the deposition which you gave before me recently.
Attached to the deposition is a signature page and an "errata sheet" designated specifically for your deposition.
Read over the deposition carefully. DO NOT write upon the transcript. Unless you feel absolutely compelled, do not be concerned with an insignificant typographical or punctuation error. Concern yourself with the substance of your testimony.
If changes are necessary, merely indicate on the errata sheet by page and line number what your desired changes are. If, for instance, a name is misspelled, state the page and line number of the first misspelling, and the correct spelling. If a change is of a substantive nature, for example, if you desire to change an answer because you misunderstood the question or upon further reflection you realize that you gave an incorrect answer, then also state the reason for your desired change. Please sign and date the errata sheet and attach it to the signature sheet.
If no changes or corrections are necessary, check the appropriate box on the signature sheet, and sign and date it before a Notary Public.
Return the signature page, errata sheet, and the deposition to your attorney. You may wish to coordinate the reading and signing with your attorney in order to facilitate his return of the signed signature page and errata sheet to me no later than [insert date].
- OR -
Upon your completion, please contact me so that I may pick up the transcript, signature and correction sheets no later than [insert date].
The Rules of Civil Procedure allow 30 days in which to read and make any necessary changes or corrections. After that time, a procedure for submitting an unsigned transcript will be instituted.
If you have any questions at all regarding this matter, please do not hesitate to contact me.

Sincerely,

Fast R. Fingers, CCR-RPR-CM

enclosures

March 1, 1996

HAND DELIVERED

Mr. Darrell Deanon
1000 W. Spritzer
Halleloo, AR 17701

RE: Nancy Deano v. Darrell Deano Chancery No. E-87-656

Dear Mr. Deano:

Enclosed please find one copy of your deposition taken on February 18, 1996. Also attached are a signature sheet and errata (or correction) sheets along with a set of instructions for reading, signing and making corrections to this transcript.
As soon as you have completed this, please return the transcript and signature/errata sheets to me in the enclosed, stamped, return envelope.
Sincerely,

Simply Speedy
Certified Court Reporter

enclosures

CERTIFICATE OF NONCOMPLIANCE

STATE OF ARKANSAS)
)
COUNTY OF GARLAND)

RE: EXAMINATION UNDER OATH OF JOHN DOE TAKEN ON SEPTEMBER 26TH, 2016

I, GAROLD W. PRITSCH, Certified Court Reporter, a Notary Public in and for the aforesaid county and state, do hereby certify that the above named witness failed to comply in a timely manner with the reading, correcting and signing of the transcript made by me from the sworn testimony of the witness in accordance with Rule 30(e) of the Rules of Civil Procedure.

A copy of the transcript was forwarded to counsel for the witness on July 11th, 2016 by U.S. mail, Tracking No. 9405511899563005833598.

GIVEN UNDER MY HAND and SEAL OF OFFICE on this 27th day of October 2016.

_____
GAROLD W. PRITSCH, CCR, LS No. 329, Notary Public in and for Garland County, Arkansas

My Commission expires February 27, 2020.

CERTIFICATE OF NON-COMPLIANCE

RE: ORAL DEPOSITION OF JOHN DOE ON JANUARY 3, 1993.

I, Simply Speedy, CCR, hereby certify that the above- named witness failed to comply in a timely manner with the reading, correcting and signing of the transcript made by me from sworn testimony of the witness.

Pursuant to Rule 30(e) of the Rules of Civil Procedure, which allows thirty (30) days for reading and signing a transcript, this Certificate is being filed with the Court in lieu of signature of the witness to his deposition.

WITNESS MY HAND AND OFFICIAL SEAL on this 16th day of February, 1993.

_____

SIMPLY SPEEDY, CCR.
RAPID RETURN REPORTING
#1 Verbatim Lane
Allcaps, Arkansas 10001
Certificate No.

(SEAL)

CERTIFICATE IN LIEU OF SIGNATURE

I, Simply Speedy, Certified Court Reporter, on this 16th day of February, 1993, do hereby certify the following, to-wit:

1. That the evidentiary deposition of JOHN DOE was taken on January 3, 1993, and that the requirement regarding reading and signing by the witness was not waived.

2. That on January 10th, 1993, the deposition, original signature page and errata sheets, and instructions for reading and signing were submitted to said deponent [or deponent's attorney] as per his request for signing.

3. That a period of more than thirty days has now elapsed since presentment of the deposition to the deponent [or deponent's attorney] and that the deponent [or deponent's attorney] has been notified by me on February 10th, 1993, by telephone [or in writing, a copy of which is attached hereto and incorporated herein as Attachment "A"] and that the deponent has failed to respond.

THEREFORE, substantially more than thirty days having elapsed since the date of submission of the deposition for signature, and pursuant to the provisions of Rule 30(e) of the Rules of Civil Procedure, this certificate supplements the original deposition in lieu of the deponent's signature page.

WITNESS MY HAND AND SEAL this 16th day of February, 1993.

_____

SIMPLY SPEEDY
Certificate No.

CERTIFICATE OF COSTS - TRANSCRIPT

I, [reporter name], Official Court Reporter for the Circuit Court, Division [number], [number] Judicial Circuit, certify that I made a record of the proceedings in the case of *[case* style], [name] County Circuit Court Case No. [case number], before the Honorable [Judge's name], Judge thereof, at [city], Arkansas; that said record has been reduced to a transcript by me. The costs incurred by the Appellant/(plaintiff/defendant) for said Record - Transcript was $ _____. **OR** The Appellant/(plaintiff/defendant) having been found indigent pursuant to Order dated _____, incurred no costs for said Record - Transcript.

WITNESS my hand and seal as such Court Reporter on this ____ day of _____, 2021.

/s/ _____
REPORTER NAME
Supreme Court Certified
Reporter #

SEAL

Address

REPORTER'S CERTIFICATE

I,[Name of Reporter], Certified Court Reporter for the State of Arkansas, do hereby certify as follows:

(1) that on [Date], the witness, [Name of Witness], was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein;

(2) that the foregoing pages contain and are a true and correct transcription of the proceedings as reported verbatim by me via [method of reporting] to the best of my ability and transcribed and reduced to typewriting by myself or under my direction and supervision, and subject to appropriate changes submitted by witness, if any, during his/her requested reading and signing of this deposition according to the Arkansas Rules of Civil Procedure;

(3) that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and that I am not a relative or employee of any attorney employed by the parties hereto;

(4) that I am not financially or otherwise interested in the outcome of this action that affects or has substantial tendency to affect impartiality or requires me to relinquish control of an original or copies of a deposition transcript before it is certified, or that requires me to provide any service not made available to all parties to the action; and

(5) that I have no contract with the parties, attorneys, or persons with an interest in the action; and that I am not knowingly identified on a preferred provider list, whether written or oral, for any litigant, insurance company, or third-party administrator involved in this matter. This transcript is prepared at request of [Name of Person or Party]; and all fees are billed directly to [Name of Person/Party/Agency] in compliance with Arkansas Board of Court Reporter Examiners Regulations Section 19.

Witness my hand and seal this _____ day of _____.

_____
REPORTER'S NAME
Certified Court Reporter, No. _____
Reporter's Address
[Seal]

REPORTER'S CERTIFICATE

I, [Name of Reporter], hereby certify that I am a Certified Court Reporter for the State of Arkansas, _____Division Circuit Court, ____Judicial District, that on the ____ day of _____, I was present for the proceedings had in [Case Number and Name] before the Honorable [Judge's Name]. I further certify that the foregoing pages numbered ___ through ____ contain and are a true and correct transcription of the proceedings as reported verbatim via [stenomask/stenotype/shorthand] by me to the best of my ability at the time of the [Type of Proceedings] hearing and transcribed and reduced to typewriting by myself or under my supervision, together with all items of evidence admitted into the record, said transcript prepared at request of [Name of Person/Agency ordering transcript.].

Witness my hand and seal this _____ day of _____.

_____
REPORTER'S NAME
Certified Court Reporter, No. _____
Reporter's Address

[Reporter's Seal]

REPORTER'S CERTIFICATE

I, *[Name of Reporter]*, hereby certify that I am a Certified Court Reporter for the State of Arkansas, _____Division Circuit Court, ____Judicial District, that due to the *[death of name of deceased reporter / absence of a certified court reporter in this matter / unavailability of name of court reporter in this matter]*, I have transcribed and proofread the recording(s) of the proceedings held in [Case Number and Name] on the ____ day of _____, before the Honorable [Judge's Name]. I further certify that the foregoing pages numbered ___ through ____ are a true and correct transcription of the proceedings to the best of my ability, together with all items of evidence as provided to me by [*insert source*], said transcript prepared at request of *[Name of Person/Agency ordering transcript.]*.

Witness my hand and seal this _____ day of _____.

_____
REPORTER'S NAME Certified Court Reporter, No. _____ Reporter's Address

[Reporter's Seal]

C E R T I F I C A T E

STATE OF ARKANSAS*
* ss
COUNTY OF GARLAND*

I, GAROLD W. PRITSCH, Certified Court Reporter, a Notary Public in and for the aforesaid county and state, do hereby certify that the witness, \WITNAME, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein; that the testimony of said witness was taken by me in machine shorthand notes and was thereafter reduced to typewritten form by me or under my direction and supervision; that the foregoing transcript is a true and accurate record of the testimony given to the best of my understanding and ability.

In accordance with Rule 30(e) of the Rules of Civil Procedure, review of the transcript was not requested by the deponent or any party thereto.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

GIVEN UNDER MY HAND and SEAL OF OFFICE on this \DATE day of \MONTH, 2018.

_____
Garold W. Pritsch, CCR, LS No. 329, Notary Public in and for Garland County, Arkansas

My Commission expires February 27, 2020.

C E R T I F I C A T E

STATE OF ARKANSAS*
* ss
COUNTY OF GARLAND*

I, GAROLD W. PRITSCH, Certified Court Reporter, a Notary Public in and for the aforesaid county and state, do hereby certify that the witness, \WITNAME, was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein; that the testimony of said witness was taken by me in machine shorthand notes and was thereafter reduced to typewritten form by me or under my direction and supervision; that the foregoing transcript is a true and accurate record of the testimony given to the best of my understanding and ability.

In accordance with Rule 30(e) of the Rules of Civil Procedure, review of the transcript was requested by the deponent or a party thereto.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

GIVEN UNDER MY HAND and SEAL OF OFFICE on this \DATE day of \MONTH, 2018.

_____
Garold W. Pritsch, CCR, LS No. 329, Notary Public in and for Garland County, Arkansas

My Commission expires February 27, 2020.

January 12,1996

HAND DELIVERED
CERTIFIED MAIL RETURN RECEIPT REQUESTED
FEDERAL EXPRESS
UPS
RECEIPT NO.

Mr. Dudley Dooright
Dooright & Dooright, P.A. P. O. Box 100
Big Boulder, AR 22017

Re: John Doe v. Jane Brown
Razorback County Chancery No. 90-001

STATEMENT

Appearance Fee: _____hours @$ _____/hour . . . . $_____

Deposition of JOHN DOE:

_____ pages @ $_____ /page . . . . . _____

Exhibits:

_____ copies @ $_____ /page . . . . . _____

Mileage:

_____ miles @ $0._____/mile . . . . . _____

Travel Time:

_____ hours @ $_____/hour . . . . . _____

TOTAL DUE . . . . . .$ _____

Optional: If payment is made by (fill in date, allowing at least 2 weeks), please deduct $_____for a discounted total of $_____.

STATEMENT FOR SERVICES

McCullough v. Johnson

816 S.W.2d 886 (1991)

307 Ark. 9

R.S. McCULLOUGH, Appellant, v. Loretta JOHNSON, Appellee.

No. 91-24.

Supreme Court of Arkansas.

October 21, 1991.

*887 Wendell L. Griffen, Little Rock, for appellant.

Jeff Rosenzweig, Little Rock, for appellee.

HAYS, Justice.

The appellant, R.S. McCullough, is an attorney at law, licensed by and practicing in the State of Arkansas. The appellee, Loretta Johnson, is a court reporter for the Fifth Division Circuit Court in Pulaski County, Arkansas. Johnson sued the appellant for the cost of a transcript of the testimony in a criminal trial that McCullough had ordered for use in an appeal. This appeal arises from a judgment of the Pulaski County Circuit Court against McCullough individually which awarded Johnson $1,137.70 plus interest for the costs of preparing the transcript.

On appeal, the issue is whether an attorney may be held personally liable for the costs of a transcript of trial proceedings he requested on behalf of his client. The case presents a matter of first impression in Arkansas.

Mr. McCullough represented Hurley M. Jones in a criminal proceeding in the Pulaski County Circuit Court which resulted in Jones' conviction. Ms. Johnson testified that she was aware Mr. McCullough was representing Jones. Following the conviction, McCullough filed a notice of appeal and had a copy of the notice delivered to Johnson. Ms. Johnson testified that she found the copy on her desk and prepared the transcript.

Ms. Johnson did not ask for a deposit on the transcript and testified it was her custom to not require deposits unless she was dealing with an out-of-state attorney or one she did not know. She also requested deposits when she was doubtful of the financial ability of an attorney. Johnson said she looked to, and expected payment from, McCullough and assumed there would not be a problem because he had paid in the past.

After Ms. Johnson completed the transcript she contacted McCullough and asked for the costs of preparing it. She also told him she would take the transcript to the circuit court for completion and certification. Johnson testified that McCullough told her he would bring the payment by. Mr. McCullough did not deliver the payment, though he did obtain the transcript from the circuit clerk's office and file it in the Arkansas Court of Appeals.

Johnson subsequently sent McCullough a letter demanding payment. She stated that at one point, following the completion of the transcript, McCullough offered to give her $400 from Mr. Jones, but, she refused the partial payment. Ms. Johnson testified that at no time did McCullough expressly promise to assume responsibility for the debt nor did he indicate he would not be responsible for it.

In the meantime McCullough filed a motion on behalf of Jones to proceed in forma pauperis on appeal but the record had already been lodged with the appellate court. Consequently, the motion was denied. No payment was ever tendered to Johnson for the transcript either by McCullough or Jones. Johnson then filed the action against McCullough which gave rise to this appeal.

The appellant contends that the trial court should have granted summary judgment in his favor based on principles of Arkansas agency law. Arkansas recognizes the general rule that where an agent names his principal and does not exceed his authority when contracting on the principal's behalf, the agent is not personally liable upon the contract unless the agent agrees to be. Peevy v. State, 9 Ark.App. 347, 659 S.W.2d 957 (1983); Ferguson v. Huddleston, 208 Ark. 353, 186 S.W.2d 152 (1945); Ogletree v. Smith, 176 Ark. 597, 3 S.W.2d 683 (1928); Neely v. State, 60 Ark. 66, 28 S.W. 800 (1894). This court has said, " [t]he rules of agency generally apply to the relationship of attorney and client." Peterson v.

Worthen Bank & Trust Co., 296 Ark. 201, 753 S.W.2d 278 (1988). However, we have not addressed the question presented by this case.

When the issue has arisen in other jurisdictions as to whether the attorney should be held personally liable for expenses *888 incurred on behalf of a client two lines of reasoning have evolved within the general rules of agency law. Annotation, Attorney's Personal Liability For Expenses Incurred In Relation To Services For Client, 66 ALR 4th Fed. 256 (1988); 7 Am.Jur.2d Attorneys At Law § 153 (1980). Some jurisdictions take the position that the attorney is the agent for the clientprincipal and apply the rule that an agent is not personally liable on contracts made for a disclosed principal in the absence of an express agreement to be bound. Id. This places the burden on the service provider to obtain the attorney's personal promise to pay. Id. See Ingram v. Lupo, 726 S.W.2d 791 (Mo.App.Ct.1987); Eppler, Guerin & Turner, Inc. v. Kasmir, 685 S.W.2d 737 (Tex.Civ.App.1985); Free v. Wilmar J. Helric Co., 70 Or.App. 40, 688 P.2d 117 (1984); Nagle v. Duncan, 570 S.W.2d 116 (Tex.Civ.App.1978).

Courts in other jurisdictions have considered the agency relationship of the attorney and client a modified one, treating the attorney as a principal because his education, experience and professionalism render him in charge of the litigation. In those jurisdictions, the attorney ordering goods or services for the client will also be personally liable for those expenses, in the absence of an express disclaimer of such responsibility. Id. The effect of this reasoning places the burden on the attorney to expressly disclaim responsibility. Id. See Blake v. Ingraham, 44 Ohio App.3d 38, 540 N.E.2d 759 (1989); Copp v. Arndt & Associates, 56 Wash. App. 229, 782 P.2d 1104 (1989); Burt v. Gahan, 351 Mass. 340, 220 N.E.2d 817 (1966); and, Monick v. Melnicoff, 144 A.2d 381 (D.C.1958).

The trial court followed the view that the attorney should be responsible to a service provider in the absence of a disclaimer, and held Mr. McCullough liable for the costs of the transcript. It has been said that this view reflects the trend by taking into account modern litigation practices. We agree. This approach allows court reporters to confidently regard themselves as dealing with the attorney, not the client, and the attorney may avoid liability by informing the provider that the client, not the attorney, is responsible for any obligations incurred.

AFFIRMED.

GLAZE, J., concurs.

West's Arkansas Code Annotated
Title 16. Practice, Procedure, and Courts (Refs & Annos)
Subtitle 2. Courts and Court Officers (Chapters 10 to 29)
Chapter 13. Circuit Courts
Subchapter 5. Court Reporters

A.C.A. § 16-13-506

§ 16-13-506. Court reporters--Transcript fees

Effective: July 1, 2015
Currentness

(a)(1) When required to make a transcript of court proceedings, each court reporter of the circuit courts shall be entitled to compensation at the rate of four dollars and ten cents ($4.10) per page for the original and two (2) copies and at the rate of fifty cents (50¢) per page for each additional copy.

(2) When required to prepare photocopied evidence as part of a transcript, each reporter shall be entitled to compensation at the rate of one dollar and fifty cents ($1.50) per page, for an original and two (2) copies and at the rate of fifty cents (50¢) per page for each additional copy thereafter, with the cost to be paid by the parties ordering transcripts.

(b)(1)(A) In indigent and in forma pauperis proceedings, the compensation to the court reporter for transcripts provided for in subsection (a) of this section shall be paid by the State of Arkansas.

(B) However, in such proceedings, the court reporters shall be entitled to compensation from the state only for the original and two (2) copies of the transcript.

(2) The payments shall be made only upon certification of the payments by the presiding circuit judge and shall be paid by the Administrative Office of the Courts from funds appropriated out of the Court Reporter's Fund.

Credits
Acts of 1981 (Ex. Sess.), Act 16, § 7; Acts of 1983, Act 868, § 2; Acts of 1987, Act 581, § 1; Acts of 2003, Act 1185, § 90, eff. July 16, 2003; Acts of 2005, Act 461, § 2, eff. Aug. 12, 2005; Acts of 2015, Act 268, § 8, eff. July 1, 2015.

Formerly A.S.A. 1947, § 22-367.4.

A.C.A. § 16-13-506, AR ST § 16-13-506
The constitution and statutes are current through the end of the 2019 Regular Session and the end of the 2020 First Extraordinary Session of the 92nd Arkansas General Assembly and changes made by the Arkansas Code Revision Commission received through April 1, 2020.

End of Document

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State of Arkansas *As Engrossed: S4/21/21*
93rd General Assembly **A Bill**
Regular Session, 2021 HOUSE BILL 1605

By: Representative Gazaway

For An Act To Be Entitled

AN ACT CONCERNING PAYMENT FOR A COURT TRANSCRIPT; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING PAYMENT FOR A COURT TRANSCRIPT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-13-506(a), concerning the transcript of a court proceeding, is amended to read as follows:

(a)(1) When required to make a transcript of court proceedings, each court reporter of the circuit courts shall be entitled to compensation at the rate of four dollars and ten cents ($4.10) per page for the original and two (2) copies and at the rate of fifty cents (50¢) per page for each additional copy.

(2) When required to prepare photocopied evidence as part of a transcript, each court reporter shall be entitled to compensation at the rate of one dollar and fifty cents ($1.50) per page~~,~~ for an original and two (2) copies and at the rate of fifty cents (50¢) per page for each additional copy thereafter, with the cost to be paid by the parties ordering transcripts.

(3) The circuit court judge in which the court proceeding occurred is exempt from this section.

(4)(A) If the circuit court judge utilized a substitute official court reporter under § 16-13-509 for a court proceeding that the circuit court judge later determines requires a transcript, the substitute official court reporter shall receive additional compensation for producing the

transcript for the circuit court judge.

(B) The Trial Employees Committee of the Arkansas Judicial Council, Inc., shall develop a policy that shall be implemented by the Administrative Office of the Courts to ensure fair compensation for a substitute official court reporter who is required to produce a transcript for a circuit court judge.

/s/Gazaway

APPROVED: 4/30/21

Stricken language would be deleted from and underlined language would be added to present law.
Act 819 of the Regular Session

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1606

By: Representative Gazaway

For An Act To Be Entitled

AN ACT CONCERNING COURT REPORTERS AND TRANSCRIPT FEES; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING COURT REPORTERS AND TRANSCRIPT FEES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-13-510(c), concerning the transcription of a court record, is amended to read as follows:

(c)(1) The court reporter's duty to transcribe and certify the record may be conditioned upon the payment, when requested by the court reporter, of up to fifty percent (50%) of the estimated cost of the transcript.

(2) The court reporter may require that payment for the remainder of the final cost of the transcript be submitted before delivery of the transcript.

APPROVED: 4/21/21

REQUEST FOR PAYMENT FOR PREPARATION OF AN INDIGENT APPELLATE TRANSCRIPT
NAME OF COURT REPORTER:
EMAIL:
ADDRESS:
PHONE:

CASE NUMBER AND NAME		NUMBER OF PAGES	RATE PER PAGE	AMOUNT CLAIMED
	TRANSCRIPT		$4.10	
	EXHIBITS		$1.50	
	COPIES		$0.50	
		AMOUNT CLAIMED		

SIGNATURE:
DATE:

Submit this form to Lakesha Smith, Administrative Office of the Courts, 625 Marshall Street, Suite 1100

Little Rock, AR 72201 or FAX : 1-501-682-9410.

*This form must be accompanied by a signed order declaring the appellant indigent.

** The Administrative Office of the Courts cannot reimburse a court reporter for the preparation of the

Circuit Clerk's portion of the transcript.

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
_____DIVISION
NO. _____

_____, PLAINTIFF

VS.

_____, DEFENDANT

ORDER TO EXTEND TIME TO FILE THE RECORD

Before the court is a motion pursuant to Rule 5 (b) of the Rules of Appellate Procedure Civil to extend the time to file the record on appeal in order for the court reporter to include stenographically reported material. The court makes the following findings:

1. ("Appellant'') has filed a motion explaining the reasons for the requested extension.

2. Appellant has served the motion on all counsel of record and pro se parties.

3. The time to file the record on appeal has not yet expired.

4. All parties have had the opportunity to be heard on the motion [at a hearing held on the matter on_____ , 20~ [and/or] [by filing a response to the motion).

5. Appellant, as required by Rule 6(b) of the Rules of Appellate Procedure - Civil, has timely ordered the stenographically reported material from the court reporter and made any financial arrangements required for its preparation.

6. An extension of time is necessary for the court reporter to include the stenographically reported material in the record on appeal.

Based on these findings, good cause has been shown to extend the time to file the record on appeal.

IT IS THEREFORE ORDERED that Appellant's motion is granted. The time for filing the record is extended by days, to , 20--, which is within the seven month deadline set by Ark. R App. P.-Civil5 (b)(2).

_____
Circuit Judge

_____
Date

West's Arkansas Code Annotated
Administrative Orders of the Supreme Court of Arkansas

Sup. Ct. Admin. Order 4

ORDER 4. VERBATIM TRIAL RECORD

Effective: December 3, 2020

Currentness

(a) Verbatim Record. The circuit court shall require the official court reporter to make a verbatim record of all proceedings, pertaining to any matter before the court or the jury, regardless of whether these proceedings occur in-person, in court, or in chambers; telephonically; or through video-conference. This may be waived by the parties in all matters except criminal cases. Circuit Courts are courts of records and waivers are discouraged in most circumstances. The verbatim record shall include a transcription of all spoken words from any source including but not limited to: colloquies between the court and counsel and self-represented litigants; arguments; objections; testimony; jury instructions; communications between the court and members of the jury; discussions concerning juror notes; and audio contained in videos or other recordings that are presented to the court or jury, whether in open court or *in camera*.

(b) Back-Up System. When making a verbatim record, an official court reporter or substitute court reporter shall always utilize a back-up system in addition to his or her primary reporting system in order to insure preservation of the record.

(c) Exhibits. Physical exhibits received or proffered in evidence shall be stored pursuant to the requirements of Section 21 of the Regulations of the Board of Certified Court Reporter Examiners, Official Court Reporter Retention Schedule.

(d) Sanctions. Any person who fails to comply with these requirements shall be subject to the discipline provisions of the Rules and Regulations of the Board of Certified Court Reporter Examiners in addition to the enforcement powers of the court, including contempt.

(e) Electronic Recording.

1. *Applicability.* This subsection (e) shall apply to state district court judges presiding over matters pending in circuit courts pursuant to Administrative Order Number 18 and to circuit court judges upon request to and approval by the Supreme Court.

2. *Electronic Recording.* An audio recording system may make the verbatim record of court proceedings. A recording system used for the purpose of creating the official record of a court proceeding shall meet the standards adopted and published by the Administrative Office of the Courts ("AOC"). The system shall be approved by the AOC, and it shall be tested, and court

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personnel shall be trained before the system is implemented. The system shall include a back-up capability to satisfy the requirement of subsection (b) of this Administrative Order.

3. *Record Security.*

(A) The trial court shall maintain the electronic recordings of court proceedings and all digital files, backup files, and archive files consistent with standards adopted and published by the AOC.

(B) Subsection (c) of this Administrative Order regarding the storage of trial exhibits when using an electronic recording system is supplemented by the following: During the period in which the records are required to be retained, the trial court may order items of physical evidence held for storage and safekeeping by the attorneys of record, and such arrangements shall be appropriately documented. Forms of orders and receipts are appended to the Regulations of the Board of Certified Court Reporter Examiners. When physical exhibits include firearms, contraband, or other similar items, the trial court may order such items transferred to the sheriff or other appropriate governmental agency for storage and safekeeping. The sheriff or governmental agency shall sign a receipt for such items and shall acknowledge that the items shall not be disposed of until authorized by subsequent court order. See Regulation 21 of the Regulations of the Board of Certified Court Reporter Examiners for the record retention schedule and other requirements for maintaining records and exhibits.

4. *Official Transcripts.* When a transcript is required and is to be prepared from an audio recording, the official court reporter of the circuit judge to which the case is assigned shall be responsible for preparing the transcript, and the statutory rate and payment provisions shall apply. A transcript prepared from an audio recording of a court proceeding prepared and certified by an official court reporter is an official transcript for purpose of appeal or other use.

Credits

[Adopted effective July 1, 1991. Amended effective July 1, 2001; February 21, 2008; June 1, 2009; July 1, 2011; December 3, 2020.]

Sup. Ct. Admin. Order 4, AR R S CT ADMIN Order 4
Current with amendments received through June 1, 2021.

End of Document

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4. *Official transcripts*. When a transcript is required and is to be prepared from an audio recording, the official court reporter of the circuit judge to which the case is assigned shall be responsible for preparing the transcript, and the statutory rate and payment provisions shall apply. A transcript prepared from an audio recording of a court proceeding prepared and certified by an official court reporter is an official transcript for purpose of appeal or other use.

COMMENT

AOC Provisional Guidelines for Digital Audio Recording in State District Courts

HISTORY

Adopted May 6, 1991, effective July 1, 1991; amended May 24, 2001, effective July 1, 2001; amended February 21, 2008; amended February 9, 2011, effective July 1, 2011.

Order 5. Criminal Cases Where Alleged Victim Under Age Fourteen

Ark. Code Ann. § 16-10-130 (1987) provides that all courts of this state shall, in the absence of extraordinary circumstances, give precedence to the trial of criminal cases over other matters, civil or criminal, when the alleged victim is under age fourteen. Effective immediately, when a case affected by § 16-10-130 is not tried or otherwise disposed of within nine months following the filing of a criminal information in the circuit court, the circuit judge before whom the case is pending will inform the Administrative Office of the Courts in writing the reason or reasons the case therefor. Thereafter, at intervals of ninety (90) days the circuit court will inform the Administrative Office of the Courts of the status of the case. During the pendency of the case, no continuance shall be granted on motion of either the State or the defendant except upon written order detailing the reasons for, and the duration of, the delay.

HISTORY

Adopted October 5, 1992; amended and effective by per curiam order March 13, 2014.

Order 6. Broadcasting, Recording, or Photographing in the Courtroom

(a) *Application—Exception.* This Order shall apply to all courts, circuit, district, and appellate, except as set out below.

(b) *Authorization*. A judge may authorize broadcasting, recording, or photographing in the courtroom and areas immediately adjacent thereto during sessions of court, recesses between sessions, and on other occasions, provided that the participants will not be distracted, nor will the dignity of the proceedings be impaired.

(c) *Exceptions*. The following exceptions shall apply:

(1) An objection timely made by a party or an attorney shall preclude broadcasting, recording, or photographing of the proceedings;

Rule 6-9 (effective September 25, 2008)
Dependency-Neglect Appeals

Prepared by: Connie Hickman Tanner
AOC Director of Juvenile Division Courts

Notice of Appeal & Designation of the Record

- W/in 21 days after entry of circuit court order (Form 1)
- If appellant alleges indigency for appeal, indigency motion w/in 14 days of order
- Indigency ruling w/in 5 days of motion

↓

Appellee may file a notice of cross appeal.
Court reporter shall file statement concerning record transcription.

- W/in 5 days after receipt of notice of appeal & record designation

↓

Transmission of the Record

- Record on Appeal shall be filed with Supreme Court Clerk w/in 70 days
- The court reporter shall file a statement w/in 5 days after receipt of the notice of appeal and designation of the record, that the record on appeal will be completed.
- The court reporter shall complete the record of hearing from the order on appeal w/in 60 days.
- Circuit Clerk has 5 days from to prepare the record as designated in Form 1.
- Appellant shall transmit the record to the Supreme Court Clerk w/in 5 days.

↓

Petition on Appeal

- W/in 30 days after transmission of the record Appellant shall file petition (Form2)

↓

Response to Petition or Cross Appeal

- W/in 20 days after filing of the appellant's petition on appeal (Form 3)

↓

Responses

↓

- Appellant has 10 days to respond after appellee's response or cross appeal is filed.
- Appellee has 10 days to respond after appellant's response is filed.

↓

Appellate Decision

- Cases shall be prioritized on the calendar of the appellate court

↓

Petition for rehearing or review

- Shall be filed w/in 10 days the appellate court's decision

CHT 9/2008

Ark. R. Sup. Ct. & Ct. App. 6-9

Rule 6-9 - Rule For Appeals In Dependency-Neglect Cases

(a) Appealable Orders.

(1) The following orders may be appealed from dependency-neglect proceedings:

(A) adjudication order;

(B) disposition, review, no reunification, and permanency planning order if the court directs entry of a final judgment as to one or more of the issues or parties based upon the express determination by the court supported by factual findings that there is no just reason for delay of an appeal, in accordance with Ark. R. Civ. P. Rule 54(b) ;

(C) termination of parental rights;

(D) denial of right to appointed counsel pursuant to Ark. Code Ann. 9-27-316(h) .

(E) denial of a motion to intervene.

(2) The circuit court shall enter and distribute to all the parties all dependency-neglect orders no later than (thirty) 30 days after a hearing.

(b) Notice, Indigency, and Time for Appeal.

(1) The notice of appeal shall be filed within twenty-one (21) days following the entry of the circuit court order from which the appeal is being taken.

(A) If the court announces its ruling from the bench and an appellant files a notice of appeal prior to the entry of the order, it shall be deemed to be filed the day after the order is entered.

(B) The notice of appeal and designation of record shall be signed by the appellant, if an adult, and appellant's counsel. The notice shall set forth the party or parties initiating the appeal, the address of the parties or parties, and specify the order from which the appeal is taken.

(2) If the appellant alleges indigency for purpose of the appeal, the appellant shall file a motion, with notice to all parties, to request an indigency determination within fourteen (14) days following the entry of the order from which the appeal is taken.

(A) If the appellant has had a court determination of indigency prior to the hearing from the order from which the appeal is taken, the appellant shall seek a re-determination of indigency for purpose of appeal and shall submit a new affidavit for the court to determine indigency for the purpose of appeal.

(B) The circuit court shall rule on appellant?s indigency motion within five (5) days of the indigency motion being filed. If the court conducts a hearing on the indigency motion, the judge may conduct the indigency hearing outside of the county and by teleconference. The court shall use the federal poverty guidelines provided by the Administrative Office of the Courts in making its indigency determination.

(C) If the appellant is determined indigent for purpose of appeal, the notice shall indicate that the court has made a determination of indigency for payment of the record. Trial counsel for indigent parents or custodians shall not be relieved as counsel for purpose of appeal until relieved by the Public Defender Commission as provided in Rule 6-10(c) . If appellant is determined not indigent, appellant shall state that arrangements for payment of the record have been made.

(3) If a timely notice of appeal is filed, any other party may file a notice of cross-appeal and designation of record within five (5) days from receipt of the notice of appeal.

(4) The time in which to file a notice of appeal or a notice of cross-appeal and the corresponding designation of record will not be extended.

(5) In computing time periods in Rule 6-9, Ark. R. Civ. P. Rule 6(a) , which provides in part that when the period of time prescribed or allowed is less than fourteen (14) days, intermediate Saturdays, Sundays, or legal holidays shall be excluded in the computation, shall apply.

(c) Record on Appeal.

(1) The record for appeal shall be limited to the transcript of the hearing from which the order on appeal arose, any petitions, pleadings, and orders relevant to the hearing from which the order on appeal arose, all exhibits entered into evidence at that hearing, and all orders entered in the case prior to the order on appeal.

(2) The appellant and the cross-appellant, if any, shall (A) complete a Notice of Appeal (Cross- Appeal) and Designation of Record (Form 1); (B) file Form 1 with the Circuit Clerk; and (C) serve Form 1 on the court reporter and all parties by any form of mail which requires a signed receipt.

(3) The designation-of-record portion of Form 1 shall identify the hearing from which the order being appealed arose, and shall designate the date(s) of the hearing resulting in the order being appealed. Service of the Notice of Appeal and Designation of Record (Form 1) shall constitute a request for transcription of the hearing from which the order of the appeal arose.

(4) Within five (5) days after receipt of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall file a statement by mail or fax with the Circuit Clerk indicating whether arrangements for payment have been made and that the record will be completed timely. The court reporter shall make arrangements for the record to be completed and certified within sixty (60) days.

(d) Transmission of Record. Absent extraordinary circumstances, the record on appeal shall be filed with the Clerk of the Supreme Court within seventy (70) days of the filing of the Notice of Appeal. Within sixty (60) days after the filing of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall provide the record to the Circuit Clerk who shall have no longer than five (5) days to prepare the record, including any transcripts and exhibits, to be transmitted for submission to Clerk of the Supreme Court.

After the record has been duly certified by the Circuit Clerk, it shall be the responsibility of the appellant to transmit the record to the Clerk of the Supreme Court for filing.

(e) Petition on Appeal.

(1) Within thirty 30 days after transmission of the record to the Clerk of the Supreme Court, the appellant shall file a Petition on Appeal (Form 2). Petitions on appeal shall be filed using the electronic filing system provided by the Administrative Office of the Courts. Parties filing electronically shall provide six paper copies of their petition to the Clerk within five days from the date of filing. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide six paper copies of the petition at the time of filing.

(2) The petition shall not exceed twenty-five pages, excluding the abstract and addendum, and shall include:

(A) A statement of the nature of the case and the relief sought;

(B) A concise statement of the material facts as they relate to the issues presented in the petition on appeal that is sufficient to enable the appellate court to understand the nature of the case, the general fact situation, and the action taken by the circuit court. This statement must also summarize the circuit court order appealed from and recite the date the order was entered. (References to pages in the abstract and addendum are required.);

(C) An abstract or abridgment of the transcript that consists of an impartial condensation of only such material parts of the testimony of the witnesses and colloquies between the court and counsel and other parties as are necessary to an understanding of all questions presented to the court for decision. In the abstracting of testimony, the first person (i.e.,) rather than the third person (i.e., He, She) shall be used. Not more than one page of the transcript shall in any instance be abstracted without a page reference to the record.

(D) A concise statement of the legal issues presented for appeal, including a statement of how the issues arose; and a discussion of the legal authority on which the party is relying with citation to supporting statutes, case law, or other legal authority for the issues raised. Citations of decisions of the court which are officially reported must be from the official reports. All citations of decisions of any court must state the style of the case and the book and page in which the case is found. If the case is also reported by one or more unofficial publishers, these should also be cited, if possible.

(E) Following the signature and certificate of service, the appellant's petition shall contain an addendum which shall include true and legible photocopies of the order, judgment, decree, ruling, or letter opinion from which the appeal is taken, a copy of the notice of appeal, and any other relevant pleadings, documents, or exhibits essential to an understanding of the case, which may include, but are not limited to, affidavits, petitions, case plan, court reports, court orders, or other exhibits entered into the record during the hearing from which the appeal arose, and all orders entered in the case prior

to the order on appeal. The addendum shall include an index of its contents and shall also designate where any item appearing in the addendum can be found in the record.

(f) Response to Petition on Appeal or Cross Appeal.

(1) Within twenty (20) days after filing of the appellant's petition on appeal, any appellee may file a response to the petition on appeal or cross-appeal (Form 3). Responses to petitions on appeal shall be filed using the electronic filing system provided by the Administrative Office of the Courts. Parties filing electronically shall provide six paper copies of the petition to the Clerk within five days of the filing date. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide six paper copies of the petition at the time of filing.

(2) The response shall not exceed twenty-five pages, excluding the abstract and addendum and shall include:

(A) A concise statement of the material facts as they relate to the issues presented by the appellant, as well as the issues, if any, being raised by the appellee on cross-appeal, that is sufficient to enable the appellate court to understand the nature of the case, the general fact situation, and the action taken by the circuit court. (References to pages in the abstract and addendum are required.)

(B) A concise response to the legal issues presented on appeal and cross-appeal, if any, including a statement of how the issue arose; a discussion of the legal authority on which the party is relying with citation to supporting statutes, case law, or other legal authority for the issues raised. Citations of decisions of the court which are officially reported must be from the official reports. All citations of decisions of any court must state the style of the case and the book and page in which the case is found. If the case is also reported by one or more unofficial publishers, these should also be cited, if possible.

(C) If the appellee considers the appellant's abstract or addendum to be defective or incomplete, the appellee may provide a supplemental abstract or addendum. The appellee's addendum shall only include an item which the appellant's addendum fails to include.

(3) The appellant will have ten (10) days after appellee's response or petition on cross appeal is filed to reply to the response or the petition on cross appeal. If appellee files a petition on cross-appeal and the appellant has filed a response to the petition on cross-appeal, the appellee will have ten (10) days to reply to appellant's response to the petition on crossappeal. The reply shall be filed using the electronic filing system provided by the Administrative Office of the Courts. Parties electronically filing shall provide six paper copies of their reply to the Clerk within five days from the date of filing. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide six paper copies of the petition at the time of filing.

(g) Extensions. The Clerk of the Supreme Court shall have the authority to grant one (1) seven-day extension for completion of the record and one (1) seven-day extension to any party to the appeal to file the petition or the response to the petition. The extension shall be computed from the date the petition or response was originally due. Absent extraordinary circumstances, no other extensions shall be granted.

(h) Style of Petition. The style of the Petition on Appeal, Response, and Cross-Appeal shall follow the style of briefs as described by Rule 4-1 of the Rules of the Supreme Court except where a style is specifically described by these rules. Reference to any minor in the Notice of Appeal, Notice of Cross Appeal, Petition for Appeal, Petition for Cross Appeal, and responses shall be by the minor's initials. Other parties seeking anonymity shall comply with Rule 6-3 of the Rules of the Supreme Court and Court of Appeals.

(i) Procedure for No-Merit Petitions, Pro Se Points, and State's Response.

(1) After studying the record and researching the law, if appellant's counsel determines that the appellant has no meritorious basis for appeal, then counsel may file a no-merit petition and move to withdraw. In addition to the requirement set forth in subsection (e), counsel's nomerit petition must include the following:

(A) The argument section of the petition shall list all adverse rulings to the appellant made by the circuit court on all objections, motions, and requests made by the party at the hearing from which the appeal arose and explain why each adverse ruling is not a meritorious ground for reversal.

(B) The abstract and addendum shall contain all rulings adverse to the appellant, made by the Circuit Court at the hearing from which the order of appeal arose.

(2) Appellees are not required to, but may, respond to a no-merit petition. Appellees may file a concurrence letter supporting the no-merit petition. Any response by an appellee shall be filed within twenty (20) days of the filing of the no-merit petition.

(3) The Clerk of the Supreme Court shall mail the appellant, at the appellant's last known address, a copy of the no-merit petition and the motion to withdraw. The Clerk shall notify the appellant in writing that the appellant may raise any points that the appellant chooses and that these points may be typewritten or hand-printed. The Clerk shall also notify the appellant that the points shall be received by the Supreme Court Clerk by mail or other method of delivery within thirty (30) days from the date the Clerk mailed the appellant the notification.

(4) The Clerk shall provide appellant's points by electronic transmission or other method of delivery to the Department of Human Services - Office of Chief Counsel, the Attorney Ad Litem, and appellant's counsel within three (3) business days.

(5) Appellees are not required to respond to appellant's points; however, appellees may do so by filing such response within twenty (20) days of receipt by the Clerk of the Supreme Court of the appellant's points.

(j) Ruling.

(1) Dependency-neglect proceedings shall be prioritized on the calendar of the appellate court. Once a case is ready for submission, the Clerk of the Supreme Court shall submit

the case for decision.

(2) If a party files a petition for rehearing with the appellate court or petition for review with the Supreme Court, it shall be filed within ten (10) calendar days of the appellate court's decision and the response shall be filed within ten (10) calendar days of the filing of the petition. A petition for rehearing shall comply with Rule 2-3 and a petition for review shall comply with Rule 2-4 of the Rules of the Supreme Court and Court of Appeals in all respects, except for the number of days for filing. No supplemental briefs or extensions shall be allowed. The Clerk of the Supreme Court shall submit the petition for decision. Explanatory Note, 2011 Amendment: The amendment [to Rule 6-9(a)(1)] adds denial of a motion to intervene in dependency-neglect proceedings to the list of appealable orders under the expedited appeal procedure of Rule 6-9.

Ark. R. Sup. Ct. & Ct. App. 6-9

Adopted May 18, 2006, effective July 1, 2006; amended September 25, 2008; amended June 2, 2011, effective July 1, 2011; amended December 7, 2017, effective January 1, 2018.

The 2011 amendment [to Rule 6-9(a)(1)] adds denial of a motion to intervene in dependency-neglect proceedings to the list of appealable orders under the expedited appeal procedure of Rule 6-9.

casetext

COURT REPORTER NOTICE OF DESIGNATION OF THE RECORD

Circuit Court: _____ **Circuit Court Judge:** _____ **Circuit Court Docket Number(s):** _____ _____ **Arkansas Department of Health and Human Services v.** _____ **❑parents❑guardians❑custodian** _____ **[children's initials]** **Appellant:**_____	**COURT USE ONLY**
❑NOTICE OF APPEAL AND DESIGNATION OF THE RECORD **❑CROSS-APPEAL AND DESIGNATION OF RECORD**	

ATTACH NOTICE OF APPEAL that indicates record requested and payment arranged.

1. ❑ Arrangements for payment of the record have been made or ❑ the court has determined appellant indigent for payment of the record and appointment of counsel for the appeal. (Please check)

2. I, _____, attest that I shall make arrangements to have the record completed and certified within 60 days.

_____ _____
Signature of Court Reporter Date

Pursuant to Rule 6-9(c)(4), within five after receipt of the notice of appeal and designation of the record (Form 1), the court reporter shall file a statement by mail or fax with the circuit clerk indicating whether arrangements for payment have been made and that the record will be completed within 60 days.

CERTIFICATE OF SERVICE

I certify that on _____ (today's date) the original of this COURT REPORTER NOTICE OF DESIGNATION was filed with the Circuit Clerk; and a true and accurate copy of this NOTICE was served on the other party(ies) by any form of mail with a signed receipt to the following:

_____
Name & Address

_____
Name & Address

_____
Name & Address

_____
Name & Address

_____
Name & Address

_____
Court Reporter

_____
Date

SLIP OPINION

Cite as 2015 Ark. 13

SUPREME COURT OF ARKANSAS

IN RE ADMINISTRATIVE ORDER NO. 19 — ACCESS TO COURT RECORDS

Opinion Delivered January 15, 2015

PER CURIAM

We adopt amendments to Administrative Order No. 19 (VII), and republish the Order below. These amendments are effective immediately. (The changes are illustrated in the End Note.)

ADMINISTRATIVE ORDER NUMBER 19 — Access to Court Records

. . . .

Section VII. Court Records Excluded from Public Access.

A. *Case records*. The following information in case records is excluded from public access and is confidential absent a court order to the contrary; however, if the information is disclosed in open court and is part of a verbatim transcript of court proceedings or included in trial transcript source materials, the information is not excluded from public access:

(1) information that is excluded from public access pursuant to federal law;

(2) information that is excluded from public access pursuant to the Arkansas Code Annotated;

(3) information that is excluded from public access by order or rule of court;

(4) Social Security numbers;

SLIP OPINION

(5) account numbers of specific assets, liabilities, accounts, credit cards, and personal identification numbers (PINs);

(6) information about cases expunged or sealed pursuant to Ark. Code Ann. §§ 16-90-901, et seq. (repealed 2013), and Ark. Code Ann. §§ 16-90-1401 et seq.;

(7) notes, communications, and deliberative materials regarding decisions of judges, jurors, court staff, and judicial agencies;

(8) all home and business addresses of petitioners who request anonymity when seeking a domestic order of protection.

B. *Administrative Records*. The following information in administrative records is excluded from public access and is confidential absent a court order to the contrary:

(1) information that is excluded from public access pursuant to Arkansas Code Annotated or other court rule;

(2) information protected from disclosure by order or rule of court;

(3) security and emergency preparedness plans. Security and emergency preparedness plans shall not be open to the public under this order or the Arkansas Freedom of Information Act, Ark. Code Ann. §§ 25-19-101 et seq., to the extent they contain information that if disclosed might jeopardize or compromise efforts to secure and protect individuals, the courthouse, or court facility. This exclusion from public access shall include: (A) Risk and vulnerability assessments; (B) Plans and proposals for preventing and mitigating security risks; (C) Emergency response and recovery records; (D) Security plans and procedures; and (E) Any other records containing information that if disclosed might jeopardize or compromise

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efforts to secure and protect individuals, the courthouse, or court facility.

(4) notes, communications, and deliberative materials of judges regarding court administration matters arising under Administrative Orders Number 14 and 18.

End Notes

Section VII.

A.

. . . .

(6) information about cases expunged or sealed pursuant to Ark. Code Ann. §§ 16-90-901, et seq. (repealed 2013), and Ark. Code Ann. §§ 16-90-1401 et seq.;

(7) notes, communications, and deliberative materials regarding decisions of judges, jurors, court staff, and judicial agencies;

(8) all home and business addresses of petitioners who request anonymity when seeking a domestic order of protection.

B. *Administrative Records*. The following information in administrative records is excluded from public access and is confidential absent a court order to the contrary:

(1) information that is excluded from public access pursuant to Arkansas Code Annotated or other court rule;

(2) information protected from disclosure by order or rule of court;

(3) security and emergency preparedness plans. Security and emergency preparedness plans shall not be open to the public under this order or the Arkansas Freedom of Information Act,

SLIP OPINION

Ark. Code Ann. §§ 25-19-101 et seq., to the extent they contain information that if disclosed might jeopardize or compromise efforts to secure and protect individuals, the courthouse, or court facility. This exclusion from public access shall include: (A) Risk and vulnerability assessments; (B) Plans and proposals for preventing and mitigating security risks; (C) Emergency response and recovery records; (D) Security plans and procedures; and (E) Any other records containing information that if disclosed might jeopardize or compromise efforts to secure and protect individuals, the courthouse, or court facility.

(4) notes, communications, and deliberative materials of judges regarding court administration matters arising under Administrative Orders Numbers 14 and 18.

ARKANSAS JUDICIARY
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Order 19. Access to Court Records

Go here for bulk and compiled data forms [1]

Section I. Authority, Scope, and Purpose.

A. Pursuant to Ark. Const. Amend. 80 §§ 1, 3, 4; Ark. Code Ann. §§ 16-10-101 (Repl. 1999), 25-19-105(b)(8) (Supp. 2003), and this Court's inherent rule-making authority, the Court adopts and publishes Administrative Order Number 19: Access to Court Records. This order governs access to, and confidentiality of, court records. Except as otherwise provided by this order, access to court records shall be governed by the Arkansas Freedom of Information Act (Ark. Code Ann. §§ 25-19-101, et seq.).

B. The purposes of this order are to:

(1) promote accessibility to court records;
(2) support the role of the judiciary;
(3) promote governmental accountability;
(4) contribute to public safety;
(5) reduce the risk of injury to individuals;
(6) protect individual privacy rights and interests;
(7) protect proprietary business information;
(8) minimize reluctance to use the court system;
(9) encourage the most effective use of court and clerk of court staff;
(10) provide excellent customer service; and
(11) avoid unduly burdening the ongoing business of the judiciary.

C. This order applies only to court records as defined in this order and does not authorize or prohibit access to information gathered, maintained, or stored by a non-judicial governmental agency or other entity.

D. Disputes arising under this order shall be determined in accordance with this order and, to the extent not inconsistent with this order, by all other rules and orders adopted by this Court.

E. This order applies to all court records; however clerks and courts may, but are not required to, redact or restrict information that was otherwise public in case records and administrative records created before January 1, 2009. However, confidential information shall be redacted from pre-January 2009 case records and administrative records before remote access is available to such records.

Section II. Who Has Access Under This Order.

Rules text
A. All persons have access to court records as provided in this order.

B. The following persons, in accordance with their functions within the judicial system, may have greater access than the public to court records:
(1) employees of the court, court agency, or clerk of court;

(2) private or governmental persons or entities who assist a court in providing court services;

(3) public agencies whose access to court records is defined by other statutes, rules, orders or policies; and

(4) the parties to a case or their lawyers with respect to their own case.

C. Notwithstanding other rules, the Administrative Office of the Courts is authorized to promulgate policies and procedures governing greater access than the public through AOC-provided systems to court records by entities enumerated in Section(II)(B) above. D. Arkansas Code Ann. § 25-19-105(a)(1)(B), which limits access to public records by incarcerated individuals, shall not apply to court records. Nevertheless, an incarcerated individual who seeks, at public expense, a photocopy of a court record must file a motion with the court having jurisdiction over the record stating that he or she has requested the documents from his or her counsel and that counsel did not provide the documents. Furthermore, the motion must demonstrate that the incarcerated individual has a compelling need for the court record and an inability to pay.

Section III. Definitions.

A. For purpose of this order:

(1) "Court Record" means both case records and administrative records, but does not include information gathered, maintained or stored by a non-court agency or other entity even though the court may have access to the information, unless it is adopted by the court as part of the court record.

(2) "Case Record" means any document, information, data, or other item created, collected, received, or maintained by a court, court agency or clerk of court in connection with a judicial proceeding.

(3) "Administrative Record" means any document, information, data, or other item created, collected, received, or maintained by a court, court agency, or clerk of court pertaining to the administration of the judicial branch of government.

(4) "Court" means the Arkansas Supreme Court, Arkansas Court of Appeals, and all Circuit, District, or City Courts.

(5) "Clerk of Court" means the Clerk of the Arkansas Supreme Court, the Arkansas Court of Appeals, and the Clerk of a Circuit, District, or City Court including staff. "Clerk of Court" also means the County Clerk, when acting as the Ex-Officio Circuit Clerk for the Probate Division of Circuit Court.

(6) "Public access" means that any person may inspect and obtain a copy of the information.

(7) "Remote access" means the ability to electronically search, inspect, or copy information in a court record without the need to physically visit the court facility where the court record is maintained.

(8) "In electronic form" means information that exists as electronic representations of text or graphic documents; an electronic image, including a video image of a document, exhibit or other thing; data in the fields or files of an electronic database; or an audio or video recording (analog or digital) of an event or notes in an electronic file from which a transcript of an event can be prepared.

(9) "Bulk Distribution" means the distribution of all, or a significant subset of, the information in court records, as is, and without modification or compilation.

(10) "Compiled Information" means information that is derived from the selection, aggregation or reformulation of information from more than one court record.

(11) "Confidential" means that the contents of a court record may not be disclosed unless otherwise permitted by this order, or by law. When and to the extent provided by this order or by law, "confidential" shall mean also that the existence of a court record may not be disclosed.

(12) "Sealed" means that the contents of a court record may not be disclosed unless otherwise permitted by this order, or by law. When and to the extent provided by this order or by law, "sealed" shall mean also that the existence of a court record may not be disclosed.

(13) "Protective order" means that as defined by the Arkansas Rules of Civil Procedure.

(14) "Expunged" means that the record or records in question shall be sequestered, sealed, and treated as confidential, and neither the contents, nor the existence of, the court record may be disclosed unless otherwise permitted by this order, or by law. Unless otherwise provided by this order or by law, "expunged" shall not mean the physical destruction of any records.

(15) "Court Agency" means the Administrative Office of the Courts, the Office of Professional Programs, the Office of the Arkansas Supreme Court Committee on Professional Conduct, the Judicial Discipline and Disability Commission, and any other office or agency now in existence or hereinafter

created, which is under the authority and control of the Arkansas Supreme Court.

(16) "Custodian" with respect to any court record, means the person having administrative control of that record and does not mean a person who holds court records solely for the purposes of storage, safekeeping, or data processing for others.

Section IV. General Access Rule.

Rules text

A. Public access shall be granted to court records subject to the limitations of sections V through X of this order.

B. This order applies to all court records, regardless of the manner of creation, method of collection, form of storage, or the form in which the records are maintained.

C. If a court record, or part thereof, is rendered confidential by protective order, by this order, or otherwise by law, the confidential content shall be redacted, but there shall be a publicly accessible indication of the fact of redaction. This subsection (C) does not apply to court records that are rendered confidential by expungement or other legal authority that expressly prohibits disclosure of the existence of a record.

Section V. Remote Access.

A. Courts should endeavor to make at least the following information, when available in electronic form, remotely accessible to the public:

(1) litigant/party/attorney indexes to cases filed with the court;
(2) listings of case filings, including the names of the parties;
(3) the register of actions or docket sheets;
(4) calendars or dockets of court proceedings, including case numbers and captions, date and time of hearings, and location of hearings;
(5) judgments, orders, or decrees.

B. Remote access to information beyond this list is left to the discretion of the court as follows:

(1) In the district courts, the district judges(s) shall decide whether to allow public remote access;

(2) In the circuit courts, the Administrative Judge of the Judicial Circuit, with input from the Clerk, and, if applicable, the Ex Officio Circuit Clerk for the Probate Division, of the counties within the circuit, shall decide whether to allow public remote access;

(3) In the appellate courts, the Supreme Court shall decide whether to allow public remote access.

C. Public remote access shall be permitted only upon compliance with sections (I)(E) and (VII), and the implementation of appropriate security measures to prevent indexing by Internet search engines.

Section VI. Bulk Distribution and Compiled Information.

A. Requests for bulk distribution or compiled information stored on computers maintained by the Administrative Office of the Courts (AOC) shall be made in writing on the form provided to the Director of the AOC or other designee of the Arkansas Supreme Court. Requests for bulk distribution or compiled information that is not stored on computers maintained by the AOC shall be made in writing on the form provided to the court or court agency having jurisdiction over the records. Requests for bulk distribution or compiled information that exists as electronic representations of text or graphic documents; an electronic image, including a video image of a document, exhibit, or other thing; or an audio or video recording (analog or digital) of an event or notes in an electronic file from which a transcript of an event can be prepared shall be made in writing on the form provided to the court or court agency having jurisdiction over the records even if stored on computers maintained by the AOC. The AOC shall maintain on the Arkansas Judiciary website a current description of the records available on AOC computers. Requests will be acted upon or responded to within a reasonable period of

time.

B. Compiled information shall be provided according to the terms of this section (VI)(B).

(1) Requests for compiled records shall identify the requested information and the desired format of the compilation.

(2) The grant of a request under this section (VI)(B) may be made contingent upon the requester paying the actual costs of reproduction, including personnel time, the costs of the of the medium reproduction, supplies, equipment, and maintenance, and including the actual costs of mailing or transmitting the records by facsimile or other electronic means.

(a) The requester may be charged for personnel time exceeding one (1) hour associated with the tasks, in addition to the actual costs of reproduction.

(b) If the estimated costs exceed twenty-five dollars ($25.00), an estimate will be required and the requester may be required to pay that fee in advance.

(c) Information may be furnished without charge or at a reduced charge if it is determined that a waiver or reduction of the fee is in the public interest.

(d) The requester is entitled to an itemized breakdown of charges under this section (VI)(B)(2).

(e) Costs for compiled records requested from a court or court agency having jurisdiction over the records shall be as otherwise permitted by state law or county or city ordinance.

(3) When the request includes cases or information excluded from public access under section (VII), or the identification of specific individuals is not essential to the purpose of the inquiry, then the requested records may be provided; however, names, addresses (except zip code), month and day of birth shall be redacted from the information.

(4) When the request includes release of social security numbers, driver?s license or equivalent state identification card numbers, the information provided shall include only the last four digits of social security numbers, only the last four digits of driver?s license or equivalent state identification card numbers. Account numbers and personal identification numbers (PINs) of specific assets, liabilities, accounts, and credit cards may not be released.

(5) When the identification of specific individuals is essential to the purpose of the request, then the request must include an executed copy of the Compiled Records License Agreement and the requester must declare under penalty of perjury that the request is made for a scholarly, journalistic, political, governmental, research, evaluation, or statistical purpose, and that the identification of specific individuals is essential to the purpose of the inquiry. This license agreement requirement may be waived for information furnished to an agency of the State of Arkansas. Denial of all or part of a compiled records request shall be reviewable by the Supreme Court Committee on Automation by the requestor filing a written request for review within 20 days of the denial. At its next regularly scheduled meeting the Committee shall review the request and make a determination whether the request should be granted. The determination shall be made by a majority of those members of the Committee present and voting. The Chair of the Committee shall communicate its decision to the Director of the Administrative Office of the courts or the court or court agency having jurisdiction over the records. The Committee?s decision shall be final.

C. Bulk distribution shall be provided according to the terms of this section (VI)(C).

(1) The Administrative Office of the Courts is authorized to develop a license agreement for bulk records consistent with this rule.

Cite as 2020 Ark. 421

SUPREME COURT OF ARKANSAS

IN RE FINAL RULES FOR ACCEPTANCE OF RECORDS ON APPEAL IN ELECTRONIC FORMAT AND ELIMINATION OF THE ABSTRACTING AND ADDENDUM REQUIREMENTS	**Opinion Delivered** December 17, 2020

PER CURIAM

Today, we are pleased to announce the adoption of final rules concerning electronic records and briefing in this court and the court of appeals. On June 6, 2019, we authorized the electronic filing of all case-initiating documents, including electronic records on appeal. *In re Acceptance of Records on Appeal in Electronic Format and Elimination of the Abstracting and Addendum Requirements*, 2019 Ark. 213. At that time, we published for comment proposed amendments to our court rules that incorporated the electronic filing of case-initiating documents, that eliminated the abstract and addendum requirements for appellate briefs, and that updated our briefing rules. *Id.* We also authorized parties to proceed under the proposed amendments in cases with an electronic record as a pilot-project to test the feasibility of the proposed amendments. *Id.* Because the pilot-project has been a success, we adopt the proposed amendments as final with some minor additions and revisions, and we make the electronic filing of appeal records mandatory for cases in which the notice of appeal was filed on or after June 1, 2021.

The final amendments[1] are set out in full at the end of this order, as well as in "line-in, line-out fashion (new material is underlined; deleted material is lined through). The "line-in, line-out" inclusion is intended to make clear the changes we have made to the proposed rules set forth in 2019 Ark. 213. These rule changes shall take effect immediately and require, among other things, that appeal records and other case-initiating documents be filed electronically. However, we recognize that there are cases in which the circuit clerks and court reporters are likely in the process of preparing some appeal records in paper format. Therefore, we authorize the clerk of this court to accept for filing conventional paper appeal records when the notice of appeal is filed prior to June 1, 2021, but the briefs in those cases must include an abstract and an addendum. For all cases in which the notice of appeal is filed on or after June 1, 2021 (except for cases in which the appellant is proceeding pro se),[2] the record shall be filed in electronic format.

At this time, we also take the opportunity to highlight the importance of the new "jurisdictional statement" and "statement of the case and the facts" sections that were included in the proposed amendments and are adopted as final today. These new sections replace the abstract and addendum requirements and are therefore crucial to appellate

[1]This order amends the following Supreme Court Rules: 1-2, 1-4, 2-3, 3-1, 3-3, 3-4, 4-1, 4-2, 4-3, 4-4, 4-5, 4-7, 6-1, 6-7, and 6-9. This order also amends Rule 7 of the Arkansas Rules of Appellate Procedure-Civil, Rule 3 of the Arkansas Rules of Appellate Procedure-Criminal, and Rule 6-9 Form 2 for use in dependency-neglect appeals.

[2]For cases in which the appellant is proceeding pro se, circuit court staff shall continue to prepare the record on appeal in conventional paper form unless the appellant requests an electronic record. However, conventional paper records should, to the extent possible, be formatted and paginated according to the requirements for electronic appeal records.

briefing under the rules as amended. *Id.* at 3–4. The addendum provided the court with information about all of the claims raised below, the disposition of those claims, and the timeliness of the appeal so that we could confirm our appellate jurisdiction. This jurisdictional information must now be contained in the new jurisdictional statement. Ark. Sup. Ct. R. 4-2(a)(5) (as amended by this order). And the statement of the case and the facts section, like the abstract before it, must contain all "material" information that "is essential to understand the case and to decide the issues on appeal." *Compare* Ark. Sup. Ct. R. 4-2(a)(5) (the former abstract rule) *with* Ark. Sup. Ct. R. 4-2(a)(6) (the new statement of the case and the facts rule as amended by this order). Thus, appellate practitioners must be careful to discuss important factual and procedural information in the new statement of the case and the facts section so that the appellate courts can understand the evidence presented below to decide the issues on appeal.[3] The jurisdictional statement and the statement of the case and the facts must also be supported by pinpoint citations to the electronic record in the format required by Supreme Court Rule 4-2(f) as amended by this order.

These new rules still require the appellant to transmit the record on appeal from the circuit court to the appellate courts. As noted in *In re Acceptance of Records on Appeal in Electronic Format and Elimination of the Abstracting and Addendum Requirements*, 2019 Ark. 213, we are exploring the possibility of an automated process that would allow the circuit clerks to submit trial court records directly to the appellate clerk. We continue to explore that

[3]And as with the abstract, any fact not referenced in the statement of the case and the facts cannot support the grant of rehearing. *Compare* Sup. Ct. R. 2-3(h) (prior version) *with* Sup. Ct. R. 2-3(h) (as amended by this order).

possibility. As technology improves, it is essential that we keep pace to ensure maximum access to justice.

Lastly, we authorize the clerk of this court to promulgate and update policies and procedures for the implementation of this order and for the use and operation of the electronic-filing and document-management systems. *See In re Acceptance of Records on Appeal in Electronic Format*, 2019 Ark. 213, at 6–7.

Rules of the Supreme Court and the Court of Appeals of the State of Arkansas

Rule 1-2. Appellate jurisdiction of the Supreme Court and Court of Appeals.

. . . .

(c) Transfer and certification. The Supreme Court may transfer to the Court of Appeals any case appealed to the Supreme Court and may transfer to the Supreme Court any case appealed to the Court of Appeals. If the Court of Appeals seeks to transfer a case, the Court of Appeals shall find and certify that the case: (1) is excepted from its jurisdiction by Rule 1-2(a), or (2) otherwise involves an issue of significant public interest or a legal principle of major importance. The Supreme Court may accept for its docket cases so certified or may remand any of them to the Court of Appeals for decision. The Clerk of the Court shall notify the parties or their counsel of the transfer of any case.

(d) Petition for review. No appeal as of right shall lie from the Court of Appeals to the Supreme Court. The Supreme Court will exercise its discretion to review an appeal decided by the Court of Appeals only on application by a party to the appeal, upon certification of the Court of Appeals, or if the Supreme Court decides the case is one that should have originally been assigned to the Supreme Court. In determining whether to grant a petition to review, the following, while neither controlling nor fully measuring the Supreme Court's discretion, indicate the character of reasons that will be considered: (i) the case was decided in the Court of Appeals by a tie vote, (ii) the Court of Appeals rendered a decision which is arguably in conflict with a prior holding of a published opinion of either the Supreme Court or the Court of Appeals, or (iii) the Court of Appeals arguably erred in some way related to one of the grounds listed in Rule 1-2(b).

(e) Improper filing. No case filed in either the Supreme Court or the Court of Appeals shall be dismissed for having been filed in the wrong court but shall be transferred or certified to the proper court.

(f) Allocation of workload. Notwithstanding the foregoing provisions, cases may be assigned and transferred between the courts by Supreme Court order to achieve a fair allocation of the appellate workload between the Supreme Court and the Court of Appeals.

(g) In all appeals from criminal convictions or post-conviction relief matters heard in the Court of Appeals, the appellant shall not be required to petition for rehearing in the Court of Appeals or review in the Supreme Court following an adverse decision of the Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error. When the claim has been presented to the Court of Appeals or the Supreme Court, and relief has been denied, the appellant shall be deemed to have exhausted all available state remedies.

Rule 1-4. Clerk's Office Business Hours.

The Clerk will record the exact time and date of filing or tender upon any document filed or tendered for filing in the Clerk's Office. Filings shall occur only between business hours of 8:00 a.m. and 5:00 p.m. on business days; however, Administrative Order 21 controls electronic filing.

. . . .

Rule 2-3. Petitions for rehearing.

. . . .

(h) Previous reference in the statement of the case and the facts. In no case will a rehearing petition be granted when it is based upon any fact thought to have been overlooked by the Court, unless reference has been clearly made to it in the statement of the case and the facts prescribed by Rule 4-2.

. . . .

Rule 3-1. Preparation of the record.

. . . .

(f) Pagination. The circuit clerk's portion of the record shall be consecutively paginated, including any papers under seal, and the cover of the circuit clerk's portion shall be page one. The court reporter's portion of the record shall be separately paginated, and the cover of the court reporter's portion shall be page one. Page numbers must appear on the record pages. After the record on appeal is filed with the appellate court, the cover of any supplemental records shall begin at page one.

(g) Table of contents. The circuit clerk's portion of the record and the court reporter's portion of the record shall each include a table of contents which refers to the pages in the record where the matter identified is copied. Below is an example table of contents to a circuit clerk's portion of the record:

VOLUME I-UNSEALED PLEADINGS

Complaint ..... Page 3
Answer ..... Page 4
Motion for Summary Judgment ..... Page 6
Exhibit A - Medical Records (whole document
Redacted and filed under seal

The table of contents shall identify all documents filed under seal.

(h) Fee for index. Clerks may add to their fee for the record a reasonable charge for these items where no charge is fixed by statute.

(i) Record fee and costs certified. The fee for the production of the record must be certified in all cases; in addition, all costs in the circuit court must be reported, and by whom paid.

(j) Clerk's record and reporter's transcript--Paper size and preparation.

The record must be prepared in the digital equivalent of plain typewriting or computer or word processor printing of the first impression, not copies, on 8½ x 11-inch paper. All transcripts shall be prepared by certified court reporters and comport with the following rules:

(1) No fewer than 25 typed lines on standard 8½ x 11-inch paper;
(2) No fewer than 9 or 10 characters to the typed inch;
(3) Left-hand margins to be set at no more than 1¾ inches;
(4) Right-hand margins to be set at no more than three-eighths of an inch;
(5) Each question and answer to begin on a separate line;

(6) Each question and answer to begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;

(7) Carry-over "Q" and "A" lines to begin at the left-hand margin;

(8) Colloquy material, quoted material, parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;

(9) All transcripts to be prepared in the lower case;

(10) All transcripts submitted on paper shall be prepared on only one side of the paper, not front and back;

(11) All transcripts of depositions shall comply with these Rules.

(k) Exhibits. Photographs, charts, drawings, real-property surveys, and other documents that can be digitized shall be included. Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Digital media, such as audio and video recordings, that are part of the record shall be filed conventionally in the appellate court.

(l) Folding of record. Records portions submitted on paper must be transmitted to the Clerk without being folded or creased.

(m) Record in volumes. Where the record is 30 megabytes or larger, it shall be divided into separate files, each of which is less than 30 megabytes and is paginated continuously from the preceding file to the subsequent file. Any portion of the record filed under seal shall be a separate PDF file.

(n) The term "record" in civil cases, and as used in these Rules, refers only to the pleadings, judgment, decree, order appealed, transcript, exhibits, and certificates. Records on appeal shall be divided into a circuit court clerk's portion and into a court reporter's portion, if any proceedings in the case were transcribed by a court reporter.

(o) Sealed record portions. If any portion of the record is sealed, the sealed materials shall be saved as a separate PDF file, the name of the PDF file should indicate that the contents are sealed. The documents in the sealed file shall be paginated consecutive to where the page numbering ends in the unsealed file or files.

(p) No password protection. Electronic records on appeal shall not be password protected.

(q) Image resolution. If any portion of the record must be scanned to create an appeal record, the scanner settings should be set at an image resolution of 300 dots per inch (DPI).

Rule 3-3. Record in Civil Cases.

Not all records in civil cases will have the same contents. To the extent possible, items will be arranged in chronological order according to filing date, which will usually be in the following sequence:

(a) Circuit clerk's portion of the electronic appellate record.

1. Cover;
2. Table of Contents;
3. Complaint;
4. Plaintiff's exhibits that accompany the Complaint;
5. Statement regarding summons, set out in Rule 3-2(b);
6. Answer;
7. Defendant's exhibits that accompany the Answer;
8. Subsequent pleadings and orders in chronological order;
9. Final judgment, decree, or order appealed;
10. Post-judgment decree, order or motion (e.g., motions for new trial);
11. Orders granting or denying post-judgment motions;
12. Notice of appeal and designation of record;
13. Statement of points to be relied upon if abbreviated record designated;
14. Extensions of time to file record on appeal;
15. Stipulations to abbreviated records;
16. Narrative of testimony upon stipulations;
17. Supersedeas bond;
18. Circuit clerk's certificate, duly acknowledged; and
19. Certificate of costs of circuit clerk's portion of appellate record, indicating payor.

(b) Court reporter's portion of the electronic appellate record.

1. Cover;
2. Table of Contents;
3. Transcription of proceedings;
4. Digitized transcript exhibits;
5. List of exhibits not included in the electronic transcript;
6. Court reporter's certificate; and
7. Court reporter's certificate of costs of the transcript, indicating payor.

Rule 3-4. Record in Criminal Cases.

Not all records in criminal cases will have the same contents. To the extent possible, items will be arranged in chronological order according to filing date, which will usually be the following sequence:

(a) Circuit clerk's portion of the electronic appellate record.

1. Cover;
2. Table of Contents;
3. Return of the indictment or information;
4. Defendant's pleadings;
5. Subsequent pleadings and orders in chronological order;
6. Final judgment and commitment or order appealed;
7. Verdict forms and written jury instructions;
8. Motion for new trial, to set aside, amend, etc.;
9. Order granting or denying above motions;
10. Notice of appeal and designation of record;
11. Extensions of time to file record on appeal;
12. Appeal bond;
13. Circuit clerk's certificate, duly acknowledged; and
14. Certificate of costs of circuit clerk's portion of appellate record, indicating payor.

(b) Court reporter's portion of the electronic appellate record.

1. Cover;
2. Table of Contents;
3. Transcription of proceedings;
4. Digitized transcript exhibits;
5. List of exhibits not included in the electronic transcript;
6. Court reporter's certificate; and
7. Court reporter's certificate of costs of the transcript, indicating payor.

(c) Record of jury matters. (1) The record shall not include the impaneling or swearing of the jury, the names of the jurors, or any motion, affidavit, order, or ruling in reference thereto unless expressly called for by a party's designation of the record. (2) Verdict forms shall be inserted in the record. Written jury instructions and proffered jury instructions shall be inserted in the record when expressly identified by a party's designation of the record.

4-1. Style of electronic briefs.

(a) *Format.* Briefs filed by represented parties shall be typewritten using word-processing software, shall be contained in a single electronic file, and shall be in word-searchable portable document format (PDF). PDF files shall be converted from the word-processing software from which they were created, rather than by scanning paper documents. Electronic briefs shall not contain hyperlinks to external papers or websites.

(b) *Spacing.* Briefs shall be double-spaced, except for quoted material, which may be single-spaced and indented. Footnote lines, except quotations, shall be double-spaced. Use of footnotes is not encouraged and should be used sparingly.

(c) *Margins.* The margins at the top bottom, and sides of each page shall be not less than one inch except that the top margin of the brief cover shall be not less than two inches to accommodate the file-mark.

(d) *Font.* Typeface shall be proportionally spaced, shall not be less than 14 points, and must include serifs, but sans-serif type may be used in headings and captions.

(e) *Pagination and bookmarks.* Briefs shall be paginated consecutively, and the cover page shall be page one. Briefs shall also be bookmarked for ease of navigation. There shall be a bookmark for each section of the brief referenced in Rule 4-2(a).

(f) *Compliance with Administrative Order No. 19 required.* Briefs shall comply with the requirements of Administrative Order Number 19 concerning confidential information and the following requirements.

(1) *Redaction.* Confidential information shall be redacted from appellate briefs in the manner described in Arkansas Rule of Civil Procedure 5(c).

(2) *Redaction Not Required for Sealed Cases.* If the entire record on appeal is sealed pursuant to statute, court rule, court order, or court practice, all briefs filed in the case shall be filed under seal, and no redaction is required.

(3) *Unredacted briefs.* If court review of any confidential information redacted from a brief is necessary to decide the appeal, the party filing the brief must file an unredacted version of the brief under seal. If court review of redacted confidential information is not necessary to decide the appeal, the party filing the brief is not required to file an unredacted brief.

Rule 4-2. Contents of electronic briefs.

(a) *Appellants' briefs.* The contents of appellants' briefs shall be in the following order.

(1) *Cover.* On the cover of every brief there should appear the number and style of the case in the Supreme Court or Court of Appeals; a designation of the court from which the appeal is taken, and the name of its presiding judge; the title of the brief; and the name or names of counsel who prepared it, including their bar numbers, addresses, telephone numbers, and e-mail addresses.

(2) *Table of contents.* Each brief must include a table of contents. It should reference the page number for the beginning of each of the major sections identified in Rule 4-2(a)(2)-(10). Internal hyperlinks in the table of contents to each section is permissible, but not required.

(3) *Points on appeal.* The appellant shall list and separately number, concisely and without argument, the points relied upon for a reversal of the judgment or decree. The appellee must follow the same sequence and arrangement of points as contained in the appellant's brief and may then state additional points. Either party may insert under any point not more than two citations which the party considers the principal authorities on that point.

(4) *Table of authorities*. The table of authorities shall be an alphabetical listing of authorities with a designation of the page number of the brief on which the authority appears. The authorities shall be grouped as follows:

(A) Cases
(B) Statutes and Rules
(C) Books and Treatises
(D) Miscellaneous

(5) *Jurisdictional Statement*. Briefs must contain a brief statement, supported by citations to applicable authority and to the pages of the appellate record, demonstrating the appellate court's jurisdiction. The statement must identify:

(A) Information demonstrating that the appeal is from a final order or judgment that disposes of all of the parties' claims, or information establishing the appellate court's jurisdiction on some other basis;

(B) The filing dates establishing the timeliness of the appeal; and

(C) Whether, under Supreme Court Rule 1-2, the appeal should be decided by the Arkansas Supreme Court or the Arkansas Court of Appeals.

(6) *Statement of the case and the facts*. The appellant's brief shall contain a concise statement of the case and the facts without argument. The statement shall identify and discuss all material factual and procedural information contained in the record on appeal. Information in the appellate record is material if the information is essential to understand the case and to decide

the issues on appeal. All material information must be supported by citations to the pages of the appellate record where the information can be found.

(7) *Argument*. Arguments shall be presented under subheadings numbered to correspond to the outline of points to be relied upon. For each issue, the applicable standard of review shall be concisely stated at the beginning of the discussion of the issue. Citations of decisions of the Arkansas Supreme Court and Court of Appeals must be from the official reports, and all citations to both official and unofficial reports shall follow the format prescribed in Rule 5-2. All citations of decisions of any other court must state the style of the case and cite the official reporter (including a regional reporter so designated by the issuing court) in which the case is found. If the case is also reported by unofficial publishers, including an unofficial electronic database, one of these should also be cited. Reference in the argument portion of the parties' briefs to material found in the appellate record shall be followed by a reference to the page number of the appellate record at which such material may be found.

(8) *Request for Relief*. The appellant shall request, with specificity, all relief sought on appeal.

(9) *Certificate of service*. All briefs must include a certificate of service evidencing service of the brief in compliance with Rule 4-4(e).

(10) *Certificate of Compliance with Administrative Order No. 19, Administrative Order 21 Sec. 9, and With Word-Count Limitations*. All briefs must include a statement that the brief complies with (1) Administrative Order No. 19's requirements concerning confidential information; (2) Administrative Order 21, Section 9, which states that briefs shall not contain hyperlinks to external papers or websites, and (3) the word-count limitations identified in Rule 4-2(d). The person preparing the certificate may rely on the word count of the word-processing system used to prepare the document. The certificate must state the number of words in the document.

(b) *Appellees' briefs*. Appellees' briefs shall conform to the requirements of Rule 4-2(a) except that appellees may, but are not required to, submit a jurisdictional statement and a statement of the case and facts. Appellees may adopt by reference all or part of the appellant's jurisdictional statement or statement of the case and the facts and may respond to or supplement those statements if the appellee controverts them or believes them to be insufficient.

(c) *Reply Briefs*. Reply briefs shall contain a cover, a table of contents, a table of authorities an argument, a certificate of service, and a certificate of compliance with Administrative Order No. 19 and with the word-count limitations contained in Rule 4-2(d).

(d) *Word-Count Limitations*: Briefs shall comply with the word-count limitations identified below, and only the jurisdictional statement, the statement of the case and the facts, the argument, and the request for relief shall be counted against these limitations. The cover,

the table of contents, the points on appeal, the table of authorities, the certificate of service, the certificate of compliance, and any list of adverse rulings required by Rule 4-3(a) shall not count against these limitations.

(1) *Appellants' brief and appellees'* briefs. Appellants' briefs and appellees' briefs shall be no longer than 8600 words.

(2) *Reply briefs*. Reply briefs shall be no longer than 2875 words.

(3) *Appellees/cross-appellants' briefs*. If an appellee is also a cross-appellant, the argument on cross-appeal shall appear after the appellee's argument in the brief, and appellee/cross-appellant's brief shall be no longer than 14,325 words.

(4) *Reply/cross-appellees' briefs*. If the appellant is also a cross-appellee, the cross-appellee's argument shall follow the appellant's argument in reply, and the reply/cross-appellee's brief shall be no longer than 11,475 words.

(e) *Motions for expansion of word-count limitations*. Motions for an expansion of the word-count limitations must set forth the reason or reasons for the request, must state that a good faith effort to comply with this rule has been made, and must specify the number of additional words requested.

(f) *Citation to electronic record*. Citation to the circuit clerk's portion of the electronic record shall be enclosed in parentheses, shall include the letters "RP" (which is short for "Record-Pleadings"), and shall include the page number or numbers where the cited information can be found in the circuit clerk's portion of the record. Citation to the court reporter's portion of the record shall be in the same format but shall include the letters "RT" (which is short for "Record-Transcript"). For example, citation to page 57 of the circuit clerk's portion would be "(RP 57)," and citation to page 456 of the court reporter's transcript would be "(RT 456)." A range of pages should be cited as "(RP 231–239) (RT 457–459)," and a series of page numbers should be cited as "(RP 7, 67, 231) (RT 45, 334)."

Rule 4-3. Special rules for briefs in cases where defendant is sentenced to life imprisonment or death and for no-merit briefs.

(a) *Court's review of errors in death or life imprisonment cases*. When the sentence is death or life imprisonment, the Court must review all errors prejudicial to the appellant in accordance with Ark. Code Ann. Sec. 16-91-113(a). To make that review possible, the appellant must include, in addition to the contents required by Rule 4-2, a list of all rulings adverse to him or her made by the circuit court on all objections, motions and requests made by either party, and the list must include the information needed for an understanding of each adverse ruling and the page number where each adverse ruling is located in the appellate record. The list shall be placed in the brief after the request for relief. The Attorney General will

make certain and certify that all of those objections have been listed and will brief all points argued by the appellant and any other points that appear to involve prejudicial error.

(b) *Withdrawal of counsel and no-merit briefs in criminal, juvenile-delinquency, and involuntary-commitment cases*.

(1) Any motion by counsel for a defendant in a criminal, a juvenile-delinquency, or an involuntary-commitment case for permission to withdraw made after notice of appeal has been given shall be addressed to the Court, shall contain a statement of the reason for the request and shall be served upon the defendant personally by first-class mail. A request to withdraw on the ground that the appeal is wholly without merit shall be accompanied by a brief. The brief shall contain an argument section that consists of a list of all rulings adverse to the defendant made by the circuit court on all objections, motions and requests made by either party with an explanation as to why each adverse ruling is not a meritorious ground for reversal. The brief's statement of the case and the facts shall contain, in addition to the other material parts of the record, all rulings adverse to the defendant made by the circuit court and the page number where each adverse ruling is located in the appellate record.

(2) The Clerk shall furnish the appellant with a copy of the appellant's counsel's brief, and advise the appellant that he or she has 30 days within which to raise any points that he or she chooses, and that this may be done in either typewritten or clearly legible handwritten form and accompanied by an affidavit that no paid assistance from any inmate of the Department of Correction or of any other place of incarceration has been received in the preparation of the response.

(3) The Clerk shall serve all such responses by an appellant on the Attorney General, who shall file a brief for the State within 30 days after such service and serve a copy on the appellant, as well as on the appellant's counsel.

(4) After a reply brief has been filed, or after the time for filing such a brief has expired, the motion for withdrawal and the briefs shall be submitted to the Court as other cases are submitted. If, upon consideration of the motion or briefs, it shall appear to the Court that the judgment of the circuit court should be affirmed or reversed, the Court may take such action on its own motion, without any supporting opinion.

Rule 4-4. Filing and service of briefs.

(a) *Electronic Filing*. Briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts. No paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings consistent with Rule 4-7.

(b) *Appellant's brief.* In all cases the appellant shall, within 40 days of lodging the record, file the appellant's brief with the Clerk.

(c) *Appellee's brief and appellee/cross-appellant's brief.* The appellee shall file the appellee's brief, within 30 days after the appellant's brief is filed. If the cross-appellant is also the appellee, the two separate arguments shall be contained in one brief, and the brief shall comply with the requirements of Rule 4-2(d)(3).

(d) *Reply brief, reply/cross-appellee's brief, and cross-appellant's reply brief.* The appellant may file a reply brief within fifteen days after the appellee's brief. If the appellant is also a cross-appellee, the two separate arguments shall be contained in one brief, and the brief shall comply with the requirements of Rule 4-2(d)(4). Any cross-appellant's reply brief shall be filed within fifteen days after the cross-appellee's brief is filed.

(e) *Service of Briefs.* Briefs shall be served on opposing counsel and the circuit court by any method permitted by Arkansas Rule of Civil Procedure 5(b) and Administrative Order No. 21(7). Briefs tendered to the Clerk will not be filed unless evidence of service upon opposing counsel and the circuit court has been furnished to the Clerk. Evidence of service shall be included in each brief and shall comply with the requirements of Arkansas Rule of Civil Procedure 5(e).

(f) *Submission.* The case shall be subject to call on the next Thursday (in the Supreme Court) or Wednesday (in the Court of Appeals) after the expiration of the time allowed for filing the reply brief of the appellant or the cross-appellant. After the case has been submitted to the court for decision, the court will not consider motions to dismiss because of settlement or notice of settlement.

(g) *Noncompliance with Briefing Rules.*

(1) Noncompliance discovered at the time of filing. Briefs not in compliance with Rules 4-1, 4-2, 4-3, and 4-4 shall not be accepted for filing by the Clerk. When a party timely submits a noncompliant brief that substantially complies with the rules governing briefs, the Clerk shall mark the brief "tendered," grant the party a seven-day compliance extension, and return the brief to the party for correction. If the party resubmits a compliant brief within seven calendar days, then the Clerk shall accept that brief for filing on the date it is received.

(2) Noncompliance discovered after filing. Motions to dismiss the appeal for insufficiency of briefs will not be recognized. Deficiencies in the appellants' briefs will ordinarily come to the court's attention and be handled in one of the following ways:

(A) If the appellee considers the appellant's brief to be defective, the appellee's brief should call the deficiencies to the court's attention and may, at the appellee's option, contain a supplemental statement of the case and facts. When the case is considered on its merits, the

court may upon motion impose or withhold costs, including attorney's fees, to compensate either party for the other party's noncompliance with court rules. In seeking an award of costs under this paragraph, counsel must submit a statement showing the cost of the supplemental statement of the case and facts and a certificate of counsel showing the amount of time that was devoted to the preparation of the supplement.

(B) If the case has not yet been submitted to the court for decision, an appellant may file a motion to supplement the brief or to file a substituted brief. Subject to the court's discretion, the court will routinely grant such a motion and give the appellant fifteen days within which to file the supplemental or substituted brief. If the appellee has already filed its brief, upon the filing of appellant's supplemental or substituted brief, the appellee will be afforded an opportunity to revise or supplement its brief, at the expense of the appellant or the appellant's counsel, as the court may, upon motion, direct.

(C) Regardless of whether the appellee has called attention to deficiencies in the appellant's brief, the Court may address the question at any time. If the Court finds the brief to be deficient such that the Court cannot reach the merits of the case, or such as to cause an unreasonable or unjust delay in the disposition of the appeal, the Court will notify the appellant that he or she will be afforded an opportunity to cure any deficiencies, and that he or she has fifteen days within which to file a substituted brief, at his or her own expense. Upon the filing of such a substituted brief by the appellant, the appellee will be afforded an opportunity to revise the appellee's brief, at the expense of the appellant or the appellant's counsel, as the Court may direct. If after the opportunity to cure the deficiencies, the appellant fails to file a complying brief within the prescribed time, the judgment or decree may be affirmed or the appeal dismissed for noncompliance with the Rule.

(D) If the appellate court determines that deficiencies or omissions in the brief need to be corrected, but complete rebriefing is not needed, then the court will order the appellant to file a supplemental brief within seven calendar days to provide the additional information from the record to the members of the appellate court.

(E) After the opportunity to cure deficiencies has been afforded, attorneys who fail to comply with the requirements of this rule may be referred to the Office of Professional Conduct and may be subject to any of the following: (i) contempt, (ii) suspension of the privilege to practice before the Supreme Court or Court of Appeals for a specified time or until the attorney can demonstrate a satisfactory knowledge of the rules, or (iii) imposition of any of the sanctions listed in Rule 11(c) of the Rules of Appellate Procedure–Civil.

(h) *Continuances and extensions of time.*

(1) The Clerk or a deputy clerk may extend the due date of any brief by seven (7) calendar days upon oral or electronically filed request. The party requesting a Clerk's extension must confirm the extension by sending a letter, by electronic filing, immediately to the Clerk or

the deputy clerk with a copy to all counsel of record and any pro se party. If such an extension is granted, no further extension shall be granted except by the Clerk for compliance with these Rules as provided in Rule 4-2(c) or by the Court upon a written motion showing good cause.

(2) Stipulations of counsel for continuances will not be recognized. Any request for an extension of time (except in (g)(1) and (h)(1)) for the filing of any brief must be made by a written motion, addressed to the Court, setting forth the facts supporting the request. Counsel who delay the filing of such a motion until it is too late for the brief to be filed if the motion is denied, do so at their own risk.

(i) *Briefs not required in unemployment compensation cases.* Unemployment compensation cases appealed from the Arkansas Board of Review may be submitted to the Court of Appeals for decision as soon as the transcript is filed, unless notice of intent to file a brief for the appellant is made with the Clerk prior to the filing of the transcript.

Rule 4-5. Failure to file briefs in civil and misdemeanor cases.

If the appellant's brief has not been filed in a civil case or in a misdemeanor case within the time allowed by Rule 4-4, the Court may dismiss the appeal and affirm the judgment or decree at cost to the appellant. When the appellee has failed to appear and file a brief, the Court may, when the case is called for submission, proceed and give judgment according to the requirements of the case.

Rule 4-7. Pro se briefs.

(a) *Style of pro se briefs.* Briefs filed by self-represented parties shall substantially comply with Rules 4-1, 4-2, and 4-4 except that they may be handwritten and filed in conventional paper form. A handwritten brief shall be clearly legible, shall not exceed 30 lines per page and 15 words per line with left-hand and right-hand margins of at least 1½ inches and upper and lower margins of at least 2 inches. The argument section of a handwritten brief shall be no longer than 30 pages. Briefs shall be of uniform size on 8½ x 11 inch paper and firmly bound on the left-hand margin by staples or other binding devices. Typed briefs shall be double-spaced, except for quoted material, which may be single-spaced and indented. Footnotes, except quotations therein, shall be double-spaced. Use of footnotes is not encouraged and should be used sparingly. The brief need not be signed by the appellant.

(b) *Affidavit.* If the pro se appellant is incarcerated, the brief shall also be accompanied by a notarized affidavit that the appellant has prepared it without the paid assistance of any other prison inmate. Where the appellant in a criminal appeal is entitled to representation by counsel, pro se briefs will be accepted only when the appellant has filed an affidavit stating that the appellant has knowingly and intelligently refused the services of an attorney on appeal. Such a brief shall also be accompanied by an affidavit that the appellant has prepared it without the paid assistance of any other prison inmate.

(c) *Noncompliance*. Briefs not in substantial compliance with this Rule shall not be accepted for filing by the Clerk. When a party submits a brief on time that does not substantially comply with these Rules, the Clerk shall mark the brief "tendered," grant the party a 14-day compliance extension, and return the brief to the party for correction. If the party resubmits a compliant brief within fourteen calendar days, then the Clerk shall accept that brief for filing on the date it is received.

(d) *Number of briefs, time for filing, and page limitations*. One copy of all conventionally filed pro se briefs shall be filed by the deadlines set forth in Rule 4-4.

(e) *Continuances and extensions of time*. The Clerk or a deputy clerk may extend the due date of any brief by seven calendar days upon oral or letter request. If such an extension is granted, no further extension shall be granted except by the Court upon a written motion showing good cause.

Rule 6-1. Extraordinary writs, expedited consideration, and temporary relief.

(a) Extraordinary writs

. . . .

(2) The petitioner is required to electronically file with the Clerk the original petition along with the record. Evidence of service of a copy upon the adverse party or his or her counsel of record in the circuit court is required.

. . . .

Rule 6-7. Taxation of costs.

. . . .

(b) *Reversal*. The appellant may recover (1) brief costs not to exceed $3.00 per page with total costs of the brief not to exceed $1000.00, (2) the filing fee of $150.00 and the technology fee of $15.00, (3) the circuit clerk's costs of preparing the record, (4) the court reporter's cost of preparing the transcript, and (5) the electronic filing charge of $20.00, if applicable.

. . . .

Rule 6-9. Rule for appeals in dependency-neglect cases.

. . . .

(d) *Transmission of Record*. Absent extraordinary circumstances, the record on appeal shall be electronically filed with the Clerk of the Supreme Court within seventy (70) days of the filing of the Notice of Appeal. Within sixty (60) days after the filing of the Notice of Appeal and Designation of Record (Form 1), the court reporter shall provide the record to the Circuit Clerk who shall have no longer than five (5) days to prepare the record, including any transcripts and exhibits, to be transmitted for submission to the Clerk of the Supreme Court. After the record has been duly certified by the Circuit Clerk, it shall be the responsibility of the appellant to transmit the record to the Clerk of the Supreme Court for filing.

(e) *Appellants' Briefs*. Within thirty (30) days after transmission of the record to the Clerk of the Supreme Court, the appellant shall file an appellant's brief that complies with Rule 4-2(a) and that shall also include a completed "Petition on Appeal" form (Form 2). Appellants' briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts, and no paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide one paper copy of the brief at the time of filing.

(f) *Appellees' Briefs and Cross-Appellants' Briefs*. Within twenty days after filing of the appellant's brief, any appellee may file an appellee's brief or an appellee/cross-appellant's brief that complies with Rules 4-2(b) and that includes a completed "response to the petition on appeal or cross-appeal" form (Form 3). Appellees' briefs and appellee/cross-appellants' briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts, and no paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide one paper copy of the brief at the time of filing.

(g) *Reply Briefs, Reply/Cross-Appellees' Briefs, and Cross-Appellants' Reply Briefs*. The appellant will have ten calendar days after appellee's brief or appellee/cross-appellant's brief is filed to file a reply brief or reply/cross-appellee's brief that complies with Rule 4-2(c). If appellee files a cross-appellant's brief and the appellant has filed a cross-appellee's brief, the appellee will have ten (10) calendar days to file a cross-appellant's reply brief. The briefs shall be filed using the electronic filing system provided by the Administrative Office of the Courts, and no paper copies are required. Any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be permitted to submit conventional paper filings. Parties filing conventionally shall provide one paper copy of the brief at the time of filing.

(h) *Extensions*. The Clerk of the Supreme Court shall have the authority to grant one seven-day extension for completion of the record and one seven-day extension to any party to the appeal to file the appellant's brief or the appellee's brief. The extension shall be computed from the date the brief was originally due. Absent extraordinary circumstances, no other extensions shall be granted.

(i) *Style, Content, and Filing of Briefs*. Briefs in dependency-neglect cases shall comply with the content, style, and filing requirements of Rules 4-1, 4-2, and 4-4 except when Rule 6-9 provides differently. Reference to any minor in the briefs shall be by the minor's initials. Other parties seeking anonymity shall comply with Rule 6-3 of the Rules of the Supreme Court and Court of Appeals.

(j) *Procedure for No-Merit Briefs, Pro Se Points, and State's Response*.

(1) After studying the record and researching the law, if appellant's counsel determines that the appellant has no meritorious basis for appeal, then counsel may file a no-merit brief and move to withdraw. In addition to the requirement set forth in subsection (e), counsel's no-merit brief must include the following:

(A) The argument section of the brief shall list all adverse rulings to the appellant made by the circuit court on all objections, motions, and requests made by the party at the hearing from which the appeal arose and explain why each adverse ruling is not a meritorious ground for reversal.

(B) The statement of the case and the facts shall contain all rulings adverse to the appellant, made by the Circuit Court at the hearing from which the order of appeal arose.

(2) Appellees are not required to, but may, respond to a no-merit brief. Appellees may file a concurrence letter supporting the no-merit brief. Any response by an appellee shall be filed within twenty (20) days of the filing of the no-merit brief.

(3) The Clerk of the Supreme Court shall mail the appellant, at the appellant's last known address, a copy of the no-merit brief and the motion to withdraw. The Clerk shall notify the appellant in writing that the appellant may raise any points that the appellant chooses and that these points may be typewritten or handwritten. The Clerk shall also notify the appellant that the points shall be received by the Supreme Court Clerk by mail or other method of delivery within thirty (30) days from the date the Clerk mailed the appellant the notification.

(4) The Clerk shall provide appellant's points by electronic transmission or other method of delivery to the Department of Human Services - Office of Chief Counsel, the Attorney Ad Litem, and appellant's counsel within three (3) business days.

(5) Appellees are not required to respond to appellant's points; however, appellees may do so by filing such response within twenty (20) days of receipt by the Clerk of the Supreme Court of the appellant's points.

. . . .

Rules of Appellate Procedure – Civil

Rule 7. Certification, format, and transmission of record.

(a) Certification. The clerk of the circuit court that entered the judgment, decree, or order from which the appeal is taken shall certify the clerk's portion of the record as being a true and correct copy of the record as designated by the parties. The court reporter shall certify the court reporter's portion of the record as being a true and correct transcription of the proceedings as designated by the parties.

(b) Format. Records shall be in the electronic format identified below. However, any person proceeding pro se and any person with a disability or special need that prevents him or her from filing electronically shall be provided the record in conventional paper format unless he or she requests an electronic record. To the extent possible, conventional paper records shall be organized and paginated in the same manner as an electronic record.

(1) The record shall be saved as searchable and bookmarked portable document format (PDF) files. Bookmarks shall be made to each document in the record and at the beginning of each witness's testimony.

(2) The PDF page numbers shall correspond to the record page numbers.

(3) If there is a transcribed portion of the record, that transcribed portion shall be saved and paginated as a separate PDF file pursuant to Rule 3-1(f) of the Arkansas Rules of Appellate Procedure – Civil.

(4) If either the circuit clerk's portion or the court reporter's portion of the electronic record is 30 megabytes or larger, that portion shall be divided into separate files for purposes of filing, and each file shall be less than 30 megabytes. The name of each PDF volume shall indicate the page numbers of the record contained in that volume.

(5) If the record contains exhibits or other items that cannot be digitized, those exhibits that were not digitized shall be filed conventionally, and the rest of the record shall be filed electronically and shall include a log describing those items that were not digitized.

(c) Transmission. After the record has been duly certified by the clerk, it shall be the responsibility of the appellant to electronically transmit such record to the clerk of the

appellate court for filing and docketing. Any image alleged to be pornography shall be filed conventionally and not electronically. Pursuant to Administrative Order 21, any person proceeding pro se and any person with a disability or special need that prevents electronic filing shall be entitled to submit conventional paper filings.

Rules of Appellate Procedure – Criminal

Rule 3. Appeal by state.

. . . .

(c) When a notice of appeal is filed pursuant to either subsection (a) or (b) of this rule, the clerk of the court in which the prosecution sought to be appealed took place shall immediately cause an electronically formatted transcript of the trial record to be made and electronically transmitted to the attorney general, or delivered to the prosecuting attorney, to be by him delivered to the attorney general. If the attorney general, on inspecting the trial record, is satisfied that error has been committed to the prejudice of the state, and that review by the Supreme Court is desirable under this rule, he may take the appeal by electronically filing the transcript of the trial record with the clerk of the Supreme Court within sixty (60) days after the filing of the notice of appeal.

. . . .

COURT FORMS - MISCELLANEOUS

EXHIBIT AND WITNESS LIST

VS.		DISTRICT COURT
PLAINTIFF'S ATTORNEY	DEFENDANT'S ATTORNEY	DOCKET NUMBER
		TRIAL DATE(S)
PRESIDING JUDGE	COURT REPORTER	COURTROOM DEPUTY

PLF. NO.	DEF. NO.	DATE OFFERED	Marked	Admitted	DESCRIPTION OF EXHIBITS* AND WITNESSES

*Include a notation as to the location of any exhibit not held with the case file or not available because of size.

DATE: _____ CIVIL JURY TRIAL (___ person)

_____

_____

VS. NO. CV-_____

_____

_____

ATTORNEYS:

PLAINTIFF _____

DEFENDANT _____

_____

****

Pretrial Motions _____ Motions _____

_____ Voir Dire _____ _____ Open _____

_____ Voir Dire _____ _____ Open _____

_____ Voir Dire _____ _____ Open _____

* *

WITNESSES FOR PLAINTIFF: _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

_____ _____

MOTIONS

INSTRUCTIONS

CLOSING

CLOSING

CLOSING

REBUTTAL

JURY OUT

JURY BACK

VERDICT

EXHIBITS FOR PLAINTIFF:

1)
2)
3)
4)
5)
6)
7)
8)
9)
10)

EXHIBITS FOR DEFENDANT:

1)
2)
3)
4)
5)
6)
7)
8)
9)
10)

COURT HEARINGS
_____ COUNTY CIRCUIT/PROBATE/JUVENILE
_____ JUDGE _____ JUDICIAL DISTRICT
DIVISION _____

DAY _____ DATE _____

HRG. NO	COUNTER NO.	STYLE OF CASE	CASE NO.	ATTORNEYS	WITNESSES	EXHIBITS

DOCKET REPORT

Page _____

Date	Counter	Style	Plaintiff Attorney	Defendant Attorney	Action Taken

DATE:_____

CRIMINAL DOCKET REPORT

PAGE_____

TIME	DEFENDANT	CASE NO.	PA	PD/ATTY.	ACTION

COURT

____ Date: _________________________

vs. No. _________________________________ County: _______________________

____

EXHIBITS

Plaintiff	Defendant	Description	Offered	Entered

CRIMINAL JURY TRIAL PROCEDURE

1. JURY CALL/PANEL BY CLERK (OFF RECORD)
2. CASE CALL - JUDGE. (ON RECORD)
3. WITNESSES AND PARTIES INTRODUCED/SWORN.
4. RULE INVOKED.
5. COURT INQUIRY OF POTENTIAL JURORS.
6. JURY SEATED IN BOX.
7. VOIR DIRE BY ATTORNEYS.
8. STRIKES AND CALLING OF JURORS TO FILL IN THOSE STRICKEN.
9. JURY SEATED (INCLUDING ALTERNATES).
10. BREAK. (CHECK YOUR MICROPHONES!).
11. OPENING STATEMENTS OF COUNSEL.
12. STATE'S WITNESSES.
13. STATE RESTS.
14. MOTIONS FOR DIRECTED VERDICT (OUTSIDE OF JURY).
15. DEFENSE WITNESSES.
16. DEFENSE RESTS.
17. PHASE I JURY INSTRUCTIONS - JUDGE.
18. CLOSING ARGUMENTS OF COUNSEL.
19. JURY OUT TO DELIBERATE.
20. VERDICT BY JURY FOREPERSON.
21. NOT GUILTY VERDICT (JURY IS RELEASED)
    GUILTY VERDICT - PHASE II OF TRIAL BEGINS NOW
22. JURY INSTRUCTIONS - JUDGE (PHASE II).
23. ADDITIONAL EVIDENCE OR TESTIMONY.
24. JURY OUT TO DELIBERATE.
25. VERDICT BY JURY FOREPERSON.
26. JURY RELEASED TO LEAVE.
27. SENTENCING.
28. COLLECT ALL EVIDENCE, JURY INSTRUCTIONS, NOTES, AND SECURE YOUR RECORD.

First Division Circuit Court = Jury Panel Seating Chart Case Number: _____ Date: _____

Plaintiff(s): _____ Defendant(s): _____

Back Row [Seating from the right-hand side of jury box]

Juror 8	***Juror7***	***Juror 6***	***Juror 5***	***Juror 4***	***Juror 3***	***Juror 2***	***Juror 1***
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

FRONT ROW

Strikes: PP:	*Strikes:* DD:	***Alternate Juror***	***Alternate Juror***	***Juror 12***	***Juror 11***	***Juror 10***	***Juror 9***
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
Court:		_____	_____	_____	_____	_____	_____
_____	_____	_____					

JURY SEATING CHART

ALTERNATES

_____ _____ _____

_____ _____ _____

_____ _____ _____

_____ _____ _____

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

STATE OF ARKANSAS, PLAINTIFF,

Vs. No. CR-92-1

CUMIN GETME, DEFENDANT.

CHARGE: KIDNAPPING

TRANSCRIPT OF ALL PROCEEDINGS

AND

TRIAL IN CHIEF

BEFORE THE HONORABLE HANG M. HIE

JULY 23, 1994

VOLUME 1 OF 4

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

FIRST DIVISION

NATIONAL BANK & TRUST COMPANY, PLAINTIFF

V. NO. CIV-91-000

AMERICAN NATIONAL CORPORATION,
AN ARKANSAS CORPORATION,
AND JOHN DOE, DEFENDANTS

TITLE OF HEARING

BE IT REMEMBERED, that on the 18th day of June, 1994, before the Honorable Justu S. Swiftly, the above-styled cause of action came on for hearing as follows, to-wit:

APPEARANCES

On Behalf of the Plaintiff: Ima Ringer
1042 Avenue J
Fort Worth, AR 70303

On Behalf of the Defendant: Lockhart N. Load
1401 Escroitaire Road
Mountain Folk, AR 70606

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

STATE OF ARKANSAS, PLAINTIFF,

VS. NO. CR-95-241

JOHN DOE, DEFENDANT.

CHARGE: MANUFACTURE OF A CONTROLLED SUBSTANCE,
TO-WIT: MARIJUANA

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE JUST N. SWIFT

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

STATE OF ARKANSAS, PLAINTIFF,

VS. NO. CR-83-104

L. K. OUT, DEFENDANT.

TITLE OF HEARING OR MOTION

BE IT REMEMBERED that on this 9th day of March, 1994, before the Honorable Justice R. Blind, Judge within and for the 91st Judicial District, of which Razorback County is a part, the (above-styled cause was heard before the Court or above-styled cause was tried before a jury).
The following is a true, correct and complete transcription of the record made on the above date.

APPEARANCES

On Behalf of the State:
U. V. Hadit
Deputy Prosecuting Attorney
P. 0. Box 1030
Razorback, AR 70000

On Behalf of the Defendant:
Datsa Righta
Attorney-at-Law
P. O. Box 3010
Razorback, AR 70000

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

STATE OF ARKANSAS, PLAINTIFF,

VS. NO. CR-83-10

LOO K. OUT, DEFENDANT.

HEARING ON MOTION FOR CONTINUANCE AND CHANGE OF VENUE

BE IT REMEMBERED that on this 9th day of March, 1994, before the Honorable Justice R. Blind, Judge within and for the 91st Judicial District of which Razorback County is a part, the above-styled cause was heard before the Court.

Appearing on behalf of the State of Arkansas is U. V. Hadit, Deputy Prosecuting Attorney, P. 0. Box 1030, Razorback, AR 70000.

Appearing with and on behalf of the Defendant is Datsa Righta, Attorney-at-Law, P. O. Box 3010, Razorback, AR 70000.

All parties being present, the following proceedings were had and done, to-wit:

THE COURT: I have a Motion for Continuance and Motion for Change of Venue in *State of Arkansas versus Loo K. Out,* CR-83-10, which was filed July 29. Mr. Righta, you are the moving attorney.

MR. RIGHTA: Your Honor, both of these motions

obviously come from the article published last Friday in the *Razorback Hogcaller*. I have a stipulation for

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

STATE OF ARKANSAS, PLAINTIFF

V. NO. CR-96-002

JOHN DOE, DEFENDANT

CHARGE: MANUFACTURE OF A CONTROLLED SUBSTANCE, TO-WIT: MARIJUANA

TRIAL IN CHIEF

On this 18th day of July, 1996, the above-styled cause comes on to be heard before the Honorable Justin Swift, Circuit Judge of the 12th Judicial Circuit, of which Razorback County is a part.

Comes the State of Arkansas by and through its Prosecuting Attorney, Mr. Get M. Good, and Deputy Prosecuting Attorney, Mr. Lectro Cutem. And comes the defendant in person and by and through his court-appointed attorney, Mr. Letim Hang.

WHEREUPON, the jury having been chosen, the Rule is invoked, witnesses are admonished by the Court, opening statements are made, testimony and evidence is adduced, to- wit:

PROCEEDINGS

THE COURT: Number 86-1030406050, *State of Arkansas versus John Doe.* All those that are going to give proof.

I N D E X

INDEX – CONTINUED

(REPORTER'S NOTE: Photographs submitted with original transcript only.)

INDEX

that you might receive the oath, evidence that's going to testify.

(Witnesses sworn.)

MR. GOOD: Your Honor, I call as my first witness Mikel Tooney.

TESTIMONY AND EVIDENCE

ON BEHALF OF THE STATE

MIKEL TOONEY,

Having been called by and on behalf of the State of Arkansas, and having been duly sworn, was examined and testified as follows, to-wit:

DIRECT EXAMINATION

BY MR. GOOD:

Q State your name, please.

A Mikel Tooney, sir.

Q Mr. Tooney, how old are you?

A I'm 22.

Q Where do you reside?

A I live in Austin, Arkansas.

Q What is your occupation?

A I'm a ditch digger.

Q How long have you been doing that?

A About six years now.

Q What are your primary duties?
A Well, I dig ditches mostly.
Check in the amount of $24,000 dated January 14, 1995. It's drawn on Struder National Bank.
Q Who was the check payable to?
A It was made payable to M. T., Inc.
Q Was M. T., Inc., given credit for the check?
A Yes, sir, they were.
MR. DOWRONG: Objection, hearsay.
Q Do you have personal knowledge as to whether or not M. T. Inc., received credit for that check?
MR. DOWRONG: Objection, Your Honor, permission to voir dire the witness, please.
THE COURT: Granted.

VOIR DIRE EXAMINATION

BY MR. DOOWRONG:
Q Mr. Tickle, you have before you what has been marked for identification as Plaintiff's Proposed Exhibit 1, a check from Mr. Doodle; do you not?
A Yes, sir.
Q Did you personally receive this check for deposit?
A No, I didn't personally.
MR. DOWRONG: Your Honor, his testimony is based upon his book knowledge rather than personal knowledge; and under the best evidence rule, they have to put

those books and records into evidence or it's inadmissible hearsay.

THE COURT: Let's get them in then.

DIRECT EXAMINATION - CONTINUING

BY MR. DOORIGHT:

Q Mr. Tickle, I hand you what will be marked as Plaintiff's Exhibit 2, a copy. Do you recognize that document and will you tell us what it is?

(Plaintiff's Exhibit 2 marked for identification.)

A Yes, sir.

Q What is it?

A It's a reconciliation statement dated 2/15/95.

Q Is this document one that is kept in the ordinary course of your bank's business?

A Yes, sir.

Q Does the amount of that check we've been discussing, the $24,000 appear on that bank statement?

A Yes, it does.

MR. DOWRONG: Objection, Your Honor, hearsay. Permission to voir dire the witness, please.

THE COURT: We'll do this in chambers, gentlemen.

IN-CAMERA VOIR DIRE EXAMINATION

BY MR. DOOWRONG:

Q Mr. Tickle, in front of you, you have what has now been

marked as Plaintiff's Proposed Exhibit 2.Correct?
A Yes, sir.
Q Is this the document that you're telling us is a reconciliation?
A Yes, sir.
Q Can you tell the Court how that's prepared?
A Each time a check is presented, a copy is kept for our records. At the end of the statement cycle, these statements are sent out to the customer to reconcile their account.
Q Is this a copy of the statement that the customer gets?
A Yes, it's the actual copy.
Q Now, does this statement identify the $24,000 entry as being an entry for the specific check, Plaintiff's Proposed Exhibit Number 1, that we've been talking about here today?
A No, sir.

MR. DOWRONG: Your Honor, there's lack of foundation and also hearsay.

MR. DOORIGHT: Your Honor, I think we can make that an issue for the Court to decide.

THE COURT: All right, gentlemen, let's go back in.

(Return to open court.)

DIRECT EXAMINATION CONTINUED

BY MR. DOORIGHT:
Q Mr. Tickle, is there an identifying code or number on

Q I submit for the record that it could lead to discoverable evidence, and I'll ask you the question again: What is your occupation? And your answer was: Investments. I'll ask you what is the type of investments, and I'll give you one more opportunity to answer it before I have the question certified.

A Have the question certified.

Q Thank you, sir.

MR. GREEN: Certify the question.

MR. BROWN: And go on and interpose my objection to relevancy.

[MR. GREEN CONTINUING:]

Q And what is your business address?

A I'm not going to answer that. You can go ahead and certify, do whatever you've got to do, certify them so you can ask that question when you come back here.

Q What is your date of birth?

A 3/16/22.

Q And what is your social security number?

A 123-54-9876.

Q And where was that social security number issued?

A Taipei, Taiwan.

Q How old were you when it was issued?

A I believe I was 13 or 14 years old.

Q What is your length of residency here?

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
FOURTH DIVISION

LUCY RICARDO PLAINTIFF

vs. Case No. 23DR-2022-3456

ALBERT RICHARD RICARDO DEFENDANT

Witness Testimony of Joe Bro

MOTION FOR CHANGE OF CUSTODY
MOTION FOR RELOCATION
Proceedings before
HONORABLE DAVID M. CLARK
Circuit Court Judge
Twentieth Judicial District
Conway, Arkansas

May 7, 2018

Appearances:

on behalf of plaintiff:
Lucy Ricardo

MR.
Attorney at Law
P.O. Box _____
North Little Rock, AR 72119

on behalf of defendant:
Albert Richard Ricardo

MS.
HAPPY LAW FIRM
22255 Zoo Avenue
Conway, AR 72034

on behalf of minor child:
A.R.

MR. LOVE TO HELP KIDS
Attorney Ad Litem
121477 Highway 167
Conway, AR 72034

TABLE OF CONTENTS

PROCEEDINGS - MAY 7, 2018

*** Court in Session ***

Thereupon,

JOE BRO,

having been called for examination by defendant's counsel and having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. ----------:

Q. Would you please state your name?

A. Joe Bro.

Q. Your address?

A. 220739 Highway 589, Coldwater, LA 70358.

Q. And, sir, how old are you?

A. Twenty-two.

Q. And you're going to be 23 next month?

A. June 11th.

Q. Oh, to be young again. Are you employed?

A. Yes, ma'am.

Q. Where do you work?

A. It's called – the place is called "Solar Enzo." We make xylose.

Q. What is that?

A. It comes from the bagasse for like sugar. It goes into a base; Sweet and Low, caffeine drinks.

Q. What's your position there?

A. Process operator.

ARBITRATION

BEFORE

USA MERICA, Ph.D.

Permanent Umpire

March, 9, 1994

In The Matter of:

TANYO-AMERICOMPANY,

AND (GRIEVANCE NO. 82-783500)

INTERNATIONAL UNION, UNITED STEELWORKERS OF AMERICA (AFL-CIO) and Its Local No. 121314

AND

IMA T. SIPPER, GRIEVANT

APPEARANCES:

FOR THE UNION:

Name of Union Representative
Address (of Union office)
City/State

FOR THE COMPANY:

Name of Company Attorney
Address
City/State

I N D E X

ARBITRATION

BEFORE

USA MERICA, Ph.D

March 9, 1994

In The Matter of:

TANYO-AMERICOMPANY,

AND (GRIEVANCE NO. 82-783500)

INTERNATIONAL UNION, UNITED STEELWORKERS OF AMERICA (AFL- CIO) and Its Local No. 121314

AND

IMA T. SIPPER, GRIEVANT

STIPULATIONS

On this 9th day of March, 1994, the above-styled hearing comes on to be heard before USA MERICA, Permanent Arbitrator for TANYO-AMERICOMPANY, beginning at 9:00 a.m. at the offices of Tanyo-AmeriCompany, Verbatim, Arkansas. Appearing with and on behalf of the Grievant IMA T. SIPPER and the Union are Jack Union, Union Representative; Tobea Rock, Local President; Howie Conduit, Local Vice President; and N. K. Breaker. Appearing on behalf of the Company are Do T. Company; Sam Tartan, Personnel Manager; and Martina Lumbago.

WHEREUPON, the following stipulations were had and done regarding exhibits, to-wit:

MR. ARBITRATOR: Gentlemen, if we're ready to get started, are there any exhibits you would like marked as joint exhibits?

MR. COMPANY: Yes, sir. I would suggest we mark the Agreement as Joint Exhibit 1 and the Grievance Record as Joint Exhibit 2.

MR. ARBITRATOR: Any objections?

MR. UNION: No objections, Mr. Arbitrator.

MR. ARBITRATOR: Okay, they're admitted.

(Contract and Grievance Record were marked and admitted as Joint Exhibits 1 and 2, respectively.)

MR. COMPANY: I'll offer the Rules of Conduct for the plant.

MR. UNION: I don't have any objection to them being entered at this time, but I would prefer that they be considered as Company Exhibit 1 rather than a joint exhibit.

MR. ARBITRATOR: Any problems with that, Mr. Company?

MR. COMPANY: No, sir.

MR. ARBITRATOR: They'll be admitted.

(Plant Conduct Rules were marked and admitted as Company Exhibit 1.)

MR. ARBITRATOR: Okay, are there any other

MR. COMPANY: No, sir.

MR. UNION: No, sir.

MR. COMPANY: The Company is proposing the issue as follows:

"Was the termination of Ms. Sipper, effective June 20, 1993, for violation of a Memorandum of Understanding dated March 25, 1993, proper? If not, what should be the remedy?"

MR. UNION: The Union does not agree to that statement of issue. The Union sees it as:

"Was Ms. Sipper terminated on June 20, 1993, for just cause? If not, what is the proper remedy?"

MR. ARBITRATOR: Okay, I have your respective versions of the issue and will figure out what I view it as.

(If the parties have a joint proposed statement:)

WAS THE COMPANY'S DISCHARGE OF IMA T. SIPPER, EFFECTIVE JUNE 20, 1993, FOR JUST CAUSE? IF NOT, WHAT IS THE APPROPRIATE REMEDY?

MR. ARBITRATOR: And that's agreed to as the joint statement of the issue?

MR. UNION: Yes, sir.

MR. COMPANY: Yes, sir.

MR. ARBITRATOR: All right, we're ready for opening.

OPENING STATEMENT

ON BEHALF OF THE COMPANY

BY MR. COMPANY

(After the opening statement of one side, their case in chief may be presented before the other party makes an opening statement. Use the same format for both opening statements. These opening statements are usually read; you might consider asking for a copy of the opening/closing statements. After the opening, you can start a new page for each witness, using the swearing language shown in earlier deposition samples. Remember to use the Federal transcript margins and indentions.)

JOINT EXHIBIT ONE

(Even if an arbitrator keeps the exhibits to save the cost of having them reproduced in a transcript, request copies for use in preparing the transcript.)

CERTIFICATE

I, JANE DOE, Certified Court Reporter in and for the State of Arkansas, do hereby certify that the witness, , was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein; that the testimony of said witness was taken by me in (method of reporting) and was thereafter reduced to typewritten form by me or under my direction and supervision; that the foregoing transcript is a true and accurate record of the testimony given to the best of my understanding and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

_____

JANE DOE, REPORTER, CCR
LS#0000, ABC, XYZ

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS

_____ PLAINTIFF

V. NO. _____

_____ DEFENDANT

ORDER

The following exhibits in the above-styled case are hereby ordered transferred for storage and safekeeping:

From _____ To _____

_____ _____
(Title) (Title)

DESCRIPTION

Exhibit No. _____ _____

Exhibit No. _____ _____

Exhibit No. _____ _____

Exhibit No. _____ _____

Exhibit No. _____ _____

These items may not be disposed of with the Court's permission evidenced by a written order.

IT IS SO ORDERED.

_____ _____
Date CIRCUIT JUDGE

I acknowledge receipt of the physical exhibits described above and further acknowledge my understanding that these items may not be disposed of without further order of the Court, and I agree to return these items to the Court when so directed.

_____ _____
Date Sheriff/Governmental Agency/Attorney/Other

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS
CIVIL DIVISION

GODZILLA, PLAINTIFF

No. CV-2003-299

MOTHRA, DEFENDANT

ORDER

The following Exhibits in the above-styled case may be disposed of in a manner consistent with the Regulations of the Board of Certified Court Reporter Examiners:

Exhibit No. P-1, Affidavit of Financial Means of Plaintiff

Exhibit No. P-2, Handwritten note addressed to "Amy" on LaQuinta Inn & Suites paper with the notation "rec'd 1/02/05" at the top

Exhibit No. P-3, Shutoff Notification dated 9/14/04

Exhibit No. D-1, Affidavit of Financial Means of Defendant

Exhibit No. D-2, The Humane Society of the United States 2003 Pet Lover's Calendar with photo of cat on front

Exhibit No. D-3, 2004 Calendar Habitat for Humanity International

Exhibit No. D-4, Photocopied 2005 calendar

Exhibit No. D-5, Group of four photos depicting puppies

Exhibit No. D-6, MCI statement of 1/7/05 for phone number 123-456-7891

Exhibit No. D-7, Group of three photos depicting children

and dogs

Exhibit No. D-8, Letterhead of Mothra, dated November 3, 2004, addressed to Godzilla

Exhibit No. D-9, AT&T Wireless statement dated 2/14/05 in name of Mothra

Exhibit No.

Exhibit No.

The exhibit(s) shall be transferred to Buffy Topper for disposal pursuant to law.

IT IS SO ORDERED,

_____
CIRCUIT JUDGE

_____
Date

I ACKNOWLEDGE RECEIPT OF THE PHYSICAL EXHIBITS DESCRIBED ABOVE FOR DISPOSAL PURSUANT TO LAW.

_____

(Sheriff/Governmental Agency/Attorney or other entity)

_____
Date

(Receipt shall be filed in case file with the circuit clerk.)

Julie Beckman
Certified Court Reporter #309
20th Judicial Circuit, Fourth Division
Mail: 801 Locust Street
Conway, AR 72034
(501) 328-4156

EVIDENCE RECEIPT ACKNOWLEDGMENT

Case Number: _____ County: _____ Date: _____

Style of Case: _____

Item(s) of Evidence: (1) _____

(2) _____

(3) _____

(4) _____

(5) _____

(6) _____

(7) _____

(8) _____

(9) _____

(10) _____

_____
Julie Beckman, CCR 309

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
FOURTH DIVISION

PLAINTIFF

VS. CASE NO.

DEFENDANT

STIPULATION FOR SUBSTITUTION

OF PHOTOGRAPHS FOR ORIGINAL EXHIBITS

The undersigned hereby stipulate that photographs may be made of the original exhibits introduced into evidence as identified on the Exhibit Receipt Page attached hereto, and that such original photographs may be substituted for the original exhibits for purposes of appeal, said photographs to be included in the appeal transcript.

_____ Date: _____
ATTORNEY FOR PLAINTIFF

_____ Date: _____
ATTORNEY FOR DEFENDANT

_____ Date: _____
JUDGE DAVID M. CLARK

IN THE CIRCUIT COURT OF _____ COUNTY, ARKANSAS
_____DIVISION
NO. _____

_____, PLAINTIFF

VS.

_____, DEFENDANT

ORDER TO EXTEND TIME TO FILE THE RECORD

Before the court is a motion pursuant to Rule 5 (b) of the Rules of Appellate Procedure Civil to extend the time to file the record on appeal in order for the court reporter to include stenographically reported material. The court makes the following findings:

1. ("Appellant'') has filed a motion explaining the reasons for the requested extension.

2. Appellant has served the motion on all counsel of record and pro se parties.

3. The time to file the record on appeal has not yet expired.

4. All parties have had the opportunity to be heard on the motion [at a hearing held on the matter on_____ , 20~ [and/or] [by filing a response to the motion).

5. Appellant, as required by Rule 6(b) of the Rules of Appellate Procedure – Civil, has timely ordered the stenographically reported material from the court reporter and made any financial arrangements required for its preparation.

6. An extension of time is necessary for the court reporter to include the stenographically reported material in the record on appeal.

Based on these findings, good cause has been shown to extend the time to file the record on appeal.

IT IS THEREFORE ORDERED that Appellant's motion is granted. The time for filing the record is extended by days, to , 20--, which is within the seven month deadline set by Ark. R App. P.-Civil5 (b)(2).

_____
Circuit Judge

_____
Date

SUBSTITUTE REPORTER INFORMATION

CHECKLIST FOR REPORTER
SUBSTITUTING IN STATE COURT

Name/Division of Court: _____

Name of Judge: _____

Address of Courthouse: _____

Name/Telephone number of Trial Court Assistant: _____

Type of backup equipment in courtroom: _____

Have the judge sign "Substitute Court Reporters Request for Payment Form" and fax or email to Dawn Thompson:

Fax: 501-682-9410
Email: dawn.thompson@arcourts.gov

SUPPLEMENTAL REQUEST FOR SUBSTITUTE COURT REPORTER

Please complete this form when a substitute is needed for multiple days.
(Email the completed form(s) to courtreporter@arcourts.gov)

Assignment Details

Date: _____ Circuit: _____ County: _____

Start Time: _____ Expected End Time: _____

Please indicate the type of matters to be heard:

☐ Civil
- ☐ Motions / Hearings
- ☐ Jury Trial
- ☐ Bench Trial
- ☐ Other

☐ Criminal
- ☐ Plea and Arraignment
- ☐ Motions / Hearings
- ☐ Jury Trial
- ☐ Bench Trial

☐ Domestic Relations

☐ Probate

☐ Juvenile

Location of Courtroom

Name of Building: _____ Floor / Room Number: _____

Street Address: _____

City: _____

Assignment Details

Date: _____ Circuit: _____ County: _____

Start Time: _____ Expected End Time: _____

Please indicate the type of matters to be heard:

☐ Civil
- ☐ Motions / Hearings
- ☐ Jury Trial
- ☐ Bench Trial
- ☐ Other

☐ Criminal
- ☐ Plea and Arraignment
- ☐ Motions / Hearings
- ☐ Jury Trial
- ☐ Bench Trial

☐ Domestic Relations

☐ Probate

☐ Juvenile

Location of Courtroom

Name of Building: _____ Floor / Room Number: _____

Street Address: _____

City: _____

ADMINISTRATIVE OFFICE OF THE COURTS
ATTN: DAWN THOMPSON
625 MARSHALL STREET
LITTLE ROCK, AR 72201

Substitute Court Reporters Request for Payment Form

I, _____, hereby certify to the Administrative Office of the Courts in compliance with A.C.A. §16-13-509 (Pgs. 16-17 of TC Employee Guide) that I have temporarily employed the services of substitute court reporter_____, in the absence of my court reporter, _____, in Judicial Circuit_____, Division _____. Such temporary employment is necessary and essential to prevent a disruption of the business of this court. I am employing the substitute court reporter for _____ working days, from _____20_____ until _____20_____. I will supply the Administrative Office of the Courts with all payroll information needed to pay the substitute court reporter at the current daily rate. I understand that substitute court reporters cannot be paid for more than 30 working days in any one fiscal year.

_____ _____
***Signature of Judge** **Date**

Judge's office phone number: _____

If you are a **Special Elected Judge or a **Retired Judge**, please indicate the name of the judge you are sitting for here: _____ (Substitute Court Reporter days worked are charged against the "sitting judge".)*

The following information is for payment purposes and must be completed. <u>Please print</u>.

Date of Birth: _____

Name: _____

Address: _____ **City: _____**

County: _____ **State: _____** **Zip: _____**

Home Phone: _____ **Cell Phone: _____**

Email Address: _____

<u>New Subs must complete a Federal (W-9) form. Please attach form to this certificate. Delay in payment may result if all forms are not fully completed.</u>

ARKANSAS ADMINISTRATIVE STATEWIDE INFORMATION SYSTEM
TRAVEL EXPENSE REIMBURSEMENT

VENDOR NO. _____ **OFFICIAL STATION** _____

DEPARTMENT _____

NAME OF PAYEE _____ **PRIVATE VEHICLE LICENSE NO.** _____

ADDRESS _____

			DETAILED EXPENDITURES OTHER THAN MILEAGE												
DATE	NAME OF TOWN VISITED	DESCRIPTION	COMMON CARRIER	HOTEL ROOM	MEALS	PER DIEM	TAXI	INCIDENTALS	TELE PHONE	**TOTAL PER DAY**	FROM	TO	MILEAGE DRIVEN	RATE PER	**AMOUNT CLAIMED**
														0.52	
SUB-TOTALS											**TOTALS FOR MILEAGE**			0.42	

INCIDENTALS

(1) Postage (2) Parking Fee (3) Registration Fee (4) Emergency Car Repairs (5) Guide Service for the Blind (6) Minor Purchases (7) Meals for State Guests and Wards of the State (8) Other (Explain)

RECAPITULATION

JUSTIFICATION FOR EXCEEDING PER DIEM: _____

SUB-TOTAL _____

Approved _____ Travel Supervisor

_____ Signature of Traveler

MILEAGE CLAIMED _____

_____ Board Member

TOTAL CLAIMED _____

MAUDE PARKMAN MENTOR PROGRAM - CONTINUING EDUCATION CREDITS

The following is an excerpt from Continuing Education Categories and Credits regarding the continuing education credit for the Maude Parkman Mentor Program which has been adopted by the continuing education committee:

9. d

Participants in the Maude Parkman Mentor Program who act as a freelance or official mentor, and who meet the requirements set out by the mentor committee, shall be entitled to a maximum of 10 continuing education (CE) credits per year. Likewise, newly certified reporters who successfully complete the requirements as set out by the mentor committee shall be entitled to a maximum of 10 CE credits. Newly certified reporters may receive 5 of those 10 credits by completing the official mentor component, or 5 of the 10 credits by completing the freelance component, or 10 credits for completing both components. Partial completion of either component by a newly certified reporter shall not be recognized for CE credit.

Such CE credits are available to newly certified reporters only during the first three-year period they are required to get CE.

The mentor committee shall be responsible for documenting participation in the program by mentors or new reporters in order to secure CE credit.

Entitlement to continuing education credit attaches at the time the requirements set out by the mentor committee are completed.

MAUDE PARKMAN MENTOR PROGRAM

NEW REPORTER APPLICATION

Name:_____

Address:_____

City/County:_____

Home Phone: _____

Work Phone:_____

Fax No._____

Cell Phone:_____

E-mail Address:_____

Certificate No.:_____

Reporting Method:_____
(Machine/Voice)

Reporting Field:_____
(Freelance/Official)

Comments?_____

_____

(https://www.facebook.com/groups/683741898667422)

(https://acraonline.us/)

Legislative Fund Donate

(https://acraonline.us/)

Your ACRA Board

Our Commitment

ACRA is committed to advancing the profession of court reporting by promoting high ethical standards, advocating and utilizing technological advances, providing continuing education opportunities, and creating an environment of unity and community among our members.

Our Pledge

You are valued. We are listening.

This is *your* organization and your voice matters. Our goal is to achieve a sense of community within our organization that includes every court reporter in the state

of Arkansas! This is a place that we can come together to share experiences, expand (https://acraonline.us/) knowledge base, and develop professional connections.

Meet the Association Officers

Valarie Flora

President

Liz Goates

President-Elect

(https://acraonline.us/)

Cris Brasuell

Vice President

ACRA-NEW6-full (2) (https://acraonline.us/contact-secretary/)

Buffy Topper (https://acraonline.us/contact-secretary/)

Secretary

Email (https://acraonline.us/contact-secretary/)

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Marna O'Neal (https://acraonline.us/contact-treasurer/)

Treasurer

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CONTACT US

(https://acraonline.us/contact-us/)

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