

# MANUAL FOR COURT REPORTERS AND RECORDERS

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## **Section 1: Introduction**

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## Section 1: Introduction

### Chapter 1: Role of the Court Reporter/Recorder

As used in this manual, **the term reporter means** a shorthand reporter, stenomask reporter, or a voice writer. **The term recorder means** an electronic recorder.

The court reporter or recorder is an integral part of the justice system. As such, he or she is subject to the requirements of Michigan Court Rules, Michigan statutes, and this manual. **This applies to all court reporters and recorders, whether official, per diem (by the day), or freelance.**

The court reporter or recorder makes and maintains the verbatim permanent record of all proceedings. That permanent record must be a complete and accurate record. To perform this function, the reporter or recorder must be competent, punctual, and willing to work long hours.

The skills of a reporter or recorder include the ability to report or log accurately and quickly; proficiency at transcribing; and expertise at spelling, punctuation, grammar, neatness, speed, and organization.

### Chapter 2: Conduct of the Court Reporter/Recorder

The reporter or recorder must be impartial, patient, dignified, and courteous and should conform personal conduct to high professional and personal standards. The reporter or recorder should be a respected citizen of good moral character and complete trustworthiness.

#### A. Code of Conduct

When working in the capacity of an official court reporter or official court recorder, the reporter or recorder is an officer of the court and part of the court staff. He or she is subject to the same high standards of conduct above reproach, fidelity, and diligence that apply to the judge. (Code of Judicial Conduct, Canon 3[B][2]) He or she should always recognize that an independent and honorable court is indispensable to justice in our system. The judicial system is for the benefit of the litigant and the public, not the court or its staff. (Code of Judicial Conduct, Canon 1)

As stated in *The State Trial Judge's Book*, published under the sponsorship of the National Conference of State Trial Judges, the justice system requires that the reporter or recorder understands that:

1. the reporter or recorder of the court must reflect credit upon the court, the judge, and their profession, and that this extends to his or her personal, as well as official life.
2. communications between the reporter or recorder and the judge are to be highly confidential.

3. the reporter or recorder must respect the justice system at all times.
4. the reporter or recorder should be punctual and efficient.
5. the reporter or recorder should not give advice to anyone concerning any matter in the court or any matter that could end up in court.
6. the reporter or recorder should never purport to speak or act for the judge where judicial matters are involved.
7. unless specifically authorized, the reporter or recorder should never exercise the court's discretion, as in excusing jurors or setting hearings.
8. the reporter or recorder should not discuss the merits of any case.
9. the reporter or recorder should be careful not to leave the impression with anyone that he or she could or would "talk to the judge" about a case or that he or she knows "what the judge is going to do."
10. the reporter or recorder should not express an opinion as to how a case should be decided or what verdict a jury will return. In other words, he or she should not take sides in any proceeding.
11. when working in the court, the reporter or recorder should not permit anyone to dictate anything into the record out of the judge's presence or without the judge's knowledge.
12. the reporter or recorder should never improperly interpose himself or herself between the judge and others.
13. the reporter or recorder must not neglect the work of the court in order to perform outside work.
14. if the reporter or recorder is an attorney, he or she is not to practice law in the court served as an official court reporter or official court recorder.
15. the court reporter or recorder should maintain notes and records, stenographic tapes, or discs in accordance with law and the *Michigan Trial Court Case File Management Standards*.
16. if the reporter's or recorder's employment is terminated, she or he will promptly transcribe and deliver all notes, records, and completed transcripts as requested.

(National Conference of State Trial Judges Book Revision Committee, *The State Trial Judge's Book* [St. Paul: West Publishing Co, 2nd ed, 1969], pp 11-12)

As an officer of the court, the reporter or recorder should always recognize that an independent and honorable court is indispensable to justice in our system. The judicial system is for the benefit of the litigant and public, not the court or its staff. (Code of Judicial Conduct, Canon 1)

**B. Guidelines for Professional Practice**

Common sense, professional courtesy, statutes, and court rules should guide reporters and recorders in applying these guidelines.

In making records, reporters or recorders should:

1. accept only those assignments where their level of competence will result in the preparation of an accurate transcript. A reporter or recorder should remove himself or herself from an assignment when he or she believes his or her abilities are inadequate, and should recommend or assign another person if that person has the competence required for such assignment.
2. prepare the record in accordance with transcript preparation guidelines established by statute, court rule, local custom and usage, and this manual.
3. notify, whenever possible, the parties engaging the reporter or recorder if a substitute reporter or recorder will be assigned.
4. make timely delivery of transcripts, meet promised delivery dates, and make notification of delays.
5. strive to become and remain proficient in his or her professional skills.
6. keep abreast of current literature, technological advances and developments, and participate in continuing-education programs and professional organizations.
7. cooperate with the bench and bar for improvement of the administration of justice.
8. cooperate with qualified legal assistance organizations providing free legal services to the indigent as part of a commitment to the principle that legal services should be available to all. Such participation should be in accordance with the basic tenets of the profession: impartiality, competence, and integrity.

**C. Guidelines for Professional Ethics**

A reporter or recorder shall:

1. be fair and impartial toward each participant in all aspects of reported proceedings and always offer to provide comparable services to all parties in a proceeding.
2. be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or potential conflict arises, the reporter or recorder shall disclose that conflict or potential conflict.
3. guard against not only the fact, but also the appearance of impropriety.
4. preserve the confidentiality and ensure the security of information, oral or written, entrusted to the reporter or recorder by any of the parties in a proceeding.

5. be truthful and accurate when making public statements or when advertising qualifications or the services provided.
6. determine fees independently, except when established by statute or court order, and enter into no unlawful agreements with anyone.
7. refrain, as an official reporter, from freelance reporting activities that interfere with official duties and obligations.
8. refrain from giving, directly or indirectly, any gift, incentive, reward, or anything of value to attorneys, clients, witnesses, insurance companies, or any other persons or entities associated with a litigation, or to the representatives or agents of any of the foregoing, except for items that do not exceed \$100 in the aggregate per recipient each year or pro bono services as defined by the NCRA Guidelines for Professional Practice or by applicable state and local laws, rules and regulations.
9. maintain the integrity of the reporting/recording profession and avoid being identified with controversies that would reflect negatively on the justice system.
10. abide by the Constitution and the laws of the United States and the state of Michigan.

*(The National Court Reporters Association Code of Professional Ethics and National Stenomask Verbatim Reporters Association Member Handbook)*

### **Chapter 3: Conflict of Interest**

A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not provide or arrange to provide court reporting or recording services if he or she is a relative, employee, attorney, or counsel of any of the parties, or is a relative or employee of an attorney or counsel of any of the parties, without disclosing that familial relationship. (MCL 600.1490[2] and MCR 2.304[C])

### **Chapter 4: Associations**

Below are links to associations of importance to the court reporter/recorder. You should become familiar with these resources.

Michigan Association of Professional Court Reporters: <http://www.mapcr.org>.

Michigan Electronic Court Reporters Association: <http://www.mecra.info>.

National Court Reporters Association: <http://www.ncraonline.org/>.

The American Association of Electronic Recorders and Transcribers: <http://www.aaert.org>.

## **Section 2: Official Court Reporter/Recorder**

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## **Section 2: Official Court Reporter/Recorder**

### **Chapter 1: Definition and Authority**

An official court reporter/recorder is a reporter/recorder who is employed by or acting at the direction of a Michigan trial or appellate court. This includes any certified reporter/recorder who is employed by a court, whether full time or per diem (by the day), including any freelance reporter or recorder preparing the official transcript of a court proceeding. The authority, appointment, qualification, term of office, and oath of office for an official court reporter/recorder are prescribed by statute and court rule.

#### **A. Circuit Court**

Each circuit court in this state shall have as many court reporters or certified court recorders as it has judges. (MCL 600.1101)

#### **B. Probate Court**

The probate judge or chief probate judge of any county or probate court district may appoint, and in counties having a population of 50,000 or more shall appoint, 1 or more official court reporters or certified recorders of the probate court. (MCL 600.835[1])

#### **C. District Court**

There shall be not less than one district court certified court recorder or court reporter for each judge of the district court. (MCL 600.8601)

Under Supreme Court rule, the chief or only judge of the district may appoint additional certified recorders and reporters. (MCL 600.8602[2])

### **Chapter 2: Appointment**

#### **A. Generally**

Chief judges, collectively, are the employers of all the official reporters and recorders in this state. The authority and responsibility to “supervise the performance of all court personnel, with authority to hire, discipline, or discharge such personnel, with the exception of a judge’s secretary and law clerk, if any” is vested in the chief judge (or single judge). (MCR 8.110[C][3][d])

#### **B. Circuit Court**

According to MCL 600.1104, every reporter or recorder in the circuit court shall be appointed by the governor after having first been recommended by the judge or judges of the court to which he or she is appointed and he or she is an officer of that court. However, a



governor has not appointed a court reporter or recorder since 1990. Instead, the court appoints court reporters and recorders in accordance with MCR 8.110(C)(3)(d).

### **C. Probate Court**

The probate judge or chief probate judge of any county or probate court district appoints official court reporters and certified court recorders of the probate court. (MCL 600.835[1])

### **D. District Court**

Each judge of the district court shall appoint his or her own reporter or recorder. (MCL 600.8602[1])

The Court of Appeals has held that a district court judge has the right and the responsibility of selecting a court recorder at the beginning of the judge's tenure in office. (MCL 600.8601 *et seq.*) The court expressly declined to consider the subsequent removal of the court recorder by the judge who appointed him or her. (*Irons v 61st District Court Employees*, 139 Mich App 313 [1984])

## **Chapter 3: Qualifications**

Only reporters or recorders certified pursuant to MCR 8.108 may record or prepare transcripts at proceedings held in Michigan courts or of depositions taken in Michigan. (MCR 8.108[G]) If a reporter or recorder will be swearing in witnesses at a deposition, he or she must be a notary public. (MCR 2.304)

## **Chapter 4: Term of Office**

### **A. Circuit Court**

Every reporter or recorder shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct by the court to which he or she is appointed. In the case of a suspension, the reporter or recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant. (MCL 600.1105)

## **Chapter 5: Oath of Office**

### **A. Circuit Court**

Before entering upon the duties of his or her office, the court reporter or recorder shall take and subscribe the constitutional oath of office, which shall be filed in the office of the secretary of state. (MCL 600.1104)

## **B. Probate Court**

Upon appointment, probate court reporters and recorders shall take and subscribe the constitutional oath of office, which shall be filed with the court clerk. (MCL 600.835[1])

## **Chapter 6: Management of Court Reporter and Recorder Services**

The chief or only judge of the court is charged with overall administrative responsibility for the employees of the court. This responsibility extends to effective management of the court's shorthand reporters or certified electronic recorders. The court should consider adopting written policies covering the following areas.

### **A. Transcript Production/Exhibits**

#### **1. Responsibility for Supervision of Court Reporters and Recorders**

It is primarily the responsibility of every trial judge to make certain that the court reporter or recorder timely prepares and files transcripts and maintains exhibits. Ultimately, it is the responsibility of the chief judge pursuant to MCR 8.110 to make certain that trial judges and court reporters or recorders comply with the requirements for preparing and filing transcripts and maintaining and filing exhibits.

#### **2. Responsibility of Court Reporter and Recorder**

The court reporter's or recorder's responsibility for preparing and furnishing the transcript is set forth in MCR 8.108.

#### **3. Priority of Transcript Production/Exhibits**

Transcripts should be prepared in the order in which they were ordered. Transcripts should be filed within the time limits prescribed by the Michigan Court Rules. (MCR 7.109[B], MCR 7.210[B]) In the rare case where the time limit cannot be met, the reporter or recorder shall file a motion for an extension of time in the appellate court. A copy of any motion for extension of time shall be provided to the chief judge and the court administrator. See SCAO-Approved form [MC 503](#).

#### **4. Show Causes**

If a reporter or recorder is ordered by an appellate court to show cause why he or she should not be held in contempt of court for failing to file transcripts on a timely basis, the reporter or recorder shall immediately provide the chief judge and court administrator with a copy of the order.

A warning letter will be sent to any court reporter or recorder who has three or more show-cause orders issued by the Court of Appeals within any twelve-month period. The letter shall include notification that the Court Reporting and Recording Board of Review is instituting time management monitoring of that reporter or recorder and is requiring the

reporter or recorder to provide a written explanation. Failure to bring all matters current and to respond to this warning may result in a formal hearing to impose sanctions up to and including revocation of certification.

## **5. Pending Transcript Report**

Reporters and recorders should be required to file a monthly pending transcript report with the chief judge or court administrator. This report should contain at least the following information:

- a. name of case,
- b. file number,
- c. date ordered,
- d. date reporter's certificate was filed,
- e. due date,
- f. estimated length of transcript,
- g. "type" of case,
- h. estimated completion date, and
- i. show-cause date (if applicable).

## **B. Suppressed Transcripts**

"There appears to be no statute, court rule, or case law for suppressing transcripts. Procedures for sealing records are prescribed by MCR 8.119(I)." See also the [Michigan Court Administration Reference Guide, Section 8-04](#) and the [Michigan Trial Court Case File Management Standards](#).

## **C. Exhibit Maintenance**

Exhibit maintenance is governed by MCR 2.518 and MCR 3.930 and the [Michigan Trial Court Case File Management Standards](#), Component 20.

### **1. Receipt and Return or Disposal of Exhibits**

Except as otherwise required by statute or court rule, materials that are intended to be used as evidence at or during trial shall not be filed with the clerk of the court, but shall be submitted to the judge for introduction into evidence as exhibits. Exhibits introduced into evidence at or during court proceedings shall be received and maintained as provided by Michigan Supreme Court trial court case file management standards. As defined in

MCR 1.109, exhibits received and accepted into evidence under this rule are not court records. (MCR 1.109)

At the conclusion of a trial or hearing, the court shall direct the parties to retrieve the exhibits that were submitted by them except that any weapons and drugs shall be returned to the confiscating agency for proper distribution. If the exhibits are not retrieved by the parties as directed, within 56 days after conclusion of the trial or hearing, the court may properly dispose of the exhibits without notice to the parties.

(MCR 2.518, MCR 3.930)

## **2. MCR 7.109 and MCR 7.210 – Appeals to Circuit Court and Court of Appeals**

Pursuant to MCR 7.109(C), if an appeal is taken to circuit court, the offering parties shall maintain exhibits in their possession unless otherwise ordered by the circuit court, trial court, or agency.

MCR 7.210(C) provides that, if an appeal is taken to the Court of Appeals, within 21 days after the claim of appeal is filed, a party possessing any exhibits offered in evidence, whether admitted or not, shall file them with the trial court or tribunal clerk, unless by stipulation of the parties or order of the trial court or tribunal they are not to be sent, or copies, summaries, or excerpts are to be sent. When the record is returned to the trial court or tribunal, the trial court or tribunal clerk shall return the exhibits to the parties who filed them.

## **Chapter 7: Records Maintenance**

### **A. Records Maintained by the Court Reporter or Recorder**

The court reporter or recorder who takes the testimony on the trial or the hearing of any case shall prefix the record of the testimony of each witness with the full name of the witness and the date and time the testimony was taken. At the conclusion of the trial in the case, the reporter or recorder shall secure all of the records and properly entitle them on the outside, and shall safely keep them in the court according to the [Michigan Trial Court Case File Management Standards](#). If the court reporter or recorder needs access to the records for purposes of transcribing off-site, the reporter or recorder may take only a reproduction of the original recording, which must be returned to the court upon filing of the transcript. (MCR 8.108[C]) Because these records belong to the court, the court reporter or recorder shall maintain both the notes and the recorded media as required by the [Michigan Trial Court Case File Management Standards](#), Components 23 and 24, and as directed by the court.

### **B. Transfer of Records to Clerk of Court**

If a court reporter or recorder dies, resigns, is removed from office, or leaves the state, records that he or she created and kept in each case pursuant to MCR 8.108(C) must be transferred to the clerk of the court in which the case was tried or heard. The clerk shall safely keep the records in accordance with the [Michigan Trial Court Case File Management](#)

[Standards](#) and MCR 8.119. On order of the court, a transcript shall be made from the records and filed as a part of the public record in the case. (MCR 8.108[D] and [Michigan Trial Court Case File Management Standards](#), Component 23).

The clerk “shall safely keep the records in accordance with the [Michigan Trial Court Case File Management Standards](#) and MCR 8.119(F).” (MCR 8.108[D], amended , and [Michigan Trial Court Case File Management Standards](#), Component 23, page 41)

### **C. Court to Retain Control Over Records of Reporters or Recorders**

The clerk “shall safely keep the records in accordance with the [Michigan Trial Court Case File Management Standards](#) and MCR 8.119(F).” (MCR 8.108[D], amended and [Michigan Trial Court Case File Management Standards](#), Component 23)

The court shall retain control over the records relating to any proceedings held in that court including those of court reporters and recorders who are not employed by the court. ([Michigan Trial Court Case File Management Standards](#), Component 23)

### **D. Handling Nonpublic Records**

When a case becomes nonpublic, all materials related to that case must also be treated as nonpublic, including court reporter or recorder notes, recordings, transcripts, and any other material which may be kept in a separate location from the case file. Before making materials available to the public, court staff should check the court’s file to determine its status relating to public access.

Although there is no specific statute or court rule that directs one court to make confidential a record or information which has been made confidential in another court, ordering such confidentiality in the other court would, in many cases, appear to be appropriate. An example is a district court case bound over to circuit court where the file becomes nonpublic. Notification of the circuit court nonpublic record status would facilitate restriction of access to the record in the district court.

For details about the types of records and documents that are nonpublic, confidential, or have limited access, see the chart titled “[Nonpublic and Limited-Access Court Records.](#)”

See also the [Michigan Trial Court Case File Management Standards](#) and [Michigan Court Administration Reference Guide](#), Section 8-04, Maintaining Files/Records for more details.

## **Chapter 8: Analog Audio Recording Procedures**

These procedures are required to assist in achieving maximum quality in analog recording. Satisfactory performance of the system depends almost entirely on the operator’s understanding of the procedures outlined and his or her conscientious application of these procedures to his or her work in the court.

Both electronic operators (CEOs) and court recorders (CERs) must comply with these

procedures. MCR 8.109(B). For purposes of this chapter, the term “operator” includes both CEOs and CERs.

If the proceedings are recorded with digital equipment, the operator is required to follow the procedures in the Appendix. The standards are in the [\*Michigan Trial Court Standards for Courtroom Technology\*](#).

## A. Duties and Responsibilities of Court Operator

### 1. General

The operator is responsible for producing a record of all proceedings in the court to which they have been assigned. The record consists of properly labeled tapes or compact disks (CDs) along with log notes and other accompanying information that the transcriber needs to produce a complete and accurate typed transcript of the proceedings.

The operator must produce the clearest possible recording of proceedings and must keep a written (handwritten, typed, or computer-generated) log of events in the proceeding. See Section 4, Chapter 1 for details.

### 2. Specific

- a. Top priority must be given to recording court proceedings. The operator must be in the courtroom early enough to prepare for the recording.
- b. The operator is responsible for interruptions or gaps in the recording unless the judge's order to stop the machine can be heard on the recording.
- c. The operator must listen through headphones to the recording being produced and must maintain a log of the proceedings. To assure the quality of the audio recording and the completeness of the log materials, the operator may need to ask people to speak into a microphone, to speak louder, or to spell their names or the names of people or places they are talking about. It is mandatory that the operator has the headphones on at all times and **that the operator listens to the recording, not the source**. This ensures that the media is being recorded on.

## B. Duties and Responsibilities of Judge

The judge shall at the start of each proceeding:

1. Verify with the operator that the system has been tested and is operating.
2. Advise participants that the court proceeding is being electronically recorded.
3. Advise participants to speak loudly and clearly.
4. State each case by name, number, and type of proceeding each time a case is called.

5. Advise all participants to properly identify themselves when making their appearance at the beginning of each proceeding and to spell their names for the record.
6. Advise attorneys to give their appearances at the start of each day of a continuous, multiday trial.
7. Advise attorneys to take necessary precautions (i.e. cover the microphone or use the mute button) when they wish to consult with clients during the hearing.
8. Mention that coughing or sneezing near a microphone will adversely affect the recording.
9. Advise attorneys to speak into a microphone, and monitor this during the proceeding.
10. Advise participants that only one person should speak at a time and remind them, as necessary, to discourage overlapping questions and answers or colloquy.
11. Advise speakers not to wander around the courtroom unless wireless microphones are used.
12. Conduct on-the-record bench conferences at the bench conference microphone.
13. Leave the bench microphone turned on while in session except for off-the-record discussion.
14. Clarify any nonverbal occurrences such as “witness nodded head,” indicating a yes response.
15. Address jurors by name or number for proper identification during voir dire.

### **C. Daily Starting Procedures**

Planning and preparing for each day is a mandatory function. The operator should have readily available all necessary supplies for producing an accurate and clear recording and for creating log notes. To ensure a quality recording will be made, the operator must allow enough time before the proceedings begin to pretest the recording equipment and all microphones.

#### **1. Supplies**

The supplies needed on a daily basis include:

- a. headset,
- b. court calendar,
- c. cassette tapes and any other media to be used for archiving,
- d. log sheets and a clock,

- e. pens, pencils, highlighters, and legal pads, and
- f. witness lists, exhibit lists, and stickers.

## 2. Pretesting Procedures

**The operator must test the recording system every day before proceedings begin by performing the following tasks.**

- a. Make sure the recording equipment is plugged in and that all microphones are plugged into the equipment; make certain that microphones are plugged into the proper channels.
- b. Fill out label information on the tape.
- c. Reset the index counter if a new tape is installed, or note the index counter on the log sheet if the tape has been partially used during the previous court session.
- d. Make a test recording by turning on the recording equipment in the record mode. Walk around to each microphone and state: “testing microphone #1,” “microphone #2,” etc. and lightly scrape the microphone screen with a pen cap or fingernail.
- e. Go back to the recording equipment and rewind to the meter number at which you began the test recording (which would be on the log sheet) and listen to the test recording.
- f. Make the notation in your log notes that the system and the microphones were checked to ensure proper working condition, and indicate whether or not any problems were found.

## 3. Handling Problems with Recording Equipment

If there are problems with the recording equipment, repeat the above steps. If the problems persist, try the following:

- a. repeat the above steps,
- b. check the tape to make sure nothing is on it or put a fresh tape in the recorder,
- c. check connections for the microphone and headset,
- d. check volume control and make sure monitor is on (for an analog system, the monitor should be on “ALL”), and

If the problem persists, contact the service representative and use the backup recorder.



## Section 2 Appendix: Operating Procedures for Digital Recording

### Chapter 3: Operating and Monitoring Procedures

#### A. Administrative Responsibilities

To effectively capture, preserve, and produce a record of court proceeding, court administrators and judicial leadership should establish and manage the digital recording program by applying these standards and by adopting courtroom practices that ensure all persons responsible for setting up, operating, and monitoring the recording equipment and all participants in and out of the courtroom fulfill their responsibilities. This includes making sure everyone involved complies with the equipment and technology standards, preserves the recording as required by these standards, and produces and distributes the transcripts as required by law and court rule. In addition, administration should determine what signage will be used throughout the court facility and ensure that operators are using the signage appropriately in the courtroom.

#### B. Authorized Operator

##### 1. Digital Audio Equipment Operator

Only reporters, recorders, or voice writers certified pursuant to MCR 8.108(G)(1) may record proceedings held in Michigan. An operator holding a CEO certification under MCR 8.108 (G)(7)(b) may also record proceedings.

Required operating and monitoring procedures for digital audio equipment are outlined in the *Manual for Court Reporters and Recorders*, Section 3, Chapter 8 and Section 4.

##### 2. Digital Video Equipment Operator

###### a. Authority, Conduct, and Qualifications

Any person operating a court's digital video court recording system must comply with these standards. The operator need not be certified pursuant to MCR 8.108. Operating and monitoring procedures for digital video equipment are outlined in this chapter.

The video operator shall comply with all statutes and court rules and is subject to the court's code of conduct for court employees.

In general, the video operator should possess a broad understanding of court procedures and principles, familiarity with legal terminology, specific knowledge related to the digital audio recording equipment, and awareness of courtroom decorum.

###### b. Responsibilities

In general, the video operator is responsible for:

## **Section 2 Appendix: Operating Procedures for Digital Recording**

- assisting in microphone placement,
- monitoring the recording (not the source) through headphones to ensure the proceedings are being recorded properly,
- taking and maintaining log notes and relevant lists of attorneys' names and addresses, witnesses, exhibits, and other information to assist with transcription,
- playing back recorded court proceedings as directed by the judge, and
- ensuring that the recording is properly stored and archived at the court.

In addition to the logging and monitoring procedures in this chapter, the court should make clear to the video operator any other procedures expected, such as marking of exhibits and swearing in of witnesses in the courtroom, maintaining evidence, and making entries into the court's case management system for such things as the start and end time of each hearing, all appearances, court orders, and next hearing dates.

### **c. Training**

The video operator must receive initial hands-on start-up training and follow-up training from the digital recording vendors and court staff on start-up procedures and advanced features of the system.

The video operator should also be trained by court personnel on courtroom procedures and storage responsibilities, including: 1) logging procedures; and 2) basic training on microphone use and placement, equipment set-up, operation and maintenance, failure recovery, troubleshooting, backup and restore procedures, and routine inspection procedures.

In some courts, the video operator may also be responsible for transcript processing and should be trained as such.

## **C. Setup and Testing**

The video operator assigned to the courtroom is responsible for observing the following procedures and performing the associated setup and testing tasks. Whether this is done at the beginning of the day or before each proceeding depends on the scheduling practices of the court and local practices.

### **1. Supplying the Courtroom**

Make sure that all necessary supplies for producing a recording, making log notes, marking exhibits, and preserving the record are available and accessible. Supplies could include headphones, the court calendar and docket, pens, pencils, legal pads, blank appearance sheets and witness and exhibit lists, and compact disks for archiving.

## **Section 2 Appendix: Operating Procedures for Digital Recording**

### **2. Posting Signs**

Make sure signs are prominently posted that provide notice to all attendees and participants that conversations occurring in the courtroom may be recorded at any time.

### **3. Instructing Attorneys**

The operator or judge shall give written instructions to each attorney in each proceeding to be held in the courtroom that day. When observed, the instructions ensure that the audio recording of the proceedings is clear and legible. See Appendix A of this chapter for a checklist.

### **4. Testing the Equipment**

- a. Test the recording and log notes software for their operating functions.
- b. Test the recording quality of each microphone and the wiring by speaking into each microphone and listening to the recorded result on each audio channel. Problems can be caused by the microphones not being plugged into the proper channels or equipment, or not being set on the record mode. Report any problems so that they can be fixed before the day's proceedings.
- c. If default settings are used, check whether the system has been set back to the appropriate default setting and, in particular, that the setting accurately identifies the name of the judge presiding in that courtroom over the recorded proceeding.

### **5. Arranging Microphones**

- a. Check the microphone and camera placement for each courtroom according to type of case and the flow and movement of the participants.
- b. Assign a foreign-language interpreter's microphone to a channel that is separate from the channel assigned to the witness.
- c. Jury voir dire requires flexible placement of microphones. Use of wireless microphones is recommended for optimum flexibility.

### **6. Videoconferencing**

If videoconferencing technology is being used, it should be fed directly into the recording system. If this feature is not available, move a microphone to a position near the speaker through which the video conferencing dialogue will be emitted.

## **Section 2 Appendix: Operating Procedures for Digital Recording**

### **7. Telephonic Participation**

If a party is participating in a proceeding through telephonic means in accordance with MCR 2.004, feed the telephone conversation into the courtroom through a speaker box. Place the microphone next to the speaker.

### **8. Making Arrangements with Judge**

Determine how the judge wants to be notified or interrupted by the operator during the court proceeding in the event the record of the proceedings is not being captured.

## **D. Operating the Equipment**

The operator must operate the equipment as directed by the judge and in accordance with these standards. A verbatim record must be recorded pursuant to law and Michigan court rules, and conversations may be muted or not recorded only as authorized by these standards. Logging and monitoring procedures are outlined in item G (see page 18).

### **1. Off-the-Record Discussions and Sidebar or Bench Conferences**

The recording should be stopped for off-the-record discussions only at the direction of the judge and only for as long as the judge directs. Sidebar or bench conferences are part of the official record and must be recorded unless the judge orders otherwise.

### **2. Confidential Communications**

All conversations of attorneys and parties that occur in the courtroom are to be recorded. Microphones should be equipped with mute buttons to permit attorneys and parties to communicate confidentially. The judge should notify all participants of the mute feature at the start of a proceeding (see item F, page 17).

## **E. Shutdown Routine**

Storing and archiving the recording at the court must be done in compliance with Components 23 and 24 of the *Michigan Trial Court Case File Management Standards* and local court practices.

1. Backup the day's recordings to the court's network. If the system does not enable this, backup the day's recordings onto a compact disk (CD).
2. Label the recordings to enable their retrieval during the retention period.

## **Section 2 Appendix: Operating Procedures for Digital Recording**

3. Reset the system to the appropriate default setting for the next day's proceedings.
4. Shut down the court recording system.

### **F. Courtroom Checklist for Judge**

The judge shall, at the start of each proceeding:

1. Verify with the operator that the system has been tested and is operating.
2. Advise participants that the court proceeding is being electronically recorded.
3. Advise participants to speak loudly and clearly.
4. State each case by name, number, and type of proceeding each time a case is called.
5. Advise all participants to properly identify themselves when making their appearance at the beginning of each proceeding and to spell their names for the record.
6. Advise attorneys to give their appearances at the start of each day of a continuous, multiday trial.
7. Advise attorneys to take necessary precautions (i.e. cover the microphone or use the mute button) when they wish to consult with clients during the hearing.
8. Mention that coughing or sneezing near a microphone will adversely affect the recording.
9. Advise attorneys to speak into a microphone, and monitor this during the proceeding.
10. Advise participants that only one person should speak at a time and remind them, as necessary, to discourage overlapping questions and answers or colloquy.
11. Advise speakers not to wander around the courtroom unless wireless microphones are used.
12. Conduct on-the-record bench conferences at the bench conference microphone.
13. Leave the bench microphone turned on while in session except for off-the-record discussion.
14. Clarify any nonverbal occurrences such as "witness nodded head," indicating a yes response.
15. Address jurors by name or number for proper identification during voir dire.

## Section 2 Appendix: Operating Procedures for Digital Recording

### G. Logging and Monitoring Procedures

The video operator must produce the clearest possible recording of proceedings and must keep a written (handwritten, typed, or system-generated) log of events in the proceeding. In general, log notes serve three purposes: 1) to locate a specific proceeding, 2) to locate a specific portion of the proceeding, and 3) to aid the transcriber in preparing the transcript. See Appendix B of this chapter for a list of entries that should be made into the log notes to aid transcription of the record.

#### 1. Logging

##### a. Minimum Content

For all court proceedings, the log notes must contain:

##### 1) Names

Log the full name of the judge, case caption, case number, and the names and spellings of the parties and attorneys present. When possible, the operator should ask the attorneys to supply a list of names and terms before the court session.

##### 2) Time

Log notes must allow the video operator and transcriber to identify the beginning and end time of each proceeding. The digital recording software should ideally be able to automatically insert into the system the beginning and end time, along with any time that the recording is paused, started, or stopped. In court sessions where proceedings overlap, the video operator will need to be particularly diligent at logging start and stop times and may not be able to rely on the software to do so.

##### 3) Spelling and Unusual Names and Terminology

To assist transcription and playback, log notes should include the spelling of uncommon words, proper nouns, or unusual phrases or jargon.

##### 4) For Trials and Evidentiary Hearings

When trials and evidentiary hearings are held, log notes must also contain:

- a) The name of each witness.
- b) The beginning of each type of examination (e.g. direct examination, cross-examination, redirect examination, recross examination, opening statement, closing argument, rebuttal).

## **Section 2 Appendix: Operating Procedures for Digital Recording**

- c) Exhibits (clearly mark the exhibit number and describe the evidence admitted).
- d) Any other information that would assist transcription. Commonly used abbreviations may be useful.

### **b. Identifying Speakers by Channel**

Because speakers may move to and speak from multiple microphones during the proceeding, the video operator may need to develop a code to ensure that the log notes contain and the transcriber can identify who is speaking on any one channel at any one time. Some video systems do this automatically.

A standard setup for channel allocation could serve as a useful guide for transcribers in the majority of cases. For example:

Channel 1: Judge/Jury/Bench or Well

Channel 2: Witness

Channel 3: Defendant

Channel 4: Plaintiff

When a jury trial is being held, the term “voir dire” should be entered into the log notes at the beginning of voir dire.

### **c. Language Interpreters**

Log notes on when the interpreter is interpreting and the identity of the speaker whose words are being interpreted are particularly important.

### **d. Abbreviations**

Abbreviations are acceptable for commonly understood standard terms; (e.g. “def” for “defendant”).

### **e. Telephonic Participation**

Enter a log note at which time the telephone conversation begins, and identify the person(s) involved in the call.

## **Section 2 Appendix: Operating Procedures for Digital Recording**

### **f. Audiotape and Videotape Sources**

Attorneys may on occasion play audiotaped or videotaped materials during the course of the proceedings. In such instances, follow these procedures.

- 1) If the playback of the audiotape or videotape is to be recorded:
  - a) Enter a log note on the log "videotape (*or audiotape*) of (*whatever it is*) played in court."
  - b) Move a microphone to a position near the speaker through which the recorded material will be played.
  - c) Log as much as possible to help the transcriber with speaker and content identification.
  - d) Enter a log note at which time the playback of the audiotape or videotape concludes.
- 2) If the playback of the audiotape or videotape is not to be recorded:
  - a) Enter a log note describing the material played back off-the-record and turn the recording equipment off.
  - b) When the playback of the audiotape or videotape is completed, make certain that the recording equipment is turned back on and resume.

### **g. In-Court Playback of Testimony**

When asked to play back testimony or some other portion of the proceedings document the start and end time in the log notes (the time will be entered automatically). See item G.3. on page 22 for further details.

## **2. Monitoring**

### **a. Using Headphones**

To ensure that the proceedings are being adequately and intelligibly recorded, using headphones the video operator must monitor what is being recorded onto the audio channels, not what is being said into the microphones. This is known as "confidence monitoring." The system should provide at least visual indication to the operator that the signal is being recorded.



## **Section 2 Appendix: Operating Procedures for Digital Recording**

### **b. Interrupting Proceedings**

The video operator should strive for an unobtrusive presence. Because an interruption may not be desirable at a critical point in testimony, the video operator must use best judgment in interrupting proceedings. Interruptions should be made only as necessary and in accordance with protocols established with the judge. Situations where it may be necessary to interrupt proceedings are to request:

- The correct spelling of names or technical or unfamiliar names.
- That a party move closer to the microphone.
- That the person stop tapping a microphone or shuffling papers too close to it.
- That a nonverbal response be made audible.
- That a party slow down his or her speech pattern.

The video operator must interrupt the proceeding and notify the judge when a record is not being made, such as technical failure of the equipment or the speaker's words are inaudible for reasons including:

- The audio level of the recording is not adequate.
- The parties are speaking too softly or too rapidly.
- The parties are talking simultaneously over each other.
- Excessive shuffling of papers.
- A microphone remains muted.
- Excessive gallery or extraneous noise.

### **c. Sidebar or Bench Conferences**

Sidebar or bench conferences are often whispered; therefore, it is important to monitor the volume and to ensure that the recording equipment is picking up each speaker. If a conference is off-the-record, the operator should make certain to record the judge announcing that it is off-the-record and resume recording when the conference is over.

### **d. Jury Voir Dire**

Video operators may need to be particularly vigilant with asking potential jurors to speak up.

## **Section 2 Appendix: Operating Procedures for Digital Recording**

### **3. In-Court Playback of Testimony**

There are a number of circumstances where the operator may be asked to play back testimony or some other portion of the recording. The recording system should support immediate resumption after playback, with no interruption in the proceedings. However, some systems do not have playback capabilities (cannot playback and still record the proceeding in the courtroom).

The operator's goal should be to locate and play back requested portions of testimony as quickly as possible. When a request is made to play back a certain portion of the proceedings from a digital recording, the procedures are to:

- Note the request in the log notes (the time will be entered automatically).
- Change the panel from the recording screen to the playback screen.
- Find the requested portion and listen through the headset to make sure you have the appropriate portion requested.
- Play the requested portion.
- Note on the log that playback was concluded (the time will be entered automatically).
- Change the panel back to the recording screen and continue with the proceedings.

## **Section 3: Certification**

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## **Section 3: Certification**

### **Chapter 1: Court Reporting and Recording Board of Review**

#### **A. Authority and Responsibility**

##### **1. Supervision of Certification Process**

The Court Reporting and Recording Board of Review fulfills two basic roles delegated to it by the Supreme Court. First, the board supervises and oversees the certification process. This includes setting policy regarding the examination process, providing policy direction to the State Court Administrative Office staff assigned to the board, and deciding examination appeals and requests for extension of temporary certification. (MCR 8.108[G])

##### **2. Certification of Reporter, Recorder, or Operator**

The second major role assigned to the board by the court is found in MCR 8.108(G)(6)(c). That rule delegates to the board the responsibility to:

"... review the certification of a reporter, [a] recorder, [an] operator, or [a] voice writer and [to] impose sanctions, including revoking the certification, for good cause after a hearing before the board."

The chairperson of the board shall preside at the hearing or, in the event that the chairperson cannot preside, the chairperson may designate a member of the board.

##### **3. Discipline of Reporter or Recorder**

The board reviews all complaints filed by litigants and attorneys against reporters and recorders. Complaints involved include such things as failure to meet the time limits for filing transcripts in appeals established by MCR 7.210 *et seq.*, overcharging fees, cheating on examinations, not observing the prescribed transcript format, inaccuracies, and other misconduct or dereliction of duty.

##### **4. Enforcing Statutory Regulation of Freelance Court Reporter/Recorder and Court Reporting/Recording Firms**

All court reporting firms and court reporters and recorders, including out-of-state court reporting firms and court reporters and recorders, shall register with the State Court Administrative Office by completing an application in a form adopted by the State Court Administrative Office. (MCL 600.1492[2])

If a court reporting firm or a court reporter or recorder fails to comply with this subsection, the State Court Administrative Office may assess a reasonable administrative fine that is prescribed by rule of the Supreme Court, that does not exceed \$500.00, and that is payable to the state general fund. (MCL 600.1492[2])

The State Court Administrative Office is responsible for enforcing MCL 600.1490, 600.1491, and 600.1492 through the Court Recording and Reporting Board of Review or by other administrative means. (MCL 600.1493[1])

Any violation of MCL 600.1490, 600.1491, or 600.1492 shall be cause for refusal of the Court Reporting and Recording Board of Review to issue renewal certificates to certified court reporters or recorders. Any willful violation of MCL 600.1490, 600.1491, or 600.1492 shall be grounds for discipline or censure, or suspension or revocation of certification as a Michigan certified court reporter or recorder, or court reporting firm. (MCL 600.1493[2])

## **B. Organization and Meeting Schedule**

MCR 8.108(G)(2) outlines the organization of the Court Reporting and Recording Board of Review.

1. The Supreme Court shall appoint a Court Reporting and Recording Board of Review, composed of:
  - a. a Court of Appeals judge, to be chairperson,
  - b. a circuit judge,
  - c. a probate judge,
  - d. a district judge,
  - e. a court reporter who is an employee of a Michigan court,
  - f. a court recorder who is an employee of a Michigan court,
  - g. a court reporter who is not an employee of a Michigan court,
  - h. a court recorder who is not an employee of a Michigan court, and
  - i. an attorney.
2. Appointments to the board shall be for four-year terms. A board member may be reappointed to a new term. Initial appointments may be of different lengths so that no more than three terms expire in the same year. The Supreme Court may remove a member at any time.
3. If a board position becomes vacant because of death, resignation, or removal, or because a member is no longer employed in the capacity in which he or she was appointed, the board shall notify the Supreme Court clerk and the Supreme Court shall appoint a successor to serve the remainder of the term.
4. The state court administrator shall assign a staff person to serve as board secretary.

To obtain a list of current board members, please contact the board secretary at the State Court Administrative Office, P.O. Box 30048, Lansing, MI 48909, 517-373-9526.

The board meets the second Friday of every March, June, September, and December. Additionally, the September meeting includes a public forum.

## **Chapter 2: Rules**

Certification is regulated by Michigan Court Rule 8.108(G).

### **A. Certification Requirement (MCR 8.108[G][1][a] and [b])**

1. Only reporters, recorders, or voice writers certified pursuant to MCR 8.108(G) may record or prepare transcripts of proceedings held in Michigan courts or of depositions taken in Michigan pursuant to these rules. This rule applies to the preparation of transcripts of videotaped courtroom proceedings or videotaped or audiotaped depositions, but not to the recording of such proceedings or depositions by means of videotaping. An operator holding a CEO certification under MCR 8.108(G)(7)(b) may not prepare transcripts.
2. Proceedings held pursuant to MCR 6.102 or MCR 6.104 need not be recorded by persons certified pursuant to this rule; however, transcripts of such proceedings must be prepared by court reporters or recorders certified pursuant to this rule.

### **B. Certification by Testing (MCR 8.108[G][3])**

1. At least twice each year the board shall administer an examination testing knowledge and, as to a recorder, an operator, or a voice writer, familiarity with basic logging techniques and transcript production. The board shall determine the passing score.
2. In order to be eligible for registration for an examination, an applicant must
  - a. be at least 18 years of age,
  - b. be a high school graduate, and
  - c. not have been under sentence for a felony for a period of two years.
3. An applicant for the certified shorthand reporter examination must have satisfactorily completed the National Court Reporters Association Registered Professional Reporter skills examination. Applicants possessing preserved scores as of November 1, 2010, are exempt from this requirement if they are fully certified by October 2011.
4. Applicants for the certified stenomask reporter (CSMR) written examination must provide proof they have passed the National Verbatim Reporters Association (NVRA) certified verbatim reporter (CVR) skills examination.

5. An applicant for the CER, CSR, CSMR, or CEO examination must have satisfactorily completed a post-high school board-approved workshop or course of study or other board-approved curriculum and submitted documentation of same **prior to testing**.
6. Applications for the CEO examination must be signed by the chief judge.
7. All CERs, CSMRs, and CEOs who are fully certified by December 31, 2005, are exempt from the requirements of item 5 above. (MCR 8.108[G][3][e])
8. The registration fee is \$60.

**C. Reciprocal Certification** (MCR 8.108[G][4])

A reporter, a recorder, or an operator certified in another state may apply to the board for certification based on the certification already obtained.

**D. Temporary Certification** (MCR 8.108[G][5])

A new reporter, recorder, or operator may receive one temporary certification to enable him or her to work until the results of the next test are released. If the person does not take the test, the temporary certification may not be extended unless good cause is shown. If the person takes the test and fails, the board may extend the temporary certification. Temporary CEO certification requests must be made by the chief judge.

**E. Renewal, Review, and Revocation of Certification** (MCR 8.108[G][6])

1. Certifications under this rule must be renewed annually. The fee for renewal is \$30. Renewal applications must be filed by August 1. A renewal application filed after that date must be accompanied by an additional late fee of \$100. The board may require certified reporters, recorders, or operators to submit, as a condition of renewal, such information as the board reasonably deems necessary to determine that the reporter, recorder, or operator has used his or her reporting or recording skills during the preceding year.
2. The board must review the certification of a reporter, a recorder, or an operator who has not used his or her skills in the preceding year, and shall determine whether the certification of such a reporter, a recorder, or an operator may be renewed without the necessity of a certification test.
3. The board may review the certification of a reporter, a recorder, or an operator and may impose sanctions, including revoking the certification, for good cause after a hearing before the board.
4. If, after a reporter's, a recorder's, or an operator's certification is revoked or voided by the board and the reporter, recorder, or operator applies to take the certification examination and passes, the board may issue a conditional certification for a prescribed period of time imposing restrictions or conditions that must be met for



continued certification. At the end of the conditional period, an unconditional certification may be issued.

**F. Designations (MCR 8.108[G][7])**

The board shall assign an identification number to each person certified. A court reporter, a recorder, or an operator must place the assigned identification number on his or her communications with the courts, including certificates, motions, affidavits, and transcripts. The board will use the following certification designations:

1. certified electronic recorder (CER),
2. certified electronic operator (CEO),
3. certified shorthand reporter (CSR), and
4. certified voice writer/stenomask reporter (CSMR).

The designations are to be used only by reporters, recorders, or operators certified by the board. A reporter, a recorder, or an operator may be given more than one designation by passing different tests. A reporter, a recorder, or an operator may only perform the functions for which he or she has been certified. For example, a certified electronic recorder may only take the record by electronic recorder or a certified shorthand reporter may only take the record by shorthand. **A reporter, a recorder, or an operator found to have performed a function or taken proceedings in a manner other than that for which he or she has been granted may be placed on probation, may be fined up to \$500, and/or may have his or her certification revoked.**

**G. Annual Schedule for Certification Examination and Renewal**

**1. Deadline for Reviewing Examination Results**

Review of examination results must be completed before the registration deadline of the next examination. For the dates of the next scheduled examination, see <http://courts.mi.gov/CRR>.

**2. Deadline for Registering for Certification Examination**

The deadline for registering for an examination is four weeks prior to the scheduled examination. Examination registration is done online through the One Court of Justice Website, see <https://courts.michigan.gov/CRR>.

**3. Certification Examination Dates**

Examinations are normally conducted in March and November; however, additional examinations have been held during the summer months. For the next scheduled examination dates, see <http://courts.mi.gov/CRR>.

#### **4. Deadline for Certification Renewal**

The deadline for certification renewal is August 1. An application received after August 31 is reviewed by the board to determine if the applicant must take the examination. A renewal application received after August 1 must be accompanied by an additional late fee of \$100.

#### **5. Challenging the Examination Results**

If a challenge of the examination results is filed by an applicant as a result of a review, a written request must be filed with the board within seven days after the completion of the examination review.

Previously passed examination sections will continue to be preserved while a challenge is under review by the board. The applicant will receive a written response to the challenge within 10 days of the board's decision. If the challenge does not result in full certification, the applicant must register for the next scheduled examination in order to remain in compliance with the preservation of passed examination sections.

### **Chapter 3: Board of Review Policies**

#### **A. Uncertified Reporter or Recorder Attempting to File Transcripts**

(Adopted 6/24/80, Revised 7/83, Revised 6/06) (MCR 8.108[G][1] and [3])

Any uncertified person who files, attempts to file, or has anyone file a transcript on his or her behalf will automatically be precluded from taking the certification examination or from being granted temporary certification for a period of two years from the date of the filing or attempted filing unless the Court Reporting and Recording Board of Review determines that there is good cause for waiving any part or all of the two-year waiting period. This policy does not apply to previously certified reporters or recorders required to file a transcript of a proceeding reported or recorded while their certification was in effect.

#### **B. Requirements for Registering for the Certification Examination**

(Adopted 7/09/80, Revised 3/25/94, Revised 6/13/97, Revised 10/10/05, Revised 10/21/10, Revised 12/12) (MCR 8.108[G][3])

1. All persons registering for the court reporting or recording exam must:
  - a. be at least 18 years of age,
  - b. be a high school graduate, and
  - c. not have been under sentence for a felony for a period of two years.
2. In addition, CSR applicants must have satisfactorily completed the National Court Reporters Association (NCRA) Registered Professional Reporter skills exam and submitted documentation of same prior to testing. Applicants possessing preserved

1. All persons registering for the court reporting or recording exam must:
  - a. be at least 18 years of age,
  - b. be a high school graduate, and
  - c. not have been under sentence for a felony for a period of two years.
2. In addition, CSR applicants must have satisfactorily completed the National Court Reporters Association (NCRA) Registered Professional Reporter skills exam and submitted documentation of same prior to testing. Applicants possessing preserved scores as of November 1, 2010, are exempt from this requirement if they are fully certified by October 2011.
3. Applicants for the certified stenomask reporter (CSMR) written examination must provide proof they have passed the National Verbatim Reporters Association (NVRA) certified verbatim reporter (CVR) skills examination. (Adopted 9/11/09, Revised 1/12)
4. An applicant for the CER/CSR/CSMR/CEO examination must have satisfactorily completed a post-high school board-approved workshop or course of study or other board-approved curriculum and submitted documentation of same prior to testing.
5. Applications for the CEO examination must be signed by the chief judge.
6. All CERs/CSMRs/CEOs who are fully certified by December 31, 2005, are exempt from the requirements of MCR 8.108(G)(3)(d).
7. Effective immediately, certification examination applications received after the deadline will be returned to the applicants. Late applications will not be accepted. Further, applicants who arrive late at the examination site will not be allowed to interrupt the examination schedule of other applicants in order to take the examination.

**C. Certification of a Convicted Felon**  
(Adopted 1/30/80, Revised 10/10/05)

Certification as a court reporter, a recorder, or an operator pursuant to MCR 8.108 will not generally be granted to an individual who has been convicted of a felony, except that an individual who has not been under sentence for a felony for a period of two years may submit an application to the board.

**D. Annual Certification Renewal**  
(Adopted 1/30/80, Revised 7/83, Revised 6/90, Revised 6/13/97, Revised 10/10/05)  
(MCR 8.108[G][6])

1. Certificates of court reporters, recorders, and operators shall be renewed each year.
2. Prior to July 1 of each year, the State Court Administrative Office (SCAO) will mail a

- notice of recertification to all currently certified court reporters, recorders, and operators. All certificates are valid through August 31 of each year.
3. All court reporters, recorders, and operators must file an employment report with the SCAO by August 1 on a form approved by the Court Reporting and Recording Board of Review. Pursuant to MCR 8.108(G)(6), the fee for renewal is \$30. Applications for renewal received after August 31 must be presented to the board for action. Thus, any individual who does not file an employment report or affidavit by August 31 may be required to take the certification test before a valid certificate is reissued.
  4. If an employment report or affidavit cannot be filed for the previous year, an individual holding a valid certificate may apply to the board for a determination of whether the certificate should be renewed without the necessity of taking the certification test. Any renewal application received after August 1 must be accompanied by an additional late fee of \$100.

#### **E. Certification Reciprocity**

(Adopted 1/30/80, Revised 6/06) (MCR 8.108[G][4])

Court reporters and recorders certified to practice their profession in other states having a reciprocal certification agreement with Michigan may be certified by the Court Reporting and Recording Board of Review. Issuance of reciprocal certification is also subject to determination by the board that the applicant's out-of-state certification is valid.

#### **F. Temporary Certification**

(Adopted 7/09/80, Revised 1/26/88, Revised 12/01/89, Revised 3/25/94, Revised 12/13/96, Revised 6/13/97, Revised 9/10/99, Revised 10/10/05, Revised 3/13/09, Revised 6/18/10, Revised, 9/14/12, Revised 12/14/12) (MCR 8.108[G][5])

Temporary certification may be requested for an employee of a court or for an employee of a private reporting/recording firm **IF ALL** the following conditions are met.

##### **1. For a Court Employee**

- a. the individual is or will be employed as a reporter, a recorder, or an operator by the requesting court,
- b. the employee has completed the required course of study and is registered to take the next scheduled certification examination, and
- c. as applicable, the judge, or chief judge when requesting a temporary CEO certification, avers that the applicant has the requisite skills and experience to fulfill the duties of:
  - 1) an official stenotype/stenomask reporter and that the applicant will receive instruction from a certified stenotype/stenomask reporter, or
  - 2) an official electronic recorder and that the applicant will receive

- instruction from a certified electronic recorder, or
- 3) an official operator and that the applicant will receive instructions from a certified operator.

## **2. For an Employee of a Private Court Reporting/Recording Firm**

- a. the individual is or will be employed as a reporter or recorder by the requesting reporting/recording firm,
- b. the employee has completed the required course of study and is registered to take the next scheduled certification examination,
- c. as applicable, the owner/manager of the firm avers that the applicant has the requisite skills and experience to fulfill the duties of:
  - 1) a stenotype/stenomask reporter and that the applicant will receive instruction from a certified stenotype/stenomask reporter, or
  - 2) an electronic recorder and the applicant will receive instruction from a certified electronic recorder, and
- d. the owner/manager of the firm states specific facts to demonstrate that the applicant will receive adequate mentoring and supervision to ensure that the applicant's work meets the high standards demanded of the profession.

## **3. Decision on Request for Temporary Certification**

Board staff is authorized to approve one temporary certification for an applicant employed by a Michigan court who satisfies the criteria set forth in section 1. Board staff is authorized to approve the extension of a temporary certification for an applicant employed by a Michigan court who satisfies the criteria set forth in section 5. Board staff is further authorized to deny a temporary certification for an applicant who previously failed the skills portion of the examination or fails to satisfy the criteria set forth in sections 1, 2, and 5, as applicable. All other requests shall be submitted to the board for decision.

## **4. Issuance of Temporary Certification**

- a. An individual receiving a temporary certification shall be issued a card with a number that clearly identifies the individual as being temporarily certified.
- b. The temporary certification card shall include the name of the judge or reporting/recording firm requesting the temporary certification.
- c. An individual working under a temporary certification shall include the individual's temporary certification number and a statement that the individual is working under a temporary certification on all correspondence and filings.

## **5. Expiration of Temporary Certification; Limitations**

*Temporary certification of an individual is only valid in conjunction with work performed for the requesting court or reporting/recording firm. Termination of the individual's employment with the requesting party immediately invalidates temporary certification. If a temporarily certified applicant does not appear for the scheduled examination, temporary certification is automatically rescinded.*

ALL TEMPORARY CERTIFICATIONS EXPIRE 30 DAYS AFTER THE NEXT-SCHEDULED CERTIFICATION EXAMINATION REGARDLESS OF WHEN ISSUED. Any use of a temporary certification identification number after the expiration date is unauthorized and fraudulent and is expressly forbidden. The only exception is for the preparation of transcripts that were recorded by the individual during the temporary certification period.

A temporary certification may be extended by the board within a 12-month period when requested by an employer IF THE APPLICANT HAS PASSED THE SKILLS PORTION OF THE CERTIFICATION EXAMINATION. An applicant who does not appear for the scheduled examination may only be granted an extension of the temporary certification if good cause is shown. There are no provisions for additional temporary certification cards.

## **6. Denial of Temporary Certification**

If the board at any time denies temporary certification, the individual will no longer be certified to record and/or file transcripts of proceedings held in Michigan courts until the individual successfully completes the certification examination requirements. The only exception is for the preparation of transcripts that were recorded by the individual during the temporary certification period.

## **7. Fees**

All registration fees for temporarily certified applicants are nonrefundable, nontransferable, and nonapplicable to any examination other than the next-scheduled examination the applicant has registered to take.

## **8. Responsibilities of the Requesting Judge or Reporting/Recording Firm**

- a. It is the responsibility of the judge or reporting/recording firm to make a written request for the temporary certification of any individual in its employ.
- b. The examination registration form and registration fee for the individual should accompany the request unless it was previously submitted and/or is on file.
- c. If the temporarily certified individual leaves employment before becoming regularly certified, the employer should retrieve the temporary certification card

and return it to the board. If the employer is unable to retrieve the temporary certification card, the employer shall provide written notice of that fact to the board.

- d. The employer is responsible for any work assigned while the individual is temporarily certified. If for any reason the applicant does not fulfill a transcription request, the employer shall be responsible for producing the transcript.

## **G. Procedures for Revocation of Certification**

(Adopted 1/30/80, Revised 12/89, Revised 6/91, Revised 6/96, Revised 10/10/05)

(MCR 8.108[G][6])

### **1. Complaint**

- a. Any person may seek revocation of the certification of a reporter, a recorder, or an operator by addressing the board in writing with details of specific misconduct.
- b. The board secretary shall make a preliminary inquiry and direct the results to the chairperson for presentment on the board's next agenda.
- c. If the board determines that a formal complaint for hearing shall be made, notice shall be issued to the respondent.

### **2. Notice**

- a. A respondent shall be given written notice of a formal complaint for review of certification.
- b. The notice shall include:
  - 1) date, hour, place, and nature of hearing,
  - 2) citation of statute, court rule, or published regulation of the board alleged to have been violated, and
  - 3) a brief statement of the facts asserted.
- c. Notice shall be sent by first-class mail. A certificate of mailing shall be prepared showing the date of mailing.

### **3. Appearance at Hearing**

- a. The respondent may be accompanied by counsel.
- b. If the respondent fails to appear after proper notice, the board may proceed with

the hearing and make its decision in the absence of the respondent.

- c. The respondent shall be given the opportunity to make a presentation in response to the complaint(s).

#### **4. Hearings**

- a. A quorum of the board consisting of two-thirds of the members shall conduct the hearing on the complaint(s).
- b. The chairperson of the board shall designate a board member to preside at the hearing.
- c. Upon prior approval of the board, the respondent and/or board members may appear or participate through means of a telephone conference or other electronic communication equipment that permits all those appearing or participating to hear and speak to each other.
- d. The board may, on its own initiative, direct that electronic communication equipment be used for a review of certification hearing.
- e. If a respondent, for good cause shown, needs to use electronic communication equipment, the respondent must make a written request at least 7 days before the hearing date. The respondent is responsible for any costs incurred for the use of the electronic communications equipment.

#### **5. Decisions**

- a. A decision will be made by a vote of a majority of the board members present.
- b. Unless otherwise determined by the board and notice given to all interested parties, the decision will be made and issued within 28 days, in writing, signed by the presiding officer, and shall include findings of fact, conclusions, and any sanctions imposed, including costs.
- c. The decision becomes effective 7 days after mailing. A certificate of mailing shall be prepared showing the date of mailing.
- d. A copy of the decision shall be mailed by first-class mail to all interested parties.

#### **H. Notice of Hearing**

(Adopted [unknown], Revised 6/21/96, Revised 7/01/05, Revised 6/06)

The following language will appear on the notice of hearing:

*Please take note that a hearing pursuant to MCR 8.108(G)(6) will be held before the Court Reporting and Recording Board of Review to determine if there is good cause to impose*



*sanctions against you up to and including revocation of your certification.*

*The hearing will be held at the State Court Administrative Office, 925 West Ottawa, Hall of Justice, in the City of Lansing, County of Ingham, State of Michigan, on the \_\_\_\_\_ day of \_\_\_\_\_, commencing at \_\_\_ o'clock, local time.*

*The above-named party(ies) may be accompanied by counsel at the hearing.*

*Purpose of the hearing: To consider the following Complaint No(s). previously mailed to your official address of record by first-class mail.*

*Failure to appear may result in the imposition of sanctions up to and including revocation of your certification.*

## **I. Designations**

(Adopted 1/30/80, Revised 10/10/05) (MCR 8.108[G][7])

The Court Reporting and Recording Board of Review has developed the following official designations for all certified individuals reporting courtroom testimony, utilizing a variety of reporting methods.

<u>Acronym</u>	<u>Title</u>	<u>Method</u>
CSR	Certified Shorthand Reporter	Pen, Stenotype Machine
CSMR	Certified Voice Writer/Stenomask Reporter	Stenomask
CER	Certified Electronic Recorder	Electronic Recording
CEO	Certified Electronic Operator	Electronic Recording

## **J. Cheating Discovered by Proctors on Day of Examination**

(Adopted 11/22/85, Revised 6/11/93, Revised 6/06)

### **1. Statement of Policy**

The Court Reporting and Recording Board of Review administers a variety of certification examinations. If an examination candidate is suspected of cheating, action will be taken as determined by the authorities administering the examination. The board will be informed as soon as possible of the action(s) taken at the examination site. Any test candidate determined to have been cheating by the authorities administering the examination will automatically fail both portions of the examination and will not be allowed to take another examination for one year and, if determined to have been cheating at any future examination, the test candidate will be barred from taking any future examinations. A new designation of “disqualified” is adopted in addition to the “pass” and “fail” designations. The employer of a temporarily certified candidate who has been disqualified will be notified.

## 2. Purpose

The purpose of this policy is to provide direction to test administrators on preventing and handling suspected cheating at exam sites. It is the intent of this policy to define cheating, to provide methods which would reduce the possibility of such, and to delineate the steps to be taken if such were suspected. This policy is needed to attain consistency in all testing situations.

## 3. Definition of Terms

- a. Cheating: Any activity, behavior, or procedure employed by certification candidates that would enable them to pass an examination by dishonest, fraudulent, or deceitful means. Examples of such would be, but are not limited to, obtaining answers from another person's answer sheet, using prepared notes during the examination, discussing the examination with others prior to completing the examination, referring to textbooks, or having someone else take the examination for the individual.
- b. Test Administration Supervisor: An individual staff member of the State Court Administrative Office, an authorized person appointed by the board, or an authorized board member, shall serve as the principal on-site coordinator of the test administration.
- c. Monitor or Proctor: Individual selected by the State Court Administrative Office or board to assist in the supervision of the test administration. These persons may be departmental staff, outside individuals paid specifically for the job, professionals who have volunteered to assist, or board members.
- d. Precertification Examination: A written and practical exam which must be successfully completed prior to issuance of a certificate.

## 4. Policy Specifications

The following policies will be enforced during all examinations administered by the board.

- a. All candidates must present a signed photo identification prior to admission; if none is shown, candidates will not be allowed to take the exam.
- b. No candidate will be admitted after the exam has begun.
- c. Any of the candidate's personal material (books, notes, briefcases, cell phones, palm pilots, and other electronic devices) must be kept at a location specified by the test administration supervisor and not brought to the candidate's seat. The only exception will be those exams that permit textbooks.
- d. No candidate will be allowed to take notes or make copies of the exam questions.

administration supervisor or monitor witnessed something unusual or because another candidate registered a complaint.

**K. Certified Electronic Operator (CEO) Renewal Application**

(Adopted 06/28/88, Revised 1/05/94, Revised 6/10/94, Revised 6/06, Revised 12/14/12)

Upon application for renewal, in a designated area on the renewal form, the chief judge shall aver, by affixing his or her signature, that the renewing applicant has used the CEO skills for a minimum of 10 hours (during the previous year) and the individual has the requisite skills to continue certification. In another designated area of the renewal form, the applicant shall aver that the requisite skills have been maintained and that he or she continues to comply with the applicable sections of the *Manual for Court Reporters and Recorders*.

**L. Certified Electronic Operator (CEO) Designation**

(Adopted 01/25/89)

The CEO designation is restricted to persons employed by the court.

**M. Transcript Fees**

(Adopted 9/90, Revised 9/15)

Any reporter/recorder acting as an official reporter or recorder may only charge the statutory page rate for transcripts produced as a result of ordinary court work. (See Section 6, Chapter 1, page 3.)

**N. Skills Examination Grading Scale**

(Adopted 3/94, Revised 6/06, Revised 3/12, Revised 9/12, Revised 12/12, Revised 6/16, Revised 6/19)

Effective January 2017, a passing score for the CER skills examination is 95 percent or better with the following breakdown: no title page, deduct 15 points; no table of contents, deduct 3 points; no certificate page, deduct 8 points; incomplete log, automatic fail; deduct 1 point for each critical punctuation error, misspelled word, each wrong word, or each missing word. Additionally, points will be deducted for deviation from the prescribed format as found in the *Manual for Court Reporters and Recorders*.

Effective as of the October 2012 examination, upon request of the chief judge, and receipt of an application, individuals who fail the transcription portion of the CER examination but: 1) pass the CER written examination; 2) score 80 percent or more on the logging portion of the examination; and 3) are current court employees will be granted full CEO certification.

**O. Penalties for Taking Depositions When Noncertified**

(Adopted 6/13/97, Revised 6/06)

Possible penalties for a noncertified reporter taking depositions after January 1, 1998

include:

1. publishing the reporter and firm name in *Michigan Lawyers Weekly* and possibly in the *Michigan Bar Journal*, as being in violation of MCR 8.108,
2. placing the certification of the firm owner in jeopardy for using uncertified reporters in contravention of MCR 8.108,
3. recommending to the bench that depositions prepared by uncertified reporters not be accepted for filing in court proceedings,
4. the reporter and/or firm owner repay the cost of the deposition taken by an uncertified reporter to the ordering party, or
5. any other disciplinary action appropriate to the circumstances.

**P. Adoption of *Manual for Court Reporters and Recorders* as Official Directive**

(Adopted June 12, 1998, Revised 6/06)

Pursuant to the authority vested in the Court Reporting and Recording Board of Review by MCR 8.108, and in furtherance of its responsibility to provide criteria for the certification of court reporters practicing in the state of Michigan, the board hereby reaffirms adoption of the *Manual for Court Reporters and Recorders* as the official directives of the board for providing criteria for court reporters to be used in conjunction with any regulations imposed by statute or court rule.

**Q. Public Attendance at Board Meetings**

(Adopted June 12, 1998, Revised 6/06)

The Court Reporting and Recording Board of Review observes Administrative Order 1997-11, effective February 2, 1998, wherein it appears that the Court Reporting and Recording Board of Review is a working group created by the Michigan Supreme Court to advise the State Court Administrative Office and the Court on matters significantly affecting the delivery of justice. As such, the board may be required to provide an opportunity for public attendance at one or more meetings.

Pursuant to Administrative Order 1997-11, the board designates the September quarterly meeting of the board as a public meeting to provide an opportunity for public attendance.

**R. Continuing Education**

(Adopted June 12, 1998, Revised 6/06)

The Court Reporting and Recording Board of Review acknowledges the Michigan Association of Professional Court Reporters' request to mandate continuing education credits as a requirement for certification renewal.

The board supports and encourages professional excellence within the profession of court reporting. However, the board is not in a position to support, authorize, or regulate a mandatory requirement of continuing education credits as a part of certification renewal, but leaves the task of organizing continuing education to the appropriate professional associations.

**S. Identification of Firm Registration Number on Transcripts and Other Documents**  
(Adopted March 12, 2010)

A court reporter working for a firm must include the State Court Administrative Office firm registration number on transcripts and other documents filed with the court. Additionally, the firm shall include its firm registration number on all official correspondence.

## **Section 4: Reporting/Recording the Proceedings and Depositions**

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## **Section 4: Reporting/Recording the Proceedings and Depositions**

### **Chapter 1: Mandatory Logging of the Proceedings**

#### **A. Purpose and Content of Log Notes**

Detailed, legible log notes are essential for preparing a complete and accurate transcript. The operator should remember that the transcriber must rely solely on the recording media and the log notes to produce an accurate transcript. Errors, omissions, misspellings, or inconsistencies make transcript preparation more difficult.

In general, log notes serve three purposes: (1) to locate a specific proceeding, (2) to locate a specific portion of the proceeding, and (3) to aid the transcriber in preparing the transcript. The content of log notes includes: (1) the tape recorder counter number or digital time that correspond to the beginning of the specific portions of proceedings, (2) the times of specific events, (3) the names of speakers, (4) correct spellings of names and other uncommon words or phrases, (5) a description of the activity taking place, and (6) any other pertinent notes.

#### **B. General Procedures**

##### **1. Preparing Log at Beginning of Day**

Some information necessary for a complete log is available before proceedings begin each day. This information should be obtained from the court clerk and entered on the log before court sessions begin to ensure that log notes are not inadvertently misfiled and so that the operator can more readily identify the speakers when sessions begin. Courts will have different docketing systems, so the operator must determine how recording is accomplished in his or her particular court. Some type of calendar or list of the scheduled cases can be obtained from the court clerk. At the end of each day, the operator should make certain the log contains all necessary information.

Basic case information which should be included at the beginning of the log for each proceeding is as follows and is described in more detail in this chapter:

- a. case name,
- b. case number,
- c. court name,
- d. full name of judge and abbreviation,
- e. date,
- f. time,

- g. type of hearing,
- h. full name and “P” number of attorney for plaintiff and abbreviation,
- i. full name and “P” number of attorney for defendant and abbreviation,
- j. full names of witnesses and abbreviations,
- k. name of court recorder or operator and certification number,
- l. tape or CD number, and
- m. microphone channels (tracks) and name of speaker on each channel.

In addition to providing the full name of each speaker, an abbreviation should be developed for identifying the speakers throughout the remainder of the proceeding and log. See item 2 below for details.

## 2. **Developing Abbreviations**

Abbreviating the names of the speakers saves the operator time during logging. However, it is essential that each speaker still be identified by his or her full name at least once at the beginning of the log notes. It can be helpful to list the names and relevant abbreviations for the speakers at the beginning of the log notes. **Abbreviations should be used consistently throughout the log for each proceeding** and should be as different as possible from one another so the transcriber will assign the correct names to each speaker.

Use the last name or a recognizable abbreviation rather than a single initial or a number. For example, District Attorney John Beauchamp could appear as “Beau” or “Bea,” or Defense Attorney Maria Hanson could appear as “Han” or “Hans.”

There are four exceptions to not using a single initial or number:

- a. court, which is "C,"
- b. judge, which is "J,"
- c. interpreter, which is "I," and
- d. witnesses, which are "W1," "W2," "W3," etc.

## 3. **Counter Numbers or Digital Clock**

Counter numbers or digital time are logged for two main reasons:



- a. they are essential for playback of testimony in the courtroom, and
- b. they enable the transcriber to locate and identify specific parts of the proceeding on the recording media.

On an analog system, when the tape changes to another tape on the recording equipment, the operator must indicate the tape number on the log, reset the counter, and insert a clean tape. Be sure to let the tape overlap and record until the end of the tape. On a digital system, the digital time will be inputted into the log as the operator keys in the notes.

#### **4. Indicating Courtroom Events**

In addition to logging digital time or counter numbers, the operator must log the times for the following:

- a. when the proceeding begins,
- b. when the proceeding ends,
- c. beginning and ending times of each recess,
- d. each time the jury enters the courtroom,
- e. each time the jury leaves the courtroom,
- f. beginning and ending times of noon recess,
- g. beginning and ending times of each off-the-record event and sidebar conferences,
- h. when a witness is sworn and excused, and
- i. when exhibits are marked, identified, and admitted.

The importance of indicating case event times and counter numbers in the log cannot be overemphasized. These events must be included in a prepared transcript. If a transcript of all or a portion of a proceeding is ordered, the transcribers will need this information to produce an accurate and timely transcript.

#### **5. Identifying Multiple Speakers**

The transcribers will be able to identify speakers by the channel or track on which they have been recorded only **when there is no more than one speaker per track**. Because the recording system will routinely have tracks on which more than one

speaker is recorded, transcribers will depend on the operator's log for accurate speaker identification.

Court cases involving multiple attorneys will result in many speakers being recorded on a single channel. In such instances, it will be necessary to make certain that each attorney is clearly recorded and that proper speaker identification is marked in the log next to the counter number corresponding to the beginning of that speaker's recording.

There are numerous times during the course of a hearing where one microphone may be used by several attorneys, for instance, at the lectern or in front of the bench. For this reason, it is imperative that speaker identifications are clear, concise, and uniform throughout the log sheets in order to ensure accurate transcription.

### **C. Specific Procedures**

The following are instructions for logging specific types of events in a proceeding.

#### **1. Voir Dire (Jury)**

Voir dire is logged the same as other proceedings. The words "voir dire" should be written on the line opposite the counter number for the beginning of voir dire. Remember to verify spellings of all names, and use juror numbers or names when they are speaking. It is imperative that the recorder knows the seating chart/numbering arrangement of the jurors so as to properly identify any juror that may speak during the proceeding.

#### **2. Witness Called**

As each witness is called, clearly mark on the log sheet the witness' name and the time he or she was called. Example: Witness: Joseph Smith

#### **3. Examination of Witnesses**

For examination of witnesses, indicate on the log the type of examination, the name of the person conducting the examination, the time the examination began and concluded, and the key points of the testimony. Direct, cross-, redirect, and recross-examination should all be designated in the log with the corresponding times and counter numbers. Example: Direct - by Mr. Mazur.

The following are definitions of the type of examinations.

##### **a. Direct Examination**

Direct examination is the first questioning of a witness by the party on whose behalf the witness is called. If an in pro per party calls himself or herself as a witness, the proper title for that is "direct testimony" rather than direct

examination.

**b. Cross-Examination**

Cross-examination is the first questioning of a witness by the party opposed to the party who called the witness. A witness may be called as an adverse witness under MCL 600.2161 for cross-examination. That witness is then cross-examined by all parties.

**c. Redirect Examination**

Redirect examination follows cross-examination. Redirect examination is the subsequent questioning of a witness by the party on whose behalf the witness is called.

**d. Recross-Examination**

Recross-examination follows redirect examination and is the subsequent questioning of a witness by the party opposed to the party who called the witness. This procedure is followed with every witness until the prosecutor or plaintiff rests. The defendant may, at that time, call witnesses on his/her behalf and the above procedure is again followed with every witness until the defendant rests.

**e. Rebuttal**

If a new matter is brought out by the defense attorney during the presentation of the defendant's case, the prosecution or plaintiff may introduce evidence intended to contradict or rebut this new matter.

**f. Voir Dire Examination of a Witness or Exhibit**

Voir dire is the examination of a witness by the opposing attorney on the admissibility of an exhibit or on the witness's qualifications to testify as an expert or give opinion testimony in court. Voir dire examination can happen during direct, cross, redirect, recross, or rebuttal examinations

**4. Testimony**

- a. The content of testimony is logged by writing down key words. Below is an example of a question and three ways the question might be logged.

(Question asked by Attorney Hanson): "Where were you on the night of May 5th when you heard Louis tell you that he didn't want to work for the company any more?"

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>		
2:07	123	Hans	Q	Where/May 5/Louis/work
2:07	123	Hans	Q	Where were you/heard Louis/company
2:07	123	Hans	Q	/May 5/Louis/work

The slashes (/) in the above examples indicate there is a break in the sentence where the testimony was not logged.

- b. If there are long periods of question and answer examination, it is not necessary to log every exchange. Periodic notations throughout these long examinations will at least provide various points for searching for a particular section when playback is requested from the court.

Instead of logging the speaker identification for every question and answer, simply draw an arrow pointing downward beside the speakers' names where they are initially logged. This arrow indicates that everything following represents questions by the same attorney and answers from the same witness. The "Q" and "A" can also be omitted after the first exchange. Of most importance is logging counter numbers and key words or phrases.

For example, if an attorney is questioning a witness about the theft of an automobile, the attorney may start by asking a series of questions about when and where the auto was last seen, then a series of questions on the condition of the auto, and then a series of questions about who stole the auto. This example could be logged as follows.

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>		
3:32	250	Hans	Q	Where/auto/last time
		W1	A	Afternoon/home
	330			Chipped paint/dented
	495			thief/blonde/30's

- c. Any time a person other than the original persons indicated in the continued "Q" and "A" period speaks, the counter number, person speaking, and a few key words must be noted. This is especially important with objections.

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>		
3:50	499	Hans	Q	Yesterday/worked

		W2	A	No/it was/Friday
3:55	546	Beau		Objection/Leading

When an objection is posed, it is important to log the reason for the objection and the court's ruling on that objection.

## 5. Colloquy

At times there may be extensive colloquy between two persons, and it may be difficult to log each exchange. This is especially true when attorneys are arguing about an objection or some other legal point. Use the same format used with continued "Q" and "A" in this instance.

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>	
1:34	235	Hans	How/acres/place
	281	Beau	No/further
			Visit/place
			Problem/time

This example applies only when the exchange is between two persons. Any time there are more than two persons speaking, the abbreviations of each individual should be marked in the log along with as many key words as the operator is able to write down.

At times the discussion will be moving so quickly that it will be difficult to write down key words. In this event, the most important logging element is the individuals' names in the order in which they have spoken. During "fast" discussions, it is advisable to write down the speaker's abbreviation and the first words of the attorney or judge who is speaking to aid the transcriber in keeping track of the exchange.

## 6. Interruptions

There will be occasions when the judge will interrupt one of the attorney's examinations and ask a few questions of the witness. This usually occurs when the judge wants to clarify something. It should be logged as follows.

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>	
1:45	225	Hans	Q What day/say
		W2	A Monday

245 J Was that 24 days?

W2 No/28

## 7. Interpreters

When the court is using an interpreter, the interpreter is sworn in. Log only what the interpreter says in English. If the person being interpreted from says something in English, it should be logged as well.

## 8. Objections

Mark all objections in the log. Write down the counter number, attorney abbreviation, and either "objection" or "obj." The basis of the objection should also be noted, such as "hearsay," "irrelevant," etc. Judges will respond differently to objections.

## 9. Guttural Utterances

Guttural utterances such as "uh-huh" or "uh-uh" may be marked on the log as such if the attorneys or judge fail(s) to clarify the record. However, **this should not become a common practice**. The operator is encouraged to ask the judge to instruct the witness to answer with a yes or no response. The operator should never interpret the proceedings: a verbal response should be requested by the judge, the attorneys, or the operator.

## 10. Conversations that are not Part of the Proceedings

There will be occasions when personal conversations among people at the counsels' tables are inadvertently picked up on the recording that are not to be recorded as part of the proceedings. If this should happen, a notation should be made in the log that this exchange is not part of the record and should not be transcribed. The attorneys should be instructed to move away from the microphones when they are conferring privately.

## 11. Exhibits

It is important to clearly note on the log each time an exhibit is identified, admitted/received, rejected, or withdrawn. Clearly mark the exhibit number and particular status as indicated by the judge. In some courts, exhibits are marked for identification prior to trial. In other courts, the court recorder is responsible for marking exhibits during the trial. Ordinarily, one of the attorneys states, "I would like to have this document (or this exhibit) marked for identification." At this point, the operator would note in the log that an exhibit was marked for identification. Below is an example.

<u>Time</u>	<u>Counter #</u>	<u>Speaker</u>
10:03	293	PX 22 (Glasses) – marked
12:20	599	DX 29 (Letter) - admitted or received

Sometimes the identification of a document may not be this clearly indicated, or a judge will admit several exhibits at once. The operator must pay close attention to the proceedings. If the log is unclear, the operator may need to verify the identification with the clerk of the court after the court session is closed or get a list of exhibits before or after the proceeding.

Objections or arguments by the attorneys may be stated regarding the admissibility of exhibits. The judge will make his/her ruling on the admissibility of the exhibit and may say, "PX 1 will be admitted into evidence at this time," etc. Again, the operator will need to note on the log that the exhibit was admitted into evidence and the time that occurred.

See also *Michigan Trial Court Case File Management Standards*, Component 20, pages 33 and 34 for standards on receipting and storing exhibits.

## 12. Special Terms and Proper Names

The operator must always note in the log the initial use of any special term or proper name for which the spelling will need to be verified. There may be many of these terms or names used in a technical, medical, or drug case. When possible, the operator should ask the attorneys to supply a list of names and terms prior to the court session. **Incorrectly spelled terms or names should never appear in the log.**

The operator is responsible for verifying the spelling of these special terms or proper names at the time of the proceeding. Most spellings can be verified by the individual who mentioned the terms or names. The operator should approach the person (such as an expert witness or the attorney) during a break in the court proceedings. If the person is not available, check with the keeper of the exhibits. If the term or phrase is one used by a foreign speaking person and it is to be included in the record in the foreign language, the best source for the correct spelling is the interpreter.

## 13. Bench and Sidebar Conferences

If a conference is off-the-record, the operator should make certain to record the judge announcing that it is off-the-record. The judge is the only person who can order an off-the-record discussion. The recording equipment should then be turned off. Note the counter number where the recording was interrupted, and indicate next to the counter number that an off-the-record conference occurred at that point and the time it occurred. When the conference is over, the recording equipment should be turned

on, the time noted, and logging resumed. If it is not practical to turn the recording off and on during a proceeding for off-the-record conferences, make a notation in the log when the conference began and ended, but do not make any other notes about the conference.

If a conference is on-the-record, it must be recorded and logged. The operator should indicate in the log when a conference is on-the-record. The following are the steps in recording and logging an on-the-record sidebar or bench conference.

- a. Note the counter number at the beginning of the conference and identify the event in the log.
- b. The operator must log all of the bench conference and keep the headphones on. Make certain that the judge's microphone is suitably close to all speakers.
- c. Note on the log the name of each person who speaks at the bench conference, and as thoroughly as possible, indicate what they say. The operator will not be able to log counter numbers if he or she is away from the recording equipment. Therefore, transcribers will need to rely exclusively on the log. All speakers will be recorded through a single microphone onto a single channel and the transcriber will be more dependent on the log for identifying the speaker. **Remember that all voices tend to sound the same when whispered**, so write their name (abbreviation) and the first words they say in order to identify the speaker.
- d. The judge's microphone should be repositioned after the conference ends if it was moved. In an analog system, the operator should note the counter number at which open-court proceedings resume, and indicate to the right of the counter number that proceedings have resumed.
- e. Resume normal recording and logging procedures.

#### 14. Audiotape and Videotape Sources

Attorneys may on occasion play audio or videotaped materials during the course of the proceedings. In such instances, the operator should follow these procedures.

##### a. Audiotape or Videotape Recorded

If the playback of the audiotape or videotape is to be recorded:

- 1) mark the counter number and time and note on the log "videotape (or audiotape) of (whatever it is) played in court,"
- 2) move a microphone to a position near the speaker through which the recorded material will be played,



- 3) log as much as possible to help the transcriber with speaker and content identification, and
- 4) mark on the log the counter number and time at which the playback of the audiotape or videotape concludes, note that the playback concluded, reposition the speaker microphone, and resume normal recording and logging procedures.

**b. Audiotape or Videotape Not Recorded**

If the playback of the audiotape or videotape is not to be recorded:

- 1) log the counter number preceding the playback of the audiotape or videotape,
- 2) make a note describing the material played back and turn the recording equipment off,
- 3) when the playback of the audiotape or videotape is completed, make certain that the recording equipment is turned back on and resume logging, and
- 4) note the time in the log that the playback of the tape began and ended.

**15. In-Chambers Proceeding**

Mark on the log the counter number and time at which the in-chambers proceeding began and identify the proceeding. Identify all parties and attorneys present for the conference at the beginning of the log. The operator must be particularly conscientious in noting counter numbers and key words and phrases for each speaker. Several speakers will use one or two channels and the transcriber will be dependent on the log for correct speaker identification.

Make certain to note the counter number at the end of the proceeding and the time the proceeding concluded in the log.

**16. Telephone Conversations**

Telephone conversations should be fed into the courtroom or chambers through a speaker box. The microphone should be placed next to the speaker. Log the counter number and the time at which a telephone conversation begins, and identify the person in the log. For example, "phone call between Judge Benjamin and Defense Attorney Rebecca Wilson regarding ...." Log the proceedings as you would any other proceeding, noting the speakers, times, and counter numbers, as appropriate.

If more than two persons are involved in a telephone conversation, ask each party to

identify himself or herself before speaking. It is crucial to note the counter number corresponding to each change of speaker. The operator may need to remind people to speak one at a time.

#### **D. In-Court Playback of Testimony**

There are a number of circumstances where the operator may be asked to play back testimony or some other portion of the recording. Most frequently, playback will be requested in open court. Discussion by an attorney and the judge over an objection to a particular question may result in a request to play the question back. In such instances, the operator's ability to quickly locate the question for playback will depend on the precision of the operator's log. The operator's goal should be to locate and play back requested portions of testimony as quickly as possible. This is another reason logging is so important.

To play back a certain portion of the proceedings from an analog recording, it is first very important to make the parties aware that you cannot record and playback at the same time; therefore, the operator must make sure nobody speaks into the record. Procedures are as follows.

1. Stop recording equipment and note the time on the log sheet.
2. Note the counter number on the log sheet.
3. Determine from the log the location of the starting counter number for the requested testimony.
4. Rewind tape until counter number is at location of the requested playback and listen through the headset to make sure you have the appropriate portion requested.
5. Play the requested portion.
6. Mark on the log sheet that a specific portion of the recording was played and note the time the playback ended.
7. Advance the tape in fast forward mode to just past the counter number where the recording was interrupted.
8. Return the equipment to record mode.
9. Inform the judge or attorneys to resume.

**The operator should not let the attorneys, judge, or witness begin the proceeding before the recording equipment is in the record mode and the operator is ready to continue logging.**

## Chapter 2: Marking Exhibits

Exhibits shall be marked with an exhibit sticker containing the number of the exhibit, the party's name, date exhibit marked, and reporter's initials. See the [Michigan Trial Court Case File Management Standards](#), Component 20.

## Chapter 3: Depositions

A deposition is a pretrial discovery procedure whereby parties or witnesses are examined by asking questions. (MCR 2.306.) A court reporter or recorder is present and records all questions and answers. Counsel for all parties are normally at a deposition. The person being examined is called the "deponent."

### A. Taking Depositions

At a deposition, there is no judge to preside over the proceedings and the reporter or recorder is in control. The reporter or recorder may arrange the equipment and the parties in whatever fashion he or she deems appropriate.

1. Obtain the complete case caption and name of the court in which the transcript is to be filed.
2. Obtain the name and address of the deponent and all attorneys present.
3. Administer the oath to the deponent.
4. Unlike courtroom proceedings, you may go off the record at any time for any party if all parties agree to go off the record. A reporter or a recorder shall continue to report unless there is agreement among all parties present that they will go off the record.
5. After the deposition is completed, obtain orders for copies of the deposition transcript from the parties.

### B. Producing the Transcript

Court reporters and recorders must follow the format prescribed by the State Court Administrative Office as published in Section 5 of this manual. (MCL 600.2510[2])

1. Furnish the transcript as timely as possible.
2. Prepare title page.
3. Prepare table of contents page (optional in depositions).

4. Prepare transcript page.
5. Prepare certificate page. This certificate page must include the reporter or recorder's notary information.

**C. Delivering the Deposition Transcript**

1. On payment of reasonable charges, the person conducting the examination shall furnish a copy of the deposition to a party or to the deponent.
2. If a party requests that the transcript be filed, the certified deposition shall be securely sealed in an envelope endorsed with the title and file number of the action and marked "Deposition of [name of witness]" and promptly filed with the court in which the action is pending or sent by registered or certified mail to the clerk of that court for filing. Notice of filing of the deposition shall be given to all other parties, unless the parties agree otherwise by stipulation in writing or on the record.

## Section 5: Transcript Format

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## Section 5: Transcript Format

### Chapter 1: General Information on Format

#### A. Scope of Transcript

##### 1. Verbatim Record

###### a. General Rule

Court reporters and recorders are bound to make a verbatim record of the proceedings. A judge should not in any way interfere with or cause alteration of the true record as reported by the court reporter or recorder. In addition, a court reporter or recorder should not, even on the order of a judge, strike from the record that which actually took place. Any deviation in a transcript or certified record stultifies appellate review. (*McLouth Steel v Anderson Corp*, 48 Mich App 424, 429 n 1 [1973])

###### b. Previous Testimony Read or Played at the Trial or Hearing

When testimony, transcribed or recorded at a previous deposition or proceeding, is read or played back at the trial or hearing in lieu of live testimony, the court reporter or recorder shall ask the judge on the record whether that testimony, as presented, must be included in the typed record of the proceeding. If the judge authorizes that the record not include presentation of the previous testimony, the reporter or recorder must append to the official transcript and file with the court a copy of the verbatim testimony and colloquy presented. The court reporter or recorder should obtain that copy from the party offering the testimony. If the judge does not authorize exclusion of the previous testimony, the official transcript must include a verbatim record of the testimony and colloquy presented. This provision does not apply to testimony taken during the same proceeding, or read or played back at the request of the jury or a party.

##### 2. Stricken Testimony

Stricken testimony is transcribed as any other testimony. Even though the judge might say, "Reporter, please strike that last answer, and the jury is to disregard what the witness said," the reporter transcribes the entire proceeding exactly as it took place. (*McLouth Steel v Anderson Corp, supra*)

##### 3. Expunged Testimony

Expunged testimony is transcribed as any other testimony. Even though the judge might say, "Reporter, please expunge that last answer, and the jury is to disregard what the witness said," the reporter transcribes the entire proceeding exactly as it took place. (*McLouth Steel v Anderson Corp, supra*)

#### 4. Suppressed Transcripts

There appears to be no statute, court rule, or case law that sets forth the procedure to be followed with respect to the preparation and filing of a transcript of a closed hearing. As a practical matter, the best procedure for the judge is to identify on the record, at the beginning and end of the record, the portion of the transcript that is to be suppressed. The suppressed transcript should not be filed with the other transcripts. Rather, it should be sent directly to the appellate court with a letter of explanation. A copy of the letter should be maintained in the court reporter's or recorder's records. ([Michigan Court Administration Reference Guide, Section 8-04](#))

### B. Form of Transcript

All court reporters and recorders, whether official, per diem, or freelance, must follow the format prescribed by the State Court Administrative Office as published in this manual. Compensation is contingent upon compliance with these standards. (MCL 600.2510[2])

#### 1. Assembling the Transcript

The transcript must be filed in one or more volumes under a hard-surfaced or other suitable cover, stating the title of the action, and prefaced by a table of contents showing the subject matter of the transcript with page references to the significant parts of the trial or proceedings, including the testimony of each witness by name, the arguments of the attorneys, and the jury instructions. The pages of the transcript must be consecutively numbered on the bottom of each page. Begin each volume of a transcript with page 1.

#### 2. Page Format (MCL 600.2510, MCR 1.109[D][1][a])

Pursuant to MCL 600.2510(2), a page prepared in accordance with the format prescribed by the State Court Administrative Office shall be counted, billed, and paid for as a full page. See Chapters 2 through 6 for examples of various page formats.

- a. A page consists of 25 lines written on paper 8 1/2" by 11" in size, prepared for binding on the left side, with 1 3/8" margin on the left side and 3/8" margin on the right side.
- b. Only transcript pages are prepared on paper with numbered lines.
- c. Indentations from the margins apply only to the transcript page.
- d. Print must be no smaller than 10 characters per inch (nonproportional) or 12-point (proportional). (See MCR 1.109[D][1][a])



### 3. Transcripts of Videotape Proceedings

If an appeal is taken in an action which has been videotaped, a transcript of the proceedings must be prepared in the same manner as in the case of proceedings recorded in other ways. However, a court reporter or recorder need not certify attendance at the proceedings being transcribed from the videotaped record, but need only certify that the transcript represents the complete, true, and correct rendition of the videotape of the proceeding as recorded.

Transcripts of videotape recordings of 25 pages or less must contain, on each page, a reference to the number of the videotape and the month, day, year, hour, and minute at which the reference begins as recorded on the videotape. For example: (Tape No. 1, 10-1-87, 13:12). Transcripts of 26 or more pages must contain this reference on the first page, on every 25 pages thereafter, and on the last page.

### 4. Title Page (MCR 2.113[A][B][C], MCR 7.210[B][3][d])

- a. A title page is the first page of every transcript and shall be so numbered at the bottom center of the page.
- b. Each day of proceedings begins a new volume of transcript. Each volume begins with a title page.
- c. A title page includes the following information:
  - 1) the name of the court,
  - 2) the names of the parties or the title of the action, exactly as appears on the caption filed with the court,
    - a) the names of the parties are to be capitalized in their entirety,
    - b) for words like "Plaintiff," "Defendant," and "In the matter of," only the first letter is capitalized,
  - 3) the case number, including a prefix containing the last two digits of the year of filing and the case type code (MCR 8.117; [Michigan Trial Court Case File Management Standards](#), Components 1 and 2),
  - 4) the nature of the proceedings transcribed and the date held,
  - 5) the name and title of the person who presided over the proceedings,
  - 6) the names, business addresses, telephone numbers, and state bar numbers of

all attorneys, and the name, address, and telephone number of any party appearing in pro per, and

- 7) the name, certification designation and number (and if applicable, the firm registration number), and telephone number of the reporter, recorder, or operator who has taken and/or transcribed, or caused to be transcribed, the proceedings.
- d. For depositions, when a caption is lengthy and appearances will start on a second page, place the deponent's name on the title page.

See Chapter 2 for examples of the content.

**5. Table of Contents Page (MCR 7.210 [B][3][d])**

- a. Each transcript on appeal must include a table of contents page (not an index page). The table of contents should be as specific as possible and should include references to all the events that took place. Each table of contents page must list the witnesses and the exhibits. A description of each exhibit is preferred, but not required. Even if there are no witnesses or exhibits, a table of contents page must be included.
- b. Each day of proceedings begins a new volume of transcript. Each volume must include its own table of contents.
- c. Each exhibit should be identified by page number when offered or identified and admitted into evidence.
- d. When a deposition transcript is read into the record in lieu of the personal appearance of a witness, it should be included in the table of contents, including the name of the witness and the page number at which the reading began.

See Chapter 3 for examples of the content.

**6. Transcript Page (MCL 600.2510)**

- a. A transcript page contains 25 typed lines on standard 8 1/2" by 11" paper with numbered lines.
  - 1) The body of the transcript may only include verbatim transcript of the proceeding and parentheticals.
  - 2) Additional headings must be placed in the header or footer and cannot take up any of the 25 lines in the body of the transcript.

- b. Print must be no smaller than 10 characters per inch (nonproportional) or 12-point (proportional). (See MCR 1.109[D])
- c. Capitalization – The proceedings should be transcribed in upper and lower case unless directed otherwise in this manual. The use of upper case throughout is prohibited.
- d. The left-hand margin of all transcripts is set at 1 3/8". The right-hand margin is set at 3/8" except as otherwise stated below.
  - 1) Left-hand margin
    - a) Q and A begins at the left-hand margin. There are 5 spaces from the margin to the text; that is, the text begins on the 6th space. A carry-over line begins 5 spaces from the left-hand margin; that is, it begins on the 6th space.
    - b) Colloquy begins 15 spaces from the left-hand margin; that is, it begins on the 16th space. A carry-over line begins 5 spaces from the left-hand margin; that is, it begins on the 6th space.
    - c) Quoted material and readback begin 15 spaces from the left-hand margin and ends 5 spaces in from the right-hand margin. A carry-over line begins 10 spaces from the left-hand margin. A new paragraph of quoted material begins 15 spaces from the left-hand margin.
    - d) Parenthetical material begins 15 spaces from the left-hand margin. A carry-over line begins 15 spaces from the left-hand margin.
    - e) New paragraphs begin 15 spaces from the left-hand margin.
  - 2) The right-hand margin is observed in every instance except for quoted materials and readbacks.
- e. The time that certain events take place is to be included in every transcript. Those events are:
  - 1) the time the proceedings begin and conclude,
  - 2) the time each witness is sworn and excused,
  - 3) the time of any adjournments/recesses,
  - 4) the time each exhibit is offered and admitted, and
  - 5) the time a jury is sworn, charged, excused to deliberate, or returns to the

courtroom for any reason.

See Chapter 4 for examples of content.

## **7. Transcript Certificate Page**

All transcribed cases must end with a transcript certificate page. The purpose of the certificate is to signify the end of the transcript and to indicate that the transcript is a complete and accurate record of the court proceeding. The certificate page may be included on the last transcript page if there is adequate room. If the transcript is a deposition, the reporter or recorder must include his or her notary information.

See Chapter 5 for examples of content.

## **C. Style of Transcript**

### **1. Standard Record**

Transcribed material consists of two basic styles or forms.

#### **a. Colloquy**

Colloquy is conversation between anyone other than a witness and the examining attorney. The typical court hearing begins with colloquy between the judge and the attorneys. The witness is then sworn and one attorney begins questioning the witness. In colloquy, the judge is always identified as THE COURT, an attorney is always identified by his or her name, and the witness is identified as THE WITNESS. An unidentified speaker is identified as UNIDENTIFIED SPEAKER.

#### **b. Question and Answer**

Question and answer (Q and A) testimony is conversation between the witness and examining attorney. Whenever a witness is sworn, the questioning is set up as Q and A. It is optional to type a period (.) after each Q and A. Any answer following the designation A must be preceded by a question, Q. Q and A must be a sequence. Whenever Q and A is interrupted by any colloquy, tab to the "colloquy stop" (15 spaces from the margin), identify the speaker, follow the name with a colon, and begin typing the statement.

If the witness answers a question during colloquy, the response is colloquy. Q and A is always preceded by the name of the questioning attorney (i.e., "BY MR. SMITH:").

If the witness asks a question of someone other than the examining attorney, the question is considered an interruption by colloquy. Tab to the "colloquy stop" (15

spaces from the margin), identify the speaker as THE WITNESS, follow the name with a colon, and begin typing the question.

## 2. Separate (or Special) Record

Separate records are transcribed as any other testimony. A judge may say "Reporter/Recorder, this is a separate record." A separate record is a part of the original day's proceedings and must be bound with that day's proceedings. A separate record is prepared as follows.

- a. When you have determined the last spoken word of the regular record, place three dashes in the center of the page.
- b. Use no parenthetical remark.
- c. Start a new page.
- d. Continue pagination through the separate record.
- e. Place the words SEPARATE RECORD in all caps above line one, with one space between each letter, at the center top of each page of the separate record.
- f. At the top of the first page of the separate record, below the words SEPARATE RECORD, use the following parenthetical remark: "(At [time] Beginning of Separate Record)."
- g. Continue the separate record for as long as necessary.
- h. At the end of the separate record, use the parenthetical remark "(At [time] End of Separate Record)."
- i. Put three dashes in the center of the page.
- j. Start a new page.
- k. Use no parenthetical remark to resume the regular record.
- l. Continue pagination from the separate record when going back into the regular record.
- m. The table of contents page must show the separate record as follows: "Separate Record - pages 26 through 35."

## D. Parenthetical Expressions

Parenthetical expressions are brief descriptions of events happening in the courtroom. They are preceded by the time of the occurrence, if applicable, and enclosed in parentheses. All parenthetical expressions begin 15 spaces from the left-hand margin. Any carry-over line is to begin 15 spaces from the left-hand margin.

Examples:

(At 9:15 a.m., prospective jury panel sworn)  
(At 10:00 a.m., court recessed)  
(At 10:30 a.m., court reconvened)  
(At 10:45 a.m., PX#1 marked)  
(At 11:00 a.m., bench conference on the record)  
(At 11:05 a.m., bench conference concluded)  
(At 11:45 a.m., conference in chambers)  
(At 11:50 a.m., court reconvenes, all parties present)  
(At 1:00 p.m., witness excused)  
(At 3:00 p.m., proceedings concluded)  
(At 4:15 p.m., bailiff sworn to take charge of the jury)  
(At 4:30 p.m., jury returned)

## Chapter 2: Title Page Examples

The following are examples of the format to follow when preparing title pages. Please note that these are examples only. Requirements and any allowable variances in style are specified in the following: (1) list each case name exactly as it appears on the file, do not make corrections and do not use *et al.*, (2) if more than one case is heard at the same proceeding, list each case name and file number, one right after the other, (3) use the full names of the attorneys and the reporter or recorder or transcriber, indicating whether they are Mr. or Ms., (4) include the law firm name for an attorney, if one, (5) spell out street, drive, avenue, cities, and states, (6) it is optional whether the style of the telephone number is a series of dashes or dots, or whether the area code is surrounded by parentheses, but it must always contain the area code, and (7) use upper-case and lower-case exactly as shown in the examples.

When the court is a circuit court, the location of the court will always be the name of the county. When the court is a district or municipal court, the location of the court will be the name of a city, township, or village. When the court is a probate court, there is no court number; instead, the name

of the court is the name of the county (i.e., IN THE PROBATE COURT FOR THE COUNTY OF WAYNE).

The naming convention for circuit, district, and municipal court civil cases (including domestic relations) is plaintiff versus defendant. The naming convention for criminal cases is “THE PEOPLE OF THE STATE OF MICHIGAN” (or if it’s not a state case, the name of the city, township, village) versus defendant. The naming convention for proceedings under the juvenile code is “In the Matter of” followed by the name of the minor. The naming convention for probate court cases is “In the Matter of” followed by an identifier as to the type of matter (such as “THE ESTATE OF”) and the name of the individual and his or her condition (such as “Deceased”). The naming convention for family division cases other than those under the juvenile code is “In the Matter of” followed by an identifier as to the type of matter (such as “THE ADOPTION OF” or “THE EMANCIPATION OF”) and the name of the individual and his or her position (such as “Adoptee” or “Minor”). Each of the various types of case names is shown in at least one of the following examples.

The examples show a general title page (most commonly used in civil and domestic relations cases), a title page for excerpts of proceedings, a title page for probate matters, a title page for proceedings that are heard in the family division (except domestic relations), a title page that can be used for either multiple defendants or consolidated cases, a title page for multiple volumes, and a title page for depositions.

**NOTE: These examples are for content only.** For specific formatting requirements such as page numbering, margins, indentations, etc., see above.

**A. Civil and Domestic Relations Proceedings**

This example can be used for proceedings in civil and domestic relations cases. This particular example is for a civil case filed in a circuit court. Use the appropriate style for naming this court as stated in the first page of this chapter.

STATE OF MICHIGAN

THIRD JUDICIAL CIRCUIT COURT (WAYNE COUNTY)

JOHN DOE,

Plaintiff,

v

File No. 84-01234-NI

MARY JONES,

Defendant.

\_\_\_\_\_ /

JURY TRIAL

BEFORE THE HONORABLE JUSTUS STEARN, CIRCUIT JUDGE

Detroit, Michigan - Wednesday, October 4, 2006

APPEARANCES:

For the Plaintiff: MR. BUSY MAN (P00000)  
Man & Man  
0000 Whatever Street, Suite 0  
Nowhere, Michigan 00000  
313-000-0000

For the Defendant: MS. BUSY WOMAN (P11111)  
Attorney at Law  
0000 Someplace Drive, Room 2  
Somewhere, Michigan 11111  
313-111-1111

RECORDED BY: Ms. Qualified Person, CEO 3333  
Certified Operator  
313-222-2222

TRANSCRIBED BY: Mr. SoandSo, CSR 1212  
Certified Reporter  
313-111-1212



**B. Excerpts of Proceedings**

This example is for excerpts of proceedings in a circuit court case. Use the appropriate style for naming this court as stated in the first page of this chapter.

STATE OF MICHIGAN

THIRD JUDICIAL CIRCUIT COURT (WAYNE COUNTY)

JAMES JORDAN,

Plaintiff,

v

File No. 84-12345-DM

CAROL JORDAN,

Defendant.

\_\_\_\_\_ /

EXCERPTS OF PROCEEDINGS

ELEMENTS OF CHARGES

PREPARED FOR THE JURY DURING JURY DELIBERATIONS

BEFORE THE HONORABLE JAMES R. JUSTICE, CIRCUIT JUDGE

Detroit, Michigan - Monday, September 1, 2006

APPEARANCES:

For the Plaintiff: MR. RICHARD E. SMITH (P50006)  
Smith & Harrison, P.C.  
2000 Orange Grove  
Detroit, Michigan 48226  
(313) 555-3333

For the Defendant: MR. RICHARD R. JONES (P50007)  
Jones & Jones, P.C.  
3333 Plum Tree  
Detroit, Michigan 48226  
(313) 555-3434

RECORDED BY: Ms. Mary Wilson, CER 0238  
Certified Electronic Recorder  
(313) 555-6868

**C. Probate Court Matters**

This example is for a decedent estate matter filed in a probate court. Use the appropriate style for naming this court as stated in the first page of this chapter.

STATE OF MICHIGAN

IN THE PROBATE COURT FOR THE COUNTY OF INGHAM

In the matter of

THE ESTATE OF JOHN JONES, Deceased.

File No. 84-2098-DE

\_\_\_\_\_ /

PETITION FOR PARTITION OF PROPERTY

BEFORE THE HONORABLE JAMES R. JUSTICE, PROBATE JUDGE

Lansing, Michigan - Thursday, November 12, 2006

APPEARANCES:

For the Estate: MS. MARY WILSON (P50009)  
Wilson & Thomas Law Offices  
100 Lane Drive  
Lansing, Michigan 48933  
(517) 555-1440

Appearing in Pro Per: MR. JOHN J JAMES  
200 Country Boulevard  
Lansing, Michigan 48911  
(517) 555-2121

Appearing in Pro Per: MRS. ELSIE Q. JAMES  
5 City Building, Suite 14  
Lansing, Michigan 48933  
(517) 555-5222

REPORTED BY: Ms. Judith Kane, CSR 0128  
Certified Shorthand Reporter  
(517) 555-3405

(page #)

**D. Family Division of Circuit Court Proceedings**

This example is for a juvenile delinquency proceeding filed in the family division of a circuit court. Use the appropriate style for naming this court as stated in the first page of this chapter. Keep in mind that family division cases can be heard before circuit or probate judges even though the case is a circuit court case.

STATE OF MICHIGAN

THIRD JUDICIAL CIRCUIT COURT (WAYNE COUNTY)

In the matter of

JONATHAN JONES, a juvenile.

File No. 84-2098-DL

\_\_\_\_\_ /

PETITION REGARDING DELINQUENCY

BEFORE THE HONORABLE JAMES R. JUSTICE, PROBATE JUDGE

Lansing, Michigan - Thursday, November 12, 2006

APPEARANCES:

For the Juvenile:

MS. MARY WILSON (P50009)  
Wilson & Thomas Law Offices  
100 Lane Drive  
Lansing, Michigan 48933  
(517) 555-1440

REPORTED BY:

Ms. Judith Kane, CSR 0128  
Certified Shorthand Reporter  
(517) 555-3405

(page #)

**E. Criminal Cases and Multiple Defendants/Consolidated Cases**

This example is for a criminal case filed in a district court. Use the appropriate style for naming this court as stated in the first page of this chapter. In criminal cases, "Plaintiff" is not typed after "People of the ...."

STATE OF MICHIGAN

95-A JUDICIAL DISTRICT (MENOMINEE, MICHIGAN)

THE PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 84-10678-OM

GUS BAKER and JEAN NOLAN,

Defendants.

\_\_\_\_\_ /

THE PEOPLE OF THE STATE OF MICHIGAN,

v

File No. 84-10682-OM

GUS BAKER,

Defendant.

\_\_\_\_\_ /

JURY TRIAL

BEFORE THE HONORABLE JAMES R JUSTICE, DISTRICT JUDGE

Menominee, Michigan - Monday, September 1, 2006

APPEARANCES:

For the People: MR. JOHN B. JONES (P50001)  
Assistant Prosecuting Attorney  
4000 South Street  
Menominee, Michigan 49999  
(906) 555-1222

For Defendant Baker: MR. J. B. JACKSON (P50002)  
1400 North Street  
Menominee, Michigan 49999  
(906) 555-2222

For Defendant Nolan: MR. RICHARD SMITH (P50003)  
2800 East Street  
Menominee, Michigan 49999  
(906) 555-2333

REPORTED BY: Ms. Betty Thomas, CSR 0124  
Certified Shorthand Reporter  
(906) 555-2444

**F. Multiple Volumes**

This example is for a civil case filed in a circuit court. Use the appropriate style for naming this court as stated in the first page of this chapter.

STATE OF MICHIGAN  
SIXTH JUDICIAL CIRCUIT COURT (OAKLAND COUNTY)

SALLY ANN JONES,  
Plaintiff,

v File No. 84-30201-CK

EVERYMAN'S INSURANCE CO., INC.,  
a Michigan Corporation,  
Defendant.

---

JURY TRIAL - VOLUME II of IV  
BEFORE THE HONORABLE JAMES R. JUSTICE, CIRCUIT JUDGE  
Pontiac, Michigan - Tuesday, October 4, 2006

APPEARANCES:

For the Plaintiff: MR. JOHN B. JONES (P50004)  
Jones & Adams, P.C.  
123 State Street  
Royal Oak, Michigan 48084  
(313) 555-4321

For the Defendant: MR. JAMES R. SMITH (P50005)  
Smith & Smith, P.C.  
321 Court Street  
Royal Oak, Michigan 48084  
(313) 555-1234

RECORDED BY: Mr. William C. Jones, CER 1026  
Certified Electronic Recorder  
(313) 555-7868



**H. Appearances**

This example reflects the proper method to indicate that counsel for a party is not in attendance at a proceeding. Only the names of those attending the proceeding are listed in the "Appearances" section of the title page.

STATE OF MICHIGAN  
THIRD CIRCUIT COURT (WAYNE COUNTY)

PEOPLE OF THE STATE OF MICHIGAN,

V

File No. 14-12345-CF

SAMUEL K. WILLIS,

Defendant.

\_\_\_\_\_ /

SENTENCING HEARING

BEFORE THE HONORABLE ROBERT J. COLOMBO, JR., CIRCUIT JUDGE

Detroit, Michigan - Friday, March 28, 2014

APPEARANCES:

For the People:

NONE

For the Defendant:

MS. CYNTHIA STELLER (P12345)  
Steller and Steller, PLLC  
123 South Street  
Detroit, Michigan 48226  
(313)987-6543

Recorded and Transcribed by:

Ms. Sally Smith, CER 7295  
Certified Electronic Recorder  
(313)123-4567

### Chapter 3: Table of Contents Page Examples

The following are various examples of the format to follow for table of contents pages. Please note that these are examples only. Requirements and any allowable variances in style are specified in the following: (1) use upper- and lower-case exactly as shown in the examples, (2) use underlining as shown in the examples, (3) numbering style for exhibits varies. (See the [Michigan Trial Court Case File Management Standards](#), Component 20, for standards and procedures regarding receipt of exhibits.)

The examples show a table of contents page for situations where there are no witnesses or exhibits, a general table of contents page, a table of contents page for situations where special hearings are held during examination (i.e. *Walker* Hearing), and a table of contents page for a jury trial.

**NOTE: These examples are for content only.** For specific formatting requirements such as page numbering, margins, indentations, etc., see above and page 2 of this section.

#### A. No Witnesses, No Exhibits

In a situation where there are no witnesses or exhibits, a table of contents must still be included as follows.

#### TABLE OF CONTENTS

##### WITNESSES:

None

##### EXHIBITS:

None

(page #)



**B. General**

This example is for a criminal case. For other types of cases, use the proper naming conventions. For example, if this was for a civil case, the first witness might be “Plaintiff” instead of “People.”

## TABLE OF CONTENTS

<u>WITNESSES:</u>	<u>PEOPLE</u>		<u>PAGE</u>
MARY SMITH			
	Direct Examination by Mr. Thompson		5
	Cross-Examination by Mr. Jones		16
	Redirect Examination by Mr. Thompson		21
	Recross-Examination by Mr. Jones		25
JUDY SMITH			
	Direct Examination by Mr. Thompson		27
	Voir Dire Examination by Mr. Jones		28
	Direct Examination by Mr. Thompson, continuing		28
	Cross-Examination by Mr. Jones		30
<u>WITNESSES:</u>	<u>DEFENDANT</u>		
ROSE JACKSON			
	Direct Examination by Mr. Jones		30
	Cross-Examination by Mr. Thompson		35
MIKE FISH			
	Direct Examination by Mr. Jones		38
	Cross-Examination by Mr. Thompson		50
<u>EXHIBITS:</u>		<u>MARKED</u>	<u>RECEIVED</u>
PX#1	Glasses	10	10
DX#2	Photographs	30	37

**C. Hearing During Examination**

When a hearing is held during an examination, insert the hearing as follows.

## TABLE OF CONTENTS

**PRELIMINARY EXAMINATION**

<u>WITNESSES:</u>	<u>PEOPLE</u>	<u>PAGE</u>
MARY SMITH		
	Direct Examination by Mr. Thompson	3
	Cross-Examination by Mr. Roe	12
JEFFREY JONES		
	Direct Examination by Mr. Thompson	20
	Cross-Examination by Mr. Roe	25

**WALKER HEARING**

JEFFREY JONES		
	Direct Examination by Mr. Thompson	28
	Cross-Examination by Mr. Roe	35
	Redirect Examination by Mr. Thompson	42

**PRELIMINARY EXAMINATION (continued)**

JEFFREY JONES		
	Cross-Examination continued by Mr. Roe	44

<u>EXHIBITS:</u>		<u>MARKED</u>	<u>RECEIVED</u>
PX#1	Glasses	28	29
DX#2	Photograph	65	66

(page #)

## D. Jury Trial

When a jury trial is held, the table of contents is much like a general table of contents (see page 18 of this chapter), except there may be other material in the transcript such as: (1) jury voir dire, (2) jury impaneled, (3) plaintiff's opening statement, (4) defendant's motion for directed verdict, (5) defendant's opening statement, (6) separate record, (7) closing arguments, (8) rebuttal arguments, (9) jury instructions, (10) verdict, and (11) motion for new trial.

## Chapter 4: Transcript Page Examples

The following are examples of the format to follow when preparing various portions of transcript pages.

**NOTE: These examples are for content only.** For specific formatting requirements such as line numbering, page numbering, margins, indentations, etc., see page 2 of this section.

### A. Administration of Oath

The transcript must be a verbatim record of the proceedings. **The oath administered to a witness must be included.**

Allegan, Michigan

Wednesday, December 2, 1984 - 10:24 a.m.

THE COURT: Ronald Whetstone, Case File 84-0978-FH. This matter was set today for a preliminary hearing on a charge of possession of a pistol in a motor vehicle.

The record shall indicate the appearance of Mr. John Smith on behalf of the Defense; Mr. Stone on behalf of the Prosecutor's Office. Counsel, you may proceed.

MR. STONE: Thank you, your Honor. I would first call Officer Rick Hoyer to the stand.

THE COURT: Do you solemnly swear or affirm that the answers you are about to give in this matter are true?

MR. HOYER: I do.

RICHARD JOSEPH HOYER

(At 10:26 a.m., called by Mr. Stone and sworn by the Court, testified as follows)

THE COURT: Fine. Be seated.

DIRECT EXAMINATION

BY MR. STONE:

Q. Would you state your name for the record?

A. Richard Joseph Hoyer.

**B. Colloquy Before Examination**

1. From time-to-time the court may talk to the witness or counsel in colloquy before direct examination begins. The identification of the witness and direct examination heading is placed where the attorney begins the examination.

MR. LADD: I would call Tammy Erickson to the witness stand.

MR. BERGMAN: Your Honor, could we approach the bench for one second, please?

THE COURT: Yes. This is off the record.

(At 3:19 p.m. to 3:21 p.m., off-record bench conference)

THE COURT: Back on the record. Tammy? You may have a seat up there. Do you want me to conduct it?

MR. BERGMAN: If you would, please.

THE COURT: Tammy, how old are you?

MISS ERICKSON: Thirteen.

THE COURT: Tammy, the clerk is going to give you what we call an oath. Do you know what an oath is?

MISS ERICKSON: Yes.

THE COURT: Could you explain it to me?

MISS ERICKSON: It's a thing that you have to take. Well, I know what it is, but I can't explain it.

THE COURT: If you take an oath, does it mean that you swear to tell the truth?

MISS ERICKSON: Yeah. You can't tell a lie.

THE COURT: Fine. Please stand, and the clerk will administer the oath.

2. The witness is not "THE WITNESS" until the witness states, "I DO."

THE CLERK: Do you swear to tell the truth, the whole truth, and

nothing but the truth in the matter before the Court?

MISS ERICKSON: I do.

TAMMY ERICKSON

(At 3:25 p.m., called by Mr. Ladd and sworn by the Court,  
testified as follows)

THE COURT: If you'll just speak up, Tammy, because these  
microphones don't amplify, and we have to hear the answers.

THE WITNESS: Okay.

DIRECT EXAMINATION

BY MR. LADD:

Q. Would you state your name, please?

A. Tammy Erickson.

## C. Examination by the Court

### 1. Colloquy

If the court examines a witness called by a party to the case, set the examination up as colloquy.

THE COURT: And did you say that you remembered seeing this person  
at an earlier time in the evening?

THE WITNESS: Yes, I saw him once before at about eight o'clock.

THE COURT: And where did you say that was?

THE WITNESS: At the party store in the middle of town.

THE COURT: Thank you. Anything further of the witness, Counsel?

### 2. Q and A

If the court calls a witness and examines that witness, set the examination up as Q and A.

EXAMINATION

BY THE COURT:

Q. State your name.

A. Mary Smith.

Q. Now, I understand that you were present at the party that took place on  
August 14th.

A. Yes, that's correct.

**D. Party as a Witness**

As soon as the party is sworn, that party becomes "THE WITNESS." When the party is excused from the stand as a witness, the title of "THE DEFENDANT" (or "PLAINTIFF") returns to that party.

THE COURT: Does the Defendant wish to call any witnesses?

THE DEFENDANT: I wish to testify myself, your Honor.

THE COURT: Raise your right hand. Do you solemnly swear that you will give true answers to any questions put to you concerning this matter?

THE DEFENDANT: I will.

WILLIAM JOHNSON

(At 3:30 p.m., called by himself and sworn by the Court, testified as follows)

DIRECT TESTIMONY

THE WITNESS: I just want to tell you, Judge, and also everybody here that what all these witnesses have been saying just ain't true. It wasn't me that they saw. I don't know nothing about no robbery. It's all just a mistake. That's all I have to say.

CROSS-EXAMINATION

BY MR. WILLIS:

Q. You are the Defendant in this action, is that correct?

**E. Voir Dire Examination**

If the opposing attorney asks to voir dire the witness regarding an exhibit or the witness's qualifications as an expert or give opinion testimony in court, it should be set up as follows:

JUDY SMITH

(At 10:10 a.m., called by the People and sworn by the Court, testified as follows)

DIRECT EXAMINATION

BY MR. THOMPSON:

Q. Ms. Smith, do you recognize what's marked as People's Exhibit 1?

A. Yes.

Q. What is it?

A. It's a picture of my house.

MR. THOMPSON: Your Honor, I move for admission of People's Exhibit  
1.

MR. JONES: May I voir dire, Your Honor?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. JONES:

Q. Ms. Smith, did you take this picture?

A. Yes, I did.

Q. When did you take it?

A. The day of the incident.

MR. JONES: No objection.

THE COURT: People's Exhibit 1 is received.

(At 10:12 a.m., PX#1 is received)

DIRECT EXAMINATION (CONTINUING)

BY MR. THOMPSON:

Q. ...

## F. Quoted Materials

### 1. In General

"Quoted materials begin 15 spaces from the left-hand margin. Carry-over lines of quoted materials begin 10 spaces from the left-hand margin. The right-hand margin ends 5 spaces in from the right-hand margin.

A new paragraph begins 15 spaces from the left-hand margin."

### 2. Partial Quote

MR. RICE: It's mandatory. It says, "...shall prescribe rules and regulations," and other matters.

### 3. Quoted Material with Narratives

MR. GREEN: May it please the Court, I wish to read from *People v Hampton*, found at 407 Mich 354, and I direct the Court's attention to page 373 of the volume, in support of my position which states as follows:

"Even the defendant, who argued that this Court..." meaning the Supreme Court, "...should adopt a directed verdict standard similar to the one required by *Jackson*..." being 443 US 307, "concludes that the trial judge's findings and order were consistent with the standards governing the ordering of new trials. In his brief, it is argued that:

'Here, the record shows that the trial judge is passing upon defendant-appellee's motion'"--

THE COURT: I have that case in front of me and I will read it.

#### **4. Uncertainty about Quoted Versus Narrative Material**

MR. GREEN: May it please the Court, I wish to read from a case in support of my position which states as follows:

"Even the defendant, who argued that this Court, meaning the Supreme Court, should adopt a directed verdict standard similar to the one required by *Jackson*, being 443 US 307, concludes that the trial judge's findings and order were consistent with the standards governing the ordering of new trials."

In his brief, it is argued that:

"Here, the record shows that the trial judge in passing upon defendant-appellee's motion--"

THE COURT: I am very familiar with that case and I will read it before ruling.

MR. GREEN: Very well.

#### **5. Interpolation and Quote**

MR. WHITE: An exhibit is attached to this document. It says, "Plaintiff was a bus driver for nine months."

THE COURT: It says it right there, "...bus driver for nine months."

### **G. Deposition Read into Record**

#### **1. Direct Examination**

(At 1:30 p.m., the deposition of Dr. James Smith, M.D., was read at this point in the proceedings)

DIRECT EXAMINATION



BY MS. JONES:

Q. Witness, will you state your name?

A. My name is James Smith.

Q. And you are a medical doctor, is that correct?

A. Yes, that is correct.

(At 2:10 p.m., the reading of the deposition was concluded)

## 2. Portions of Depositions Read to the Witness

BY MR. WHITE:

Q. This appears in the deposition on page 23, line 10, I asked:

"Question: Were there energy-absorbing concepts involved on the work of the expandable nozzle?

Answer: The work on the expandable nozzle was to work --

Question: Answer yes or no.

Answer: No."

Do you remember giving those answers to the questions as I just read them?

A. It was so long ago that I do not remember, but if it is written there, that must have been my answer.

BY MR. SMITH:

Q. Mrs. Jones, the question was asked of you, "Do you recall a situation where your -- "

MR. WHITE: Would you state the page please.

MR. SMITH: Page 2, line 12.

BY MR. SMITH:

Q. "Question. Do you recall a situation where your son had sprayed some substance in your face?" Do you recall that question?

A. No.

## H. Interpreter

The witness may understand some questions well enough to answer without an interpreter. In that case, put the answer in colloquy form. Type in the oath administered to the interpreter.

(At 1:30 p.m., Irene B. Relleno sworn by the Clerk to interpret English into Spanish and Spanish into English)

JOSEPH RODRIGUEZ

(At 1:31 p.m., called by Mr. Jones and sworn by the Court,  
testified as follows through the interpreter)

DIRECT EXAMINATION

BY MR. MARKS:

Q. What is your name?

THE WITNESS: Juan Carlos.

A. Juan Carlos.

Q. Where do you live?

A. 1325 Linville Road, Romulus.

Q. Do you remember the night of February 17th of this year?

THE WITNESS: Yes.

A. Yes.

## I. Witness Recalled

MS. ZUZICH: We would like to recall Mr. Goodwin for some  
questions, your Honor.

THE COURT: Mr. Goodwin, you're still under oath.

MR. GOODWIN: Yes, sir.

JOHN GOODWIN

(At 11:35 a.m., recalled by Ms. Zuzich and previously sworn by the  
Court, testified as follows)

REDIRECT EXAMINATION

BY MS. ZUZICH:

Q. You previously testified...

## J. Adverse Witness

When a witness is called for cross-examination under the adverse witness statute, that witness is under cross-examination by all parties until examination is completed. (MCL 600.2161) Recross-examination is any examination subsequent to cross-examination by the same party.

JOHN GOODWIN

(At 10:30 a.m., called by the Plaintiff (Defendant) under the  
adverse witness statute and sworn by the Court (Clerk),  
testified as follows)

CROSS-EXAMINATION

BY MS. ZUZICH:

Q. . . . .

CROSS-EXAMINATION

BY MR. GREENFIELD:

Q. . . . .

RE-CROSS-EXAMINATION

BY MS. ZUZICH:

Q. . . . .

RE-CROSS-EXAMINATION

BY MR. GREENFIELD:

Q. . . . .

**K. Jury Matters**

When jurors are speaking or being spoken to, use colloquy format and **use the jurors' last names. Do not use seat numbers.**

**1. Jury Voir Dire**

THE COURT: Members of the jury panel, whether in the jury box or not, I am going to address some questions to all prospective jurors. Do any of you have members of your immediate family who are police officers for this city?

JUROR BAKER: I do.

THE COURT: Okay, fine. Is there anyone else?

JURORS: (No verbal response)

**2. Juror Identification During Trial**

JUROR NELSON: Your Honor, I cannot hear the witness.

**3. Jury Verdict**

(At 1:00 p.m., the jury returned to the court room)

THE COURT: Ladies and gentlemen of the jury, have you reached a verdict, and if so, would the foreperson please rise and announce that verdict?

FOREPERSON SMITH: We have, your Honor. We, the jury, find the Defendant guilty as charged.

#### 4. Jury Polling

THE CLERK: As your name is called, will you please answer? Juror Nelson, is this and was this your verdict?

JUROR NELSON: It is.

#### L. Deposition

Grayling, Michigan

Tuesday, June 3, 1986 - 3:10 p.m.

SAMUEL I. SMITH

HAVING BEEN CALLED BY THE PLAINTIFF AND SWORN:

REPORTER: Please state your name and spell your last name for the record.

THE WITNESS: Samuel I. Smith. S-m-i-t-h.

MR. BLOOMQUIST: Mr. Smith, would you first of all, if you do not understand my question, please say so. If you don't hear me, please say so. Otherwise, I'll assume you've heard me, you understand the question, that your answer is responsive to the question. Okay?

THE WITNESS: Right.

MR. JONES: Could I just indicate, we've done it already. The court reporter's got to get everything in yes, no, I don't understand. Uh-huh and uh-uh is going to make a confusing record. So try to think about that.

MR. BLOOMQUIST: She does not take shaking of your head, so yes or no--you've got to say it. Do you understand that?

THE WITNESS: Right. Yes.

#### DIRECT EXAMINATION

BY MR. BLOOMQUIST:

Q. Where do you live, sir?

A. 7000 Mayfield, Gaylord, Michigan 49735.

### Chapter 5: Transcript Certificate Page Examples

When only a portion of the proceedings has been transcribed, indicate that it is an "excerpt of the proceedings."

Certification designations are: Certified Shorthand Reporter (CSR)  
Certified Voice Writer/Stenomask Reporter (CSMR)  
Certified Electronic Recorder (CER)

#### A. Transcript Certificate Page for Entire Proceedings

I certify that this transcript, consisting of *[insert #]* pages, is a complete, true, and correct transcript of the *[insert name of proceedings]* and testimony taken in this case on *[list all dates for which reporter or recorder is responsible]*.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name [print or type], certification designation, and number

\_\_\_\_\_  
Business address

\_\_\_\_\_  
City, state, and zip

**B. Transcript Certificate Page for Excerpt of Proceedings**

I certify that this transcript, consisting of [insert #] pages, is a complete, true, and correct transcript of the [insert name of excerpt of proceedings] and testimony taken in this case on [list all dates for which reporter or recorder is responsible].

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name [print or type], certification designation, and number

\_\_\_\_\_  
Business address

\_\_\_\_\_  
City, state, and zip

**C. Transcript Certificate Page for Deposition**

This example is used when the transcriber is the same person who recorded/reported the deposition. (See MCR 2.304(C) and MCR 2.306(F) for further information.) A deposition transcribed and certified in accordance with MCR 2.306(F) need not be submitted to the witness for examination and signature.

Certification Designation: Certified Shorthand Reporter (CSR)  
Certified Voice Writer/Stenomask Reporter (CSMR)  
Certified Electronic Recorder (CER)

I certify that this transcript, consisting of [insert #] pages, is a complete, true, and correct record of the testimony of [insert name of deponent] held in this case on [insert date of deposition].

I also certify that prior to taking this deposition, [insert name of deponent] was duly sworn to tell the truth.

\_\_\_\_\_  
Date of completion of transcript

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name [print or type], certification designation, and number  
Notary Public, State of Michigan, County of [insert name of county].  
Acting in the County of [insert name of county].  
My commission expires [insert expiration date].

\_\_\_\_\_  
Business address

\_\_\_\_\_  
City, state, and zip

## **Section 6: Furnishing Transcripts**

### **Table of Contents**

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## **Section 6: Furnishing Transcripts**

### **Chapter 1: Transcript Fees**

#### **A. Amount of Transcript Fees**

##### **1. Circuit Court**

The circuit court reporters or recorders are entitled to demand and receive per page for a transcript ordered by any person the sum of \$1.75 per original page and 30 cents per page for each copy, unless a lower rate is agreed upon. For a transcript ordered by the circuit judge, reporters or recorders are entitled to receive from the county the same compensation. The Supreme Court, by administrative order or court rule, may authorize the payment to circuit court reporters or recorders the sum of \$3.00 per original page and 50 cents per page for each copy for transcripts ordered and timely filed as part of a program of differentiated case management for appeals of civil cases in which the circuit court either grants or denies summary disposition. If a transcript ordered under a program of differentiated case management is not timely filed, the circuit court reporter or recorder is not entitled to receive the increased rate for that transcript. (MCL 600.2543) (See also reference to board policy M in Section 3.)

Only if the transcript is desired for the purpose of moving for a new trial or preparing a record for appeal shall the amount of reporters' or recorders' fees paid for the transcript be recovered as a part of the taxable costs of the prevailing party in the motion in the Court of Appeals or the Supreme Court. (MCL 600.2543)

##### **2. District Court**

A district court recorder or reporter shall be entitled to receive for a transcript ordered by any person the same fees as provided by law for circuit court reporters or recorders. For a transcript ordered by the district judge or a circuit judge, recorders or reporters shall be entitled to receive from the district control unit the same compensation. The amount of a recorder's or reporter's fees paid shall be recoverable as a part of the taxable costs by the prevailing party in a motion or on appeal. (MCL 600.8631)

##### **3. Probate Court**

The probate court reporter or recorder may collect for transcripts of testimony requested by any interested party or ordered by the probate judge, other than depositions, the same fees as provided by MCL 600.2543 for circuit court reporters or recorders unless a lower rate is agreed upon. The transcript fees so collected shall be paid to the probate court reporter or recorder by the ordering party, or by the county for a transcript ordered by a probate judge, which fees shall accrue to the reporter or recorder as additional compensation. Fees shall not be charged or collected for transcripts provided under MCL 35.41. (MCL 600.878)

#### **4. Method of Providing Transcript**

It is suggested that, unless otherwise agreed to or specified, the reporter or recorder provide one original paper transcript at the original page rate and one electronic copy at the copy page rate. If an individual prefers to receive the copy in paper, they can request a paper copy in place of an electronic copy. (Court Reporting and Recording Board of Review; June, 2014)

However, once a transcript has been filed with the court, any copy must be provided directly by the court and not by the individual who provided the transcription service. (See [Michigan Trial Court Case File Management Standards](#), Component 23: “After an official transcript is filed, copies shall be made only from the official transcript filed with the court.”)

### **B. Depositions**

Reasonable and actual fees paid for depositions of witnesses filed in any clerk's office and for the certified copies of documents or papers recorded or filed in any public office shall be allowed in the taxation of costs only if, at the trial or when damages were assessed, the depositions were read in evidence, except for impeachment purposes, or the documents or papers were necessarily used. (MCL 600.2549)

### **C. Limitations on Fees**

#### **1. Excessive Amount Prohibited**

A judge of any court, sheriff, bailiff, district court magistrate, or other officer, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall not take or receive any other or greater fee or reward for his service, but such as is or shall be allowed by the laws of the state. (MCL 600.2513)

#### **2. Services Actually Performed**

No fee or compensation allowed by law shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him; but this section shall not prevent any officer from demanding any fee herein allowed for any service of which he is entitled by law to require the payment previous to rendering such service. (MCL 600.2516) A court reporter or recorder may not receive compensation for or charge a fee for a computer-generated word index.

#### **3. Consequences of Violation**

A violation of either MCL 600.2513 or 600.2516 shall be deemed a misdemeanor, and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him, and such violation shall be a cause for forfeiture of office. (MCL 600.2519)

**D. Freelance Court Reporters/Recorders**

Absent judicial resolution, the board has determined that freelance court reporters or recorders are subject to the same statutes as court employees when acting as an official court reporter or recorder. They may charge no more than the statutory per-page rate. (See board policy M on page 15, Section 3, and item A1 on page 1 of this section.) (Court Reporting and Recording Board of Review; June 2006)

Michigan courts may negotiate contractual agreements with freelance reporters or recorders to cover expenses not contemplated by the per-page statutory fee. (Court Reporting and Recording Board of Review; June, 2006)

Duties and other statutory provisions are in Section 10, Chapter 5.

**Chapter 2: Ordering and Filing Transcripts****A. Transcript to Party on Request****1. Regulation by Court Rule****a. In General**

The court reporter or recorder shall furnish without delay, in legible English, a transcript of the records taken by him or her (or any part thereof) to any party on request. The reporter or recorder is entitled to receive the compensation prescribed in the statute on fees from the person who makes the request. (MCR 8.108[E])

**b. Record on Appeal**

The appellant is responsible for securing the filing of the transcript as provided in this rule. Except in cases governed by MCR 6.425(F)(2) , or as otherwise provided by Court of Appeals order or the remainder of this subrule, the appellant shall order from the court reporter or recorder the full transcript of testimony and other proceedings in the trial court or tribunal. Once an appeal is filed in the circuit court or Court of Appeals, a party must serve a copy of any request for transcript preparation on opposing counsel and file a copy with the circuit court or Court of Appeals. (MCR 7.109[B][1][a], MCR 7.210[B][1][a])

**2. Regulation by Statute**

If a transcript of a trial or other proceeding is ordered other than for filing in the case file, the district court recorder or reporter also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court, unless the circuit court has a copy pursuant to subsection (1), or unless the chief judge of a district court district orders otherwise in an order filed in the case file. (MCL 600.8635[2])

**B. Transcript on Order of the Trial Court****1. In General**

On order of the trial court, the court reporter or recorder shall make and file in the clerk's office a transcript of his or her records, in legible English, of any civil or criminal case (or any part thereof) without expense to either party. The transcript is a part of the records in the case. (MCR 8.108[F][1])

Except when otherwise provided by contract, the court reporter or recorder shall receive from the appropriate governmental unit the compensation specified in the statute on fees for a transcript ordered by a court. (MCR 8.108[F][2])

An original of the verbatim record of other matters as may be required by Supreme Court rule shall be reduced to writing by the district court recorder or reporter and, upon completion of the verbatim record, shall be filed with the clerk of the district court or as directed by the district court. (MCL 600.8635)

**2. Preliminary Examination**

An original and copy of the verbatim record of all preliminary examinations in which the defendant is bound over to the circuit court for further proceedings shall be reduced to writing by the district court recorder or reporter when ordered by the circuit court and, upon completion of the verbatim record, shall be filed with the clerk of the circuit court or as directed by the circuit court. . . . The county shall pay the costs of transcribing preliminary examinations in accordance with the schedule provided in MCL 600.8631.  
(MCL 600.8635[1])

Unless the defendant pleads guilty at the arraignment or the parties otherwise agree, the court must order the court reporter or recorder to transcribe and file the record of the preliminary examination. The order must also provide for the payment of the reporter's or recorder's fees. (MCR 6.113[D])

**3. At Sentencing**

The trial court, in its order appointing counsel for an indigent criminal defendant, must direct the court reporter or recorder to prepare and file, within the time limits specified in MCR 7.210, (1) the trial or plea proceeding transcript, (2) the sentencing transcript, and (3) such transcripts of other proceedings, not previously transcribed, that the court directs or the parties request.

The court, in an order appointing counsel for an indigent criminal defendant, must provide for payment of the reporter's or recorder's fees.(MCR 6.425[G])

#### **4. Postconviction Proceedings**

##### **a. Appeals of Right**

An indigent defendant may file a written request with the sentencing court for specified court documents or transcripts, indicating that they are required to pursue an appeal of right. The court must order the clerk to provide the defendant with copies of documents without cost to the defendant and, unless the transcript has already been ordered as provided in MCR 6.425(G)(2), must order the preparation of the transcript. (MCR 6.433[A] )

##### **b. Appeals by Leave**

An indigent defendant who may file an application for leave to appeal may obtain copies of transcripts and other documents as provided in MCR 6.433(B).

- 1) The defendant must make a written request to the sentencing court for specified documents or transcripts indicating that they are required to prepare an application for leave to appeal.
- 2) If the requested materials have been filed with the court and not provided previously to the defendant, the court clerk must provide a copy to the defendant. If the requested materials have been provided previously to the defendant, on defendant's showing of good cause to the court, the clerk must provide the defendant with another copy.
- 3) If the request includes the transcript of a proceeding that has not been transcribed, the court must order the materials transcribed and filed with court. After the transcript has been prepared, the court clerk must provide a copy to the defendant.

##### **c. Other Postconviction Proceedings**

An indigent defendant who is not eligible to file an appeal of right or an application for leave to appeal may obtain records and documents as provided in MCR 6.433(C).

- 1) The defendant must make a written request to the sentencing court for specific court documents or transcripts indicating that the materials are required to pursue postconviction remedies in a state or federal court and are not otherwise available to the defendant.
- 2) If the documents or transcripts have been filed with the court, the clerk must provide the defendant with copies of such materials without cost to the defendant.
- 3) The court may order the transcription of additional proceedings if it finds that there is good cause for doing so. After such a transcript has been prepared, the clerk must provide a copy to the defendant.

- 4) Nothing in this rule precludes the court from ordering materials to be supplied to the defendant in a proceeding under subchapter 6.500.

### **Chapter 3: Access to Court Files**

#### **A. Filing Papers**

The clerk shall endorse on every paper the date on which it is filed. The clerk shall keep a file folder for each action, bearing the civil action number assigned to it, in which the clerk shall keep all pleadings, process, orders, and judgments filed in the action. The clerk may not permit any record or paper on file in the clerk's office to be taken from it without the order of the court. (MCR 8.105[B])

#### **B. Access to Papers**

1. Unless access to a case record or information contained in a record as defined in subrule (D) is restricted by statute, court rule, or an order entered pursuant to subrule (I), any person may inspect that record and may obtain copies as provided in subrule (J).
2. In accordance with subrule (J), the court may collect a fee for the cost of this service, including the cost of providing the new record in a particular medium.

(MCR 8.119, [\*Michigan Trial Court Case File Management Standards\*](#), Component 19)

## Section 7: Appellate Procedures

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## **Section 7: Appellate Procedures**

### **Chapter 1: Appeals to Circuit Court**

#### **A. Procedure**

##### **1. Duties of Appellant – Ordering Transcript**

The appellant is responsible for securing the filing of the transcript under MCR 7.109(B)(1)(a). Payment is generally accomplished with a suitable deposit, followed by payment of the balance, if any, when the transcript is completed.

Unless otherwise provided by circuit court order or by MCR 7.109(B), the appellant must order the full transcript of testimony and other proceedings in the trial court or agency. Under MCR 7.104(D)(2), a party must serve a copy of any request for transcript preparation on the opposing party and file a copy with the circuit court. (MCR 7.109[B][1][a]) If an appeal is from probate court, only that portion of the transcript concerning the order appealed needs to be filed. The appellee may file additional portions of the transcript. (MCR 7.109[B][1][b])

On the appellant's motion and with notice provided to the appellee, the trial court or agency may order that no transcript or some portion less than the full transcript be included in the record on appeal. The motion must be filed within the time required for filing an appeal and, if the motion is granted, the appellee may file any portions of the transcript omitted by the appellant. (MCR 7.109[B][1][c])

The parties may stipulate that no transcript or some portion less than the full transcript be filed. (MCR 7.109[B][1][d]) The parties may agree on a statement of facts without procuring the transcript and the statement signed by the parties may be filed with the trial court or agency and sent as the record of testimony in the action. (MCR 7.109[B][1][e])

When a transcript cannot be obtained, the appellant must file a settled statement of facts using the procedure in MCR 7.210(B)(2) unless a statute provides otherwise.

##### **2. Duties of Court Reporter/Recorder – Certificate**

Within 7 days after the transcript is ordered by a party or the court, the court reporter or recorder must furnish a certificate stating that:

- a. the transcript has been ordered and payment has been made or secured and the transcript will be filed as soon as possible (with the estimated date of completion);
- b. the transcript has already been filed; or



- c. there is no record to be transcribed.

(MCR 7.109[B][3][a])

SCAO-approved form [MC 501, Reporter/Recorder Certificate of Ordering of Transcript on Appeal](#), should be used for this purpose. Copies of the form are to be distributed to the appellate court, the trial court, the appellant/attorney, and the appellee/attorney. A copy should also be retained by the court reporter or recorder.

### **3. Time for Filing**

The court reporter or recorder must file the transcript in the trial court or agency within:

- a. 14 days after a transcript is ordered by a party or the court for an application for leave to appeal from an order granting or denying a motion to suppress evidence in a criminal case;
- b. 28 days after a transcript is ordered by a party or the court in an appeal of a criminal conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere or an appeal from the dismissal or reduction of a felony charge following a preliminary examination; or
- c. 56 days after a transcript is ordered by a party or the court in all other cases.

(MCR 7.109[B][3][b][i])

The circuit court may extend or shorten these time limits in an appeal pending in the court on motion filed by the court reporter/recorder or a party.

(MCR 7.109[B][3][b][ii])

### **4. Filing of Transcript**

The court reporter or recorder must file the transcript with the trial court or agency. (MCR 7.109[B][3][b][i])

### **5. Notice of Filing and Service**

Immediately after the transcript is filed, the court reporter or recorder must notify the circuit court and all parties that it has been filed. The court reporter or recorder must file in the circuit court an affidavit of mailing of notice to the parties. (MCR 7.109[B][3][e]) SCAO-approved form [MC 502, Notice of Filing of Transcript and Affidavit of Mailing](#), should be used for this purpose. A copy should be retained by the court reporter or recorder.

**6. Consequences of Violating the Court Rules**

A court reporter or recorder who fails to comply with the requirements of the court rules is subject to disciplinary action, including punishment for contempt of court. (MCR 7.109[B][3][f])

**B. Form of Transcript**

The transcript must be prepared in the form provided by MCR 7.210(B)(3)(d), which means it must be filed in one or more volumes under a hard-surfaced or other suitable cover, stating the title of the action, and prefaced by a table of contents showing the subject matter of the transcript with page references to the significant parts of the trial or proceedings, including the testimony of each witness by name, the arguments of the attorneys, and the jury instructions. The pages of the transcript must be consecutively numbered on the bottom of each page; each individual bound volume should start with page 1. (MCR 7.109[B][3][d])

**C. Copies of Transcripts**

Additional copies of the transcript required by the appellant may be ordered from the court reporter or recorder. Photocopies of the transcript furnished by the court reporter or recorder may also be made. (MCR 7.109[B][3][c]) Copies may also be obtained from the court. While the court can charge a fee for copies, it may not charge more than the reporter would.

[\(Case File Management Standards\)](#)

Because copies of transcripts can be obtained from the court, it is not always necessary for a reporter or recorder to automatically prepare additional copies for a party. To avoid any confusion, a reporter or recorder should pay close attention to the party's transcript request.

**D. Responsibility When More Than One Court Reporter or Recorder**

In cases where portions of the transcript must be prepared by more than one reporter or recorder, the person who recorded the beginning of the proceedings is responsible for ascertaining that the entire transcript has been prepared, filing it, and giving the notice required by MCR 7.109(B)(3)(e), unless the court has designated another person. (MCR 7.109[B][3][g])

## Chapter 2: Appeals to Court of Appeals

### A. Procedure

#### 1. Ordering and Filing Transcript

The appellant is responsible for securing the filing of the transcript as provided in this rule. Except in cases governed by MCR 3.977(J)(3) or MCR 6.425(G)(2), or as otherwise provided by Court of Appeals order or the remainder of MCR 7.210(B), the appellant shall order from the court reporter or recorder the full transcript of testimony and other proceedings in the trial court or tribunal. Once an appeal is filed in the Court of Appeals, a party must serve a copy of any request for transcript preparation on opposing counsel and file a copy with the Court of Appeals. (MCR 7.210[B][1][a])

In an appeal from probate court in an estate or trust proceeding, only that portion of the transcript concerning the order appealed from needs to be filed. The appellee may file additional portions of the transcript. (MCR 7.210[B][1][b])

On the appellant's motion, with notice to the appellee, the trial court or tribunal may order that some portion less than the full transcript (or no transcript at all) be included in the record on appeal. The motion must be filed within the time required for filing an appeal and, if the motion is granted, the appellee may file any portions of the transcript omitted by the appellant. The filing of the motion extends the time for filing the court reporter's or recorder's certificate until 7 days after entry of the trial court's or tribunal's order on the motion. (MCR 7.210[B][1][c])

The parties may stipulate that some portion less than the full transcript (or none) be filed. (MCR 7.210[B][1][d])

Transcripts are generally ordered by written request of an attorney or party accompanied by a suitable deposit. If the appellant is indigent, the trial court will issue an order for preparation and filing of the transcript and for payment of the reporter's fees if the case involves subject matter for which an indigent party is entitled to a transcript at the public's expense (i.e. criminal or termination of parental rights appeals). (MCR 6.425[G][2] and MCR 3.997[J][3])

#### 2. Duties of Court Reporter/Recorder - Certificate

Within 7 days after a transcript is ordered by a party or the court, the court reporter or recorder shall furnish a certificate stating:

- a. that the transcript has been ordered, that payment for the transcript has been made or secured, that it will be filed as soon as possible or has already been filed, and the estimated number of pages for each of the proceedings requested;

- b. as to each proceeding requested, whether the court reporter or recorder filing the certificate recorded the proceeding; and if not,
- c. the name and certification number of the court reporter or recorder responsible for the transcript of that proceeding.

(MCR 7.210[B][3][a])

SCAO-approved form [MC 501, Reporter/Recorder Certificate of Ordering of Transcript on Appeal](#), should be used for this purpose. Copies of the form are to be distributed to the appellate court, the trial court, the appellant/attorney, and the appellee/attorney. A copy should also be retained by the court reporter or recorder.

### **3. Time for Filing**

The court reporter or recorder shall give precedence to transcripts necessary for interlocutory criminal appeals and custody cases. The court reporter or recorder shall file the transcript with the trial court or tribunal clerk within:

- a. 14 days after it is ordered for an application for leave to appeal from an order granting or denying a motion to suppress evidence in a criminal case;
- b. 28 days after it is ordered in an appeal of a criminal conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere;
- c. 42 days after it is ordered in any other interlocutory criminal appeal or custody case (including termination of parental rights cases); or
- d. 91 days after it is ordered in other cases.

(MCR 7.210[B][3][b])

In addition, the transcript from a postjudgment proceeding in a criminal case must be filed within 28 days of the trial court's decision. (MCR 7.208[B][4])

### **4. Extension of Time**

The Court of Appeals may extend or shorten time limits in an appeal pending in the court on motion filed by the court reporter or recorder or a party. A motion is made in the Court of Appeals by filing five copies of a motion (one signed) stating clearly and concisely the facts and the grounds on which it is based and the relief requested along with the filing fee of \$100 and proof that a copy of the motion was served on all parties to the appeal. (MCR 7.211[A])

SCAO-approved form [MC 503, Motion to Extend Time for Filing Transcript on Appeal](#), should be used for this purpose. Five copies of the motion (one signed) are

to be filed in the Court of Appeals. Copies are to be mailed to the appellant/attorney and the appellee/attorney. A copy should also be retained by the court reporter or recorder.

Any answer to the motion must be filed within 7 days after it was served. (MCR 7.211[B][2][e])

Motions to extend time to file the transcript are submitted on the first Tuesday, 7 days after the motion is served on all parties. There is no oral argument on motions, unless ordered by the court. (MCR 7.211[D])

## **5. Filing of Transcript**

Transcripts must be filed in the trial court or tribunal within the times stated in the court rules or as directed by order of the court. A transcript is filed when it has been received by the trial court and accepted for filing. (MCR 7.202[2], [4]) A transcript is not considered filed when the transcript has been completed or mailed, or when the notice of filing of transcript has been prepared by the court reporter or recorder. A transcript is only considered filed when it has been actually received by the trial court and accepted for filing. It is extremely important that this date be accurately stated in the affidavit of mailing of notice to the parties because the due date of the appellant's brief is calculated from this date.

## **6. Notice of Filing and Service**

Immediately after the transcript is filed, the court reporter or recorder shall notify the Court of Appeals and all parties that it has been filed and shall file in the Court of Appeals an affidavit of mailing of notice to the parties. (MCR 7.210[B][3][e])

SCAO-approved form [MC 502, Notice of Filing of Transcript and Affidavit of Mailing](#), should be used for this purpose. Copies are to be distributed to the appellate court, the trial court, the appellant/attorney, and the appellee/attorney. A copy should also be retained by the court reporter or recorder.

## **7. Consequences of Violating the Court Rules**

A court reporter or recorder failing to comply with the requirements of the court rules is subject to disciplinary action by the courts, including punishment for contempt of court, on the court's own initiative or on the motion of a party. (MCR 7.210[B][3][f])

Generally, discipline includes assessment of costs or fines payable to the Court of Appeals. A finding of contempt for an egregious violation of the timelines following a show-cause hearing may result in incarceration in the local county jail until the transcripts are completed. (MCR 3.606)

**B. Form of Transcript**

The transcript must be filed in one or more volumes under a hard-surfaced or other suitable cover, stating the title of the action, and prefaced by a table of contents showing the subject matter of the transcript with page references to the significant parts of the trial or proceedings, including the testimony of each witness by name, the arguments of the attorneys, and the jury instructions. The pages of the transcript must be consecutively numbered on the bottom of each page; each individual bound volume should start with page 1; each individual bound volume should start with page 1. (MCR 7.210[B][3][d])

**C. Copies of Transcripts**

Additional copies of the transcripts required by the appellant may be ordered from the court reporter or recorder, or photocopies may be made of the transcript furnished by the court reporter or recorder. (MCR 7.210[B][3][c])

**D. Responsibility When More Than One Court Reporter or Recorder**

In a case in which portions of the transcript must be prepared by more than one court reporter or recorder, unless the court has designated another person, the person who recorded the beginning of the proceeding is responsible for ascertaining that the entire transcript has been prepared, filing it, and giving the notice required by MCR 7.210(B)(3)(e). (MCR 7.210[B][3][g])

As a practical matter, each individual court reporter or recorder files his or her own transcripts and provides the required notice.

**Chapter 3: SCAO-Approved Forms**

Filing/distribution instructions at the top of all forms are self-explanatory. Please observe the instructions at all times.

**A. Heading on Forms**

1. Complete the entire heading, i.e., court number and file number. On form [MC 501](#), also check whether appeal is to the circuit court or the Court of Appeals.
2. For probate matters (IN THE MATTER OF), provide the complete case name and specify the appellant and the appellee (at request of the Court of Appeals).

**B. MC 501, Reporter/Recorder Certificate of Ordering of Transcript on Appeal**

MC 501 must be completed and certified by the reporter or recorder so that the appellant may file a copy with the appellate court within 7 days after a transcript is ordered by a party or the court. Pursuant to MCR 7.109(B)(3)(a), the court reporter or recorder shall

furnish a certificate stating that the transcript has been ordered and payment for it made or secured and it will be filed as soon as possible or has already been filed. If there is no record to be transcribed, that should be stated in the certificate. MC 501 includes the required information and satisfies the court rule requirement.

For appeals to the Court of Appeals, MCR 7.210(B)(3)(a) requires the reporter or recorder to file this certificate within 7 days after a transcript is ordered by a party or the court.

[Click here to see MC 501.](#)

**C. MC 502, Notice of Filing of Transcript and Affidavit of Mailing**

This form is used in appeals to the circuit court under MCR 7.109(B)(3)(e) and to the Court of Appeals under MCR 7.210(B)(3)(e). The form is to be completed by each reporter or recorder who is filing in a given case. The affidavit of mailing on the reverse side of the original copy must be completed and notarized before filing. [Click here to see MC 502.](#)

**D. MC 503, Motion to Extend Time for Filing Transcript on Appeal**

**1. To Court of Appeals**

This form is used for appeals to the Court of Appeals under MCR 7.210(B)(3)(b). The reporter or recorder is responsible for completing the form.

**2. To Circuit Court**

This form is used for appeals to the circuit court under MCR 7.109(B)(3)(b)(ii). The reporter or recorder is responsible for completing the form.

**3. Procedure for Determining Submission Date in Court of Appeals**

- a. Motions in the Court of Appeals are on Tuesday of each week. There is no oral argument on a motion unless ordered by the court.
- b. A motion fee must accompany the motion.

[Click here to see MC 503.](#)

## Section 8: Reference Materials

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## **Section 8: Reference Materials**

### **Chapter 1: Resource List**

#### **A. Primary Reference Materials**

The following list is a short summary of the top ten reference materials that all reporters and recorders should have, or at least have available, for quick reference.

1. Black's Law Dictionary
2. How 4: A Secretary's Reference Manual
3. The Gregg Reference Manual by William Sabin
4. Martindale-Hubbell (information on attorneys and judges, including bar numbers, education, degrees, addresses, phone numbers, etc.)
5. McGraw-Hill Scientific and Technical Dictionary
6. Michigan Rules of Court, current edition (includes Michigan Rules of Evidence, Administrative Orders of the Michigan Supreme Court, Local Court Rules, Michigan Rules of Professional Conduct, Rules Concerning the State Bar of Michigan, Rules for the Board of Law Examiners, Michigan Code of Judicial Conduct, Rules Concerning the Judicial Conference of Michigan, and Michigan Uniform System of Citation)
7. Physicians Desk Reference (PDR): Prescription and Nonprescription Drugs
8. Reverse Medical Secretary (lists medical words by suffix)
9. Taber's or Dorland's Medical Dictionary
10. The Merck Manual of Diagnosis and Therapy
11. Unabridged dictionary, such as Random House or Merriam-Webster

#### **B. Additional Materials**

1. Association Magazines, exx, NSRA, Verbatim, Readback, etc.
2. Bartlett's Familiar Quotes
3. Court Reporting, Grammar and Punctuation
4. Houghton-Mifflin Medical and Health Sciences Word Book
5. Houghton-Mifflin Legal Word Book

6. Thesaurus
7. Webster's Word Book (a speller-divider of words)
8. Zip # Code Book

### C. Online Resources

1. American Medical Association at <http://www.ama-assn.org/>
2. Court Reporter and Recorder Certification System at <http://courts.michigan.gov/correcs/>
3. Encyclopedia at <http://www.encyclopedia.com/>
4. General reference at <http://answers.com>
5. General search engine at <http://google.com>
6. Internet Drug Index at <http://rxlist.com>
7. Michigan Court of Appeals at <http://courts.mi.gov/courts/coa/pages/default.aspx>
8. State Bar of Michigan at <http://michbar.org>
9. Physician's Desk Reference at <http://pdrhealth.com>
10. State Court Administrative Office at <http://courts.mi.gov/administration/scao/officesprograms/crr/pages/default.aspx>
11. Time and date at <http://www.timeanddate.com>

## Chapter 2: Punctuation for Court Documents

### A. Basic Punctuation

1. Series: Three or more items joined by a conjunction. Include a comma before the conjunction.

*Example:* A I was in the car with Luke, Laura, and John.

2. Parenthetical: Added words or expressions. Commas on both sides.

*Example:* A We were, however, aware of the police car.

3. Conjunction: Independent clauses joined by a conjunction. Use a comma before the conjunction.

*Example: Q When did you arrive at the scene, and how many others were with you?*

4. Appositive: Word or words used to further explain. Use commas on both sides of the expression.

*Example: Q Where were you on Friday, October 26, at 9 a.m.?*

5. Introductory: Clause or phrase at the beginning of a sentence; no commas if at the end.

*Example: Q When you left the bar, who did you see?*

6. And Omitted: Two adjectives modifying the same noun; the word "and" omitted between them. Use a comma.

*Example: A It was a cloudy, dark night.*

7. Nonrestrictive: Clause or phrase that further identifies but is not necessary for the sense of the sentence. Enclose with commas.

*Example: A Mary Smith, who is my landlady, will verify that.*

8. No Conjunction: Two closely related sentences whose meaning would be more clear if read as a unit. Use a semicolon instead of making two sentences.

*Example: A Mary was at her mother's house; her husband was at home alone.*

9. Singular Possessive: If the base word is singular, determine the singular spelling; then add 's.

*Example: A I talked to the attorney's secretary.*

10. Plural Possessive: If the base word is plural, determine the plural spelling. If it ends in s, add ' ; if it ends in other than s, add 's.

*Example: A The three witnesses' testimony was not correct.  
Q Where was the children's father at the time?*

11. Hyphenate Before a Noun: Hyphenate a compound adjective before a noun.

*Example: Q When does your six-year term end?*

12. Yes or No Responses: Always use a comma after the response yes or no. If the rest of the response adds something new to the information, use a period after the yes or no.

*Example:* A *No, I did not see him running from the scene.*  
A *Yes. We went back the next day, too, to see what happened.*

13. Verification Question: If a statement is followed by a question that asks for a verification of the statement, use semi-colons before the question.

*Example:* Q *You saw the man enter the door; isn't that right?*

14. Direct Address: Use commas to set off words of direct address.

*Example:* Q *I would like to request a recess, your Honor, if at all possible.*

15. Interruption by Another: Use a dash to show an interruption of a speaker by another speaker.

*Example:* A *I was walking down the street and --*  
Q *Please answer the question that was asked.*

16. Self Interruption: Use a dash when a speaker interrupts himself or herself and finishes the sentence with the new thought.

*Example:* A *We could not see the car -- the truck until we were in the intersection.*

If the speaker resumes his original thought, use a pair of dashes.

*Example:* A *We have been married eight years -- well, just a little bit less -- and we have four children.*

## **B. Number Use**

Numbers one to ten should be expressed in words. Numbers larger than ten should be expressed in figures with the following exceptions:

1. Amounts of money: always in figures such as \$35; 6 cents; \$5,300.10.
2. Percents: always in figures such as 6 percent; 500 percent.
3. Measurements: always in figures such as 3 feet; 18 gallons; 4 degrees.
4. Beginning a sentence: always in words such as "Thirty-five men were there."
5. After a noun: always in figures such as Number 3; Room 310; page 4.

6. Dates: always in figures such as May 10, 1982; the 10th of May (or the tenth of May).
7. House numbers: always in figures except One such as 36 West Fifth; One North 15th.

### C. Commonly Used and Misspelled Words

acknowledgment  
all right  
allegedly  
appellant  
argument  
attorneys (plural)  
corroborate  
cross-examination  
defendant  
direct examination  
judgment  
voir dire

### D. Commas and Semicolons

1. Verification Question: A short question which asks for a verification of the statement. Use a comma before the word or phrase.

*Example: That is right, isn't it?*

2. Series: To separate items in a series. A complicated series may call for semicolons.

*Example: I know Sharon; her mother, Rose; and Beatrice.*

3. Addresses: To separate each line of an address, which would be placed on a separate line of the envelope.

*Example: My address is 4131 - 11th Street, Mt. Pleasant, Michigan.*

4. Contrasting Expressions: Use commas to separate contrasting expressions from the rest of the sentence.

*Example: He likes you, not me.*

5. Miscellaneous Abbreviations: Abbreviations such as Inc., Jr., etc. must be followed by a comma (and usually preceded by a comma).

*Example: Include John Smith, Jr., in your group.*

6. Introductory Colloquial Words: Short slang words used as an introduction to a statement are complete sentences. Use a period to mark the end of an elliptical

expression that represents a complete statement or command. These elliptical expressions often occur as answers to questions or as transitional phrases.

*Example: All right. Tell me what happened.*

7. Illustrative Phrases: Use a semicolon before and a comma after the word or words which introduce an illustrative phrase.

*Example: We know what you are saying; that is, we understand.*

8. No Conjunction: Use a semicolon to separate two independent clauses without a conjunction. (Or make two sentences if the thoughts are not closely related.)

*Example: He was late; therefore, we missed the bus.*

9. Dependent "that" Clauses: A simple series of dependent clauses requires only commas, just like any other kind of series

*Example: We know that you were there, that you had driven up in a white car, that your sister was with you, and that you had a gun.*

10. Missing Verb: Use a semicolon to separate two independent ideas when the verb is missing in one and assumed to be carried from the first. Use a comma in place of the missing verb.

*Example: Sandra went shopping; John, to the bar.*

11. Independent Clauses, Conjunction, and Other Commas: If no misreading is likely, use a semicolon to separate two independent clauses joined by a conjunction when there are other commas in the sentence.

*Example: In the first place, we should have known better; but the temptation was there.*

## E. Apostrophes

1. Singular Possessives Ending in "s": Still add 's to the singular spelling. If, however, you do not pronounce an extra syllable, you may just add '.

*Example: Mr. Peters's business is doing well. OR  
Mr. Peters' business is doing well.*

2. Possessives When Not Immediately Followed by a Noun: Punctuate as if the noun followed.

*Example: We stayed at my mother's. (House is assumed)*

3. Plurals of Figures, Symbols, and Letters: An apostrophe should not be used.

*Example: We will always remember the 1980s.*

4. Omission of Figures: Use an apostrophe to show the omission.

*Example: We will always remember the '80s.*

5. Joint Possession: Use an apostrophe only after the last noun to show joint possession.

*Example: Tom and Harry's car was wrecked.*

6. Possession of Compound Words: Singular possessive: use 's. Plural possessive: use 's. That is, the plural spelling requires the first word of the compound to be made plural--not that last word.

*Example: My sister-in-law's father came to town. (singular possessive)  
My sisters-in law's children were loud. (plural possessive)*

7. Adjectives: Don't confuse adjectives with possessives.

*Example: The sales meeting was held yesterday.*

8. Association Names: Use an apostrophe only if the official name includes the apostrophe.

*Example: The National Shorthand Reporters Association met.*

## F. Dash

There should be a space before and after a pair of dashes.

1. Interruption: Use a pair of dashes to show the interruption of one speaker by another.

*Example: Q You were at the --  
A I don't understand you.*

2. Self-Interruption: Use a pair of dashes to show an interruption--a change of thought--of a speaker.

*Example: Q What are you -- who are you talking about?*

3. Parenthetical Interruption: Use a pair of dashes to set off a self-interruption which is parenthetical to the thought.

*Example: A We talked with Sally -- she was a good friend -- on that day.*

4. Interruption/Second Speaker/Resumption: Use a pair of dashes to show the continuation of the thought.

*Example:*    *Q* When were you at the --  
                  *A* What do you mean?  
                  *Q* -- at the station?

## G. Capitalization

1. Rule 1: Capitalize the first word of a sentence or sentence fragment which represents a sentence.

*Examples:*    *Q* And when did you arrive?  
                  *A* About 6 p.m.  
                  *Q* On what day?  
                  *A* The last day of the week, Saturday.

2. Rule 2: Capitalize the names of specific persons, places, or things.

*Examples:*    *When did you meet John Wilson?*  
                  *Have you visited Missoula, Montana?*

3. Rule 3: Capitalize the days of the week, months of the year, and holidays or special days.

*Examples:*    *Yes, I was there on Wednesday.*  
                  *I was in the hospital for all of February.*  
                  *We voted to have the Fourth of July off rather than Good Friday.*

4. Rule 4: Capitalize seasons of the year only if they are made proper nouns by their use.

*Examples:*    *I plan to begin school in the fall.*  
                  *He played the role of Winter in the spring play.*  
                  *I took two courses winter semester.*

5. Rule 5: Capitalize adjectives which are derived from proper nouns. Exceptions to this rule include congressional, constitutional, and senatorial.

*Examples:*    *He is an American citizen.*  
                  *He is a Michigander.*

6. Rule 6: Capitalize the names of institutions such as colleges, universities, hospitals, churches, and libraries. Capitalize the name of a division within those institutions when it represents the official name of the division.

*Examples:*    *I attend the University of Texas.*  
                  *My major professor is in the Department of Political Science.*



*My son attends Michigan State College. (no such institution exists)  
He is president of the Board of Education.*

7. Rule 7: Capitalize the names of companies, unions, associations, societies, independent committees and boards, political parties, conventions, foundations, fraternities, sororities, clubs, and religious bodies.

*Examples: She was chairperson of the Republican National Committee.  
He used to serve on the Committee on Ways and Means.  
It was an idea that came from the Mothers Against Drunk Driving.*

8. Rule 8: Capitalize common organization names such as advertising department, board of directors, and finance committee when they are actual names within units of the speaker's organization. Do not capitalize them when they are used to refer to some other organization unless there is some reason the speaker is giving them special importance or distinction.

*Examples: Our Marketing Department was headed by William Jones.  
I believe he worked for the marketing department of Wentworth, Inc.*

9. Rule 9: Capitalize the names of relatives (mother, father, sister, brother) when used as a substitute for the individual's name.

*Examples: My sister is in the courtroom today.  
I spent the day with my father.  
I asked Mother to call my sister.  
I was unable to reach my mother on the phone.*

10. Rule 10: Capitalize personal or corporate titles that precede a name.

*Examples: Will Sheriff Martin please come to the stand.  
Will Mr. Martin, Sheriff, please come to the stand.  
Will the sheriff please come to the stand.*

11. Rule 11: For some exceptionally important officials or dignitaries, capitalize the name of the office even if it follows or replaces a specific personal name.

These exceptions and representative examples include the President, Vice President, Attorney General, Director of the FBI, Commissioner of Education, Senator, and Representative on the national level or in foreign governments.

In state government, capitalize only the Governor and Lieutenant Governor but not senator, representative, attorney general.

On the international level, capitalize the Pope and Secretary General of the United Nations. Examples of capitalization of foreign dignitaries are the Queen Mother, the Duke of Windsor.

*Examples: Mr. Quayle, Vice President, is the brunt of Carson's jokes.  
John Jones, Senator from Florida, was the featured speaker.  
William Thompson, senator from our district, was the speaker.*

12. Rule 12: Capitalize the titles of high-ranking officials or other prominent individuals when used in place of their name.

*Examples: The President of the United States was in the city that day.  
The Secretary of Defense was quoted in the paper.  
The Governor signed the bill yesterday.  
The Senator has a different viewpoint.  
The Pope is the spokesperson for the Vatican.  
She was compared with Mother Theresa.  
The Dean of the School of Business met with the Advisory Committee.  
The Chairperson of the Board must assume that responsibility.  
The First Lady has some awesome responsibilities.*

13. Rule 13: Capitalize titles that are used informally in place of names in direct address. Note exceptions: sir, madam. In transcripts, counsel and counselor carry a certain amount of prestige and should be capitalized in direct address.

*Examples: Please, Doctor, explain the use of that term.  
What is your opinion, Professor?  
When did you meet the defendant, Father?  
No, sir, I do not remember.  
Please proceed, Madam President.  
Please approach the bench, Counsel.*

14. Rule 14: Do not capitalize nouns that identify positions (unless high government positions.)

*Examples: He ran for district attorney.  
The doctor arrived within minutes.  
A highway patrolman arrived shortly thereafter.  
I am a systems analyst.  
The judge of that court will rule on the matter on Monday.  
The state senator met with us yesterday.*

15. Rule 15: Capitalize the word "acting" when it appears before a title. Do not capitalize ex-, former, -elect, or late.

*Examples: We were honored by the presence of Acting President Ellis.  
He was a friend of ex-President Reagan.  
He came to the house when he was Governor-elect.*

16. Rule 16: Do not capitalize state, county, city, town, or township when used in reference to a governmental body.

*Examples:* He was employed by the state of Maine.  
We visited the state of Maine.  
This agreement was signed by the city of Phoenix.  
We compared the city of Phoenix with the city of Miami.  
You must obtain your license from the county of Isabella.  
We live in the county named Isabella.  
A district court has jurisdiction over this case.

17. Rule 17: Capitalize the names of governmental organizations (federal, state, or local).

*Examples:* You obtain your social security benefits from the Social Security Administration Office.  
Have you filed with Worker's Compensation?  
The American Civil Liberties Union will be called to testify.  
He is employed by the Oregon State Patrol.  
Judge O'Connell presides in district court.  
The Senate meets in Washington, D.C.

18. Rule 18: Capitalize a noun when used as an abbreviated form of a governmental agency.

*Examples:* I received my food stamps from the Welfare Department.  
Yes, this drug was examined by the Food and Drug. (meaning Food and Drug Administration)  
He went to West Point. (meaning West Point Academy)  
The membership of the House is based on population.

19. Rule 19: Capitalize military branches of the government or their abbreviations.

*Examples:* I joined the Army after I graduated.  
The Coast Guard is always on duty at that location.  
The National Guard was called to handle the riot.  
He joined the Marines. (meaning Marine Corps)  
I taught for the U.S. military.

20. Rule 20: Capitalize the word "Court" when referring to the judge.

*Examples:* You heard the Court give you rules to follow in making a decision.  
The case was heard before Judge O'Neil.  
The judge has the responsibility of giving the jury charge.  
The Court has the responsibility of giving the jury charge.  
The bailiff will usher the jury members to the juryroom.

21. Rule 21: Capitalize the brand names of products, including drugs. Do not capitalize the generic names or slang names.

*Examples:* I needed to take at least three aspirin a day.  
I bought coke in my neighborhood. (the drug)  
The doctor prescribed Valium for my condition.  
We were out of Pampers so had to go to the store.

*My secretary made three xerox copies.*

22. Rule 22: For liquor or beverages, capitalize any word which in its use, is a country or a derivative of a country. Capitalize any other specific name of a beverage which, if not capitalized, would be confusing to the reader.

*Examples: We always drank French wine.  
Irish whiskey is the best.  
You should use Irish Mist for Irish coffee.  
He usually drank vodka and Squirt.  
He always asked for a Seven-Seven.  
One Christmas he drank a Tom and Jerry.  
He convinced me that Pepsi was a better drink.*

23. Rule 23: Capitalize exact names of academic courses but do not capitalize general subject areas.

*Examples: I earned an A in Accounting 101.  
I plan to study accounting.  
A course in business English was offered.  
He was very interested in French history.*

24. Rule 24: Academic degrees and their abbreviations are capitalized when written after the name of the person having the degree. They are not capitalized when used a general term of classification or in a general sense.

*Examples: I hope to have my master's degree by June.  
He has been working on his doctorate at Florida State.  
Isabel Morales, Doctor of Philosophy, will speak to our group.  
He will never get his medical degree, in my opinion.*

*The job requires a bachelor's in sociology.  
Samuel Goldman, D.D.S., is now open for business.*

25. Rule 25: Do not capitalize grades in school or classification of year in school.

*Examples: He completed the sixth grade.  
I am a sophomore in college.*

26. Rule 26: Capitalize all words other than articles (a, an, the), prepositions of fewer than four letters, and short conjunctions in the titles of literary or artistic works or other published works.

Always capitalize the first word and the last word of a title.

*Examples: Have you read Gone with the Wind?  
He has written an article, "How to Interrogate."  
We agreed that Les Miserables was an exceptionally fine musical.  
I'm writing a book I hope to entitle A Country to be Proud Of.*

27. Rule 27: Capitalize the names of historical events and periods.

*Examples: He fought in World War II.  
My parents were a product of the Great Depression.*

28. Rule 28: Capitalize nicknames or imaginative names given to movements, programs, or historically designated cultural periods.

*Examples: Johnson advocated the Great Society.  
We are living in the "me" generation.  
The Cultural Revolution was a dark period in China's history.*

29. Rule 29: When capitalizing a hyphenated word, capitalize the word after the hyphen, unless the hyphenated word was capitalized only because it began the sentence.

*Example: His book was called The Runner-Up.  
Follow-up information was available on January 1.*

30. Rule 30: Capitalize the entire titles of places, things, and ideas. Do not capitalize the shortened forms used in place of the full name.

*Examples: They were to leave from O'Hare Airport.  
There were to leave from the Chicago airport.*

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## Section 9: Selected Michigan Court Rules

The following **excerpts** from the Michigan Court Rules are the most relevant to the court reporter or recorder. However, it is recommended that the court reporter or recorder have access to **all** the rules. Although this manual is frequently updated, the court reporter, recorder, or operator should check for the most current court rules on the [One Court of Justice website](#).

### Chapter 1: Rules on Civil Procedure

#### A. Subchapter 2.300 Discovery

##### **Rule 2.302(B), (H) General Rules Governing Discovery; Scope; Trial Preparation and Materials**

##### **(B) Scope of Discovery.**

##### (3) Trial Preparation; Materials.

- (b) Without the showing required by subrule (B)(3)(a), a party or a nonparty may obtain a statement concerning the action or its subject matter previously made by the person making the request. A nonparty whose request is refused may move for a court order. The provisions of MCR 2.313(A)(5) apply to the award of expenses incurred in relation to the motion.
- (c) For purposes of subrule (B)(3)(b), a statement previously made is
  - (i) a written statement signed or otherwise adopted or approved by the person making it; or
  - (ii) a stenographic, mechanical, electrical, or other recording, or a transcription of it, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

##### **(H) Filing and Service of Discovery Materials.**

- (1) Unless a particular rule requires filing of discovery materials, requests, responses, depositions, and other discovery materials may not be filed with the court except as follows:
  - (a) If discovery materials are to be used in connection with a motion, they must either be filed separately or be attached to the motion or an accompanying affidavit;
  - (b) If discovery materials are to be used at trial they must be made an exhibit pursuant to MCR 2.518 or MCR 3.930;
  - (c) The court may order discovery materials to be filed.
- (2) Copies of discovery materials served under these rules must be served on all

parties to the action, unless the court has entered an order under MCR 2.107(F).

- (3) On appeal, only discovery materials that were filed or made exhibits are part of the record on appeal.
- (4) Removal and destruction of discovery materials are governed by MCR 2.316.

#### **Rule 2.304 Persons Before Whom Depositions May be Taken**

**(A) Within the United States.** Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions may be taken

- (1) before a person authorized to administer oaths by the laws of Michigan, the United States, or the place where the examination is held;
- (2) before a person appointed by the court in which the action is pending; or
- (3) before a person on whom the parties agree by stipulation under MCR 2.302(F)(1).

A person acting under subrule (A)(2) or (3) has the power to administer oaths, take testimony, and do all other acts necessary to take a deposition.

**(B) In Foreign Countries.** In a foreign country, depositions may be taken

- (1) on notice before a person authorized to administer oaths in the place in which the examination is held, by either the law of that place or of the United States; or
- (2) before a person commissioned by the court, and a person so commissioned has the power by virtue of the commission to administer a necessary oath and take testimony; or
- (3) pursuant to a letter rogatory.

A commission or a letter rogatory may be issued on motion and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter rogatory that the taking of the deposition in another manner is impracticable or inconvenient; both a commission and a letter rogatory may be issued in a proper case. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in [name of country]." Evidence obtained in response to a letter rogatory need not be excluded merely because it is not a verbatim transcript or the testimony was not taken under oath, or because of a similar departure from the requirements for depositions taken within the United States under these rules.

- (C) **Disqualification for Interest.** Unless the parties agree otherwise by stipulation in writing or on the record, a deposition may not be taken before a person who is
- (1) a relative or employee of or an attorney for a party,
  - (2) a relative or employee of an attorney for a party, or
  - (3) financially interested in the action.

**NOTE:** A notary public cannot perform a notarial act for a spouse, lineal ancestor, lineal descendant, or sibling including in-laws, steps, or half relatives. MCL 55.291(8).

### **Rule 2.306 Depositions on Oral Examination**

(C) **Conduct of Deposition; Examination and Cross-Examination; Manner of Recording; Objections; Conferring With Deponent.**

- (1) Examination of Deponent.
  - (a) The person before whom the deposition is to be taken must put the witness on oath.
  - (b) Examination and cross-examination of the witness shall proceed as permitted at a trial under the Michigan Rules of Evidence.
  - (c) In lieu of participating in the oral examination, a party may send written questions to the person conducting the examination, who shall propound them to the witness and record the witness's answers.
- (2) Recording of Deposition. The person before whom the deposition is taken shall personally, or by someone acting under his or her direction and in his or her presence, record the testimony of the witness.
  - (a) The testimony must be taken stenographically or recorded by other means in accordance with this subrule. The testimony need not be transcribed unless requested by one of the parties.
  - (b) While the testimony is being taken, a party, as a matter of right, may also make a record of it by nonsecret mechanical or electronic means, except that video recording is governed by MCR 2.315. Any use of the recording in court is within the discretion of the court. A person making such a record must furnish a duplicate of the record to another party at the request and expense of the other party.
- (3) Recording by Nonstenographic Means. The court may order, or the parties may stipulate, that the testimony at a deposition be recorded by other than stenographic means.
  - (a) The order or stipulation must designate the manner of recording and preserving the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A deposition in

the form of a recording may be filed with the court as are other depositions.

- (b) If a deposition is taken by other than stenographic means on order of the court, a party may nevertheless arrange to have a stenographic transcription made at that party's own expense.
- (c) Before a deposition taken by other than stenographic means may be used in court it must be transcribed unless the court enters an order waiving transcription. The costs of transcription are borne by the parties as determined by the court.
- (d) Subrule (C)(3) does not apply to video depositions, which are governed by MCR 2.315.

(4) Objections During Deposition.

- (a) All objections made at the deposition, including objections to
  - (i) the qualifications of the person taking the deposition,
  - (ii) the manner of taking it,
  - (iii) the evidence presented, or
  - (iv) the conduct of a party,

must be noted on the record by the person before whom the deposition is taken.

Subject to limitations imposed by an order under MCR 2.302(C) or subrule (D) of this rule, evidence objected to on grounds other than privilege shall be taken subject to the objections.

- (b) An objection during a deposition must be stated concisely in a civil and nonsuggestive manner.
- (c) Objections are limited to
  - (i) objections that would be waived under MCR 2.308(C)(2) or (3), and
  - (ii) those necessary to preserve a privilege or other legal protection or to enforce a limitation ordered by the court.

(5) Conferring with Deponent.

- (a) A person may instruct a deponent not to answer only when necessary to preserve a privilege or other legal protection, to enforce a limitation ordered by the court, or to present a motion under MCR 2.306(D)(1).
- (b) A deponent may not confer with another person while a question is pending, except to confer with counsel to decide whether to assert a privilege or other legal protection.

**(D) Motion to Terminate or Limit Examination; Sanctions; Asserting Privilege.**

- (1) Motion. At any time during the taking of the deposition, on motion of a party or of the deponent and on a showing that the examination is being conducted in bad faith or in a manner unreasonably to annoy, embarrass, or oppress the deponent or party, or that the matter inquired about is privileged, a court in which the action is pending or the court in the county or district where the deposition is being taken may order the person conducting the examination to cease taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in MCR 2.302(C). If the order entered terminates the examination, it may resume only on order of the court in which the action is pending.
- (2) Sanctions. On motion, the court may impose an appropriate sanction — including the reasonable expenses and attorney fees incurred by any party — on a person who impedes, delays, or frustrates the fair examination of deponent or otherwise violates this rule.
- (3) Suspending Deposition. On demand of the objecting party or deponent, the taking of the deposition must be suspended for the time necessary to move for an order. MCR 2.313(A)(5) applies to the award of expenses incurred in relation to the motion.
- (4) Raising Privilege before Deposition. If a party knows before the time scheduled for the taking of a deposition that he or she will assert that the matter to be inquired about is privileged, the party must move to prevent the taking of the deposition before its occurrence or be subject to costs under subrule (G).
- (5) Failure to Assert Privilege. A party who has a privilege regarding part or all of the testimony of a deponent must either assert the privilege at the deposition or lose the privilege as to that testimony for purposes of the action. A party who claims a privilege at a deposition may not at the trial offer the testimony of the deponent pertaining to the evidence objected to at the deposition. A party who asserts a privilege regarding medical information is subject to the provisions of MCR 2.314(B).

**(E) Exhibits.** Documents and things produced for inspection during the examination of the witness must, on the request of a party, be marked for identification and annexed to the deposition, if practicable, and may be inspected and copied by a party, except as follows:

- (1) The person producing the materials may substitute copies to be marked for

identification, if he or she affords to all parties fair opportunity to verify the copies by comparison with the originals.

- (2) If the person producing the materials requests their return, the person conducting the examination or the stenographer must 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 the deposition. A party may move for an order that the original be annexed to and filed with the deposition, pending final disposition of the action.

**(F) Certification and Transcription; Filing; Copies.**

- (1) If transcription is requested by a party, the person conducting the examination or the stenographer must certify on the deposition that the witness was duly sworn and that the deposition is a true record of the testimony given by the witness. A deposition transcribed and certified in accordance with subrule (F) need not be submitted to the witness for examination and signature.
- (2) On payment of reasonable charges, the person conducting the examination shall furnish a copy of the deposition to a party or to the deponent. Where transcription is requested by a party other than the party requesting the deposition, the court may order, or the parties may stipulate, that the expense of transcription or a portion of it be paid by the party making the request.
- (3) Except as provided in subrule (C)(3) or in MCR 2.315(E), a deposition may not be filed with the court unless it has first been transcribed. If a party requests that the transcript be filed, the person conducting the examination or the stenographer shall, after transcription and certification:
  - (a) securely seal the transcript in an envelope endorsed with the title and file number of the action and marked "Deposition of [name of witness]," and promptly file it with the court in which the action is pending or send it by registered or certified mail to the clerk of that court for filing;
  - (b) give prompt notice of its filing to all other parties, unless the parties agree otherwise by stipulation in writing or on the record.

**(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 with the deposition and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to the other party the reasonable expenses incurred in attending, including reasonable attorney fees.

....



**Rule 2.307(B) Depositions on Written Questions; Taking of Responses; Preparation of Record**

A copy of the notice, any stipulation, and copies of all questions served must be delivered by the party who proposed the deposition to the person before whom the deposition will be taken as stated in the notice. The person before whom the deposition is to be taken must proceed promptly to take the testimony of the witness in response to the questions, and, if requested, to transcribe, certify, and file the deposition in the manner provided by MCR 2.306(C), (E), and (F), attaching the copy of the notice, the questions, and any stipulations of the parties.

**Rule 2.308(C) Use of Depositions in Court Proceedings****(C) Effect of Errors or Irregularities in Depositions.**

- (1) **Notice.** Errors or irregularities in the notice for taking a deposition are waived unless written objection is promptly served on the party giving notice.
- (2) **Disqualification of Person Before Whom Taken.** Objection to taking a deposition because of disqualification of the person 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) **Taking of Deposition.**
  - (b) Errors and irregularities occurring at the deposition 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 other kind which might be cured if promptly presented, are waived unless seasonable objection is made at the taking of the deposition.
  - ...
- (4) **Certification, Transcription, and Filing of Deposition.** Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the person before whom it was taken are waived unless a motion objecting to the deposition is filed within a reasonable time.
- (5) **Harmless Error.** None of the foregoing errors or irregularities, even when not waived, or any others, preclude or restrict the use of the deposition, except insofar as the court finds that the errors substantially destroy the value of the deposition as evidence or render its use unfair or prejudicial.

**Rule 2.315 Video Depositions**

- (A) **When Permitted.** Depositions authorized under MCR 2.303 and 2.306 may be taken by means of simultaneous audio and visual electronic recording without leave of the court or stipulation of the parties, provided the deposition is taken in accordance with this rule.

**(B) Rules Governing.** Except as provided in this rule, the taking of video depositions is governed by the rules governing the taking of other depositions unless the nature of the video deposition makes compliance impossible or unnecessary.

**(C) Procedure.**

- (1) A notice of the taking of a video deposition and a subpoena for attendance at the deposition must state that the deposition is to be visually recorded.
- (2) A video deposition must be timed by means of a digital clock or clocks capable of displaying the hours, minutes, and seconds. The clock or clocks must be in the picture at all times during the taking of the deposition.
- (3) A video deposition must begin with a statement on camera of the date, time, and place at which the recording is being made, the title of the action, and the identification of the attorneys.
- (4) The person being deposed must be sworn as a witness on camera by an authorized person.
- (5) More than one camera may be used, in sequence or simultaneously.
- (6) The parties may make audio recordings while the video deposition is being taken.
- (7) At the conclusion of the deposition a statement must be made on camera that the deposition is completed.

**(D) Custody of Tape and Copies.**

- (1) The person making the video recording must retain possession of it. The video recording must be securely sealed and marked for identification purposes.
- (2) The parties may purchase audio or audio-visual copies of the recording from the operator.

**(E) Filing; Notice of Filing.** If a party requests that the deposition be filed, the person who made the recording shall

- (1) file the recording with the court under MCR 2.306(F)(3), together with an affidavit identifying the recording, stating the total elapsed time, and attesting that no alterations, additions, or deletions other than those ordered by the court have been made;
- (2) give the notice required by MCR 2.306(F)(3), and
- (3) serve copies of the recording on all parties who have requested them under MCR 2.315(D)(2).

**(F) Use as Evidence; Objections.**

- (1) A video deposition may not be used in a court proceeding unless it has been filed with the court.
- (2) Except as modified by this rule, the use of video depositions in court proceedings is governed by MCR 2.308.
- (3) A party who seeks to use a video deposition at trial must provide the court with either
  - (a) a transcript of the deposition, which shall be used for ruling on any objections, or
  - (b) a stipulation by all parties that there are no objections to the deposition and that the recording (or an agreed portion of it) may be played.
- (4) When a video deposition is used in a court proceeding, the court must indicate on the record what portions of the recording have been played. The court reporter or recorder need not make a record of the statements in the recording.

**(G) Custody of Video Deposition After Filing.** After filing, a video deposition shall remain in the custody of the court unless the court orders the recording stored elsewhere for technical reasons or because of special storage problems. The order directing the storage must direct the custodian to keep the recordings sealed until the further order of the court. Video depositions filed with the court shall have the same status as other depositions and documents filed with the court, and may be reproduced, preserved, destroyed, or salvaged as directed by order of the court.

**(H) Appeal.** On appeal the recording remains part of the record and shall be transmitted with it. A party may request that the appellate court view portions of the video deposition. If a transcript was not provided to the court under subrule (F)(3), the appellant must arrange and pay for the preparation of a transcript to be included in the record on appeal.

**(I) Costs.** The costs of taking a video deposition and the cost for its use in evidence may be taxed as costs as provided by MCR 2.625 in the same manner as depositions recorded in other ways.

**B. Subchapter 2.500 Trials; Subpoenas; Juries****Rule 2.518(A)-(B) Receipt of Exhibits; Return or Disposal of Exhibits**

Exhibits introduced into evidence at or during court proceedings shall be received and maintained as provided by Michigan Supreme Court [Trial Court Case File Management Standards](#). As defined in MCR 1.109, exhibits received and accepted into evidence under this rule are not court records.

At the conclusion of a trial or hearing, the court shall direct the parties to retrieve the exhibits

submitted by them except that any weapons and drugs shall be returned to the confiscating agency for proper disposition. If the exhibits are not retrieved by the parties as directed, within 56 days after conclusion of the trial or hearing, the court may properly dispose of the exhibits without notice to the parties.

### **C. Subchapter 3.200 Domestic Relations Actions**

#### **Rule 3.210(A)(4) Hearings and Trials; In General**

Testimony must be taken in person, except that the court may allow testimony to be taken by telephone in extraordinary circumstances, or under MCR 2.407.

## **Chapter 2: Rules for Proceedings in District Court**

### **A. Subchapter 4.200 Landlord-Tenant Proceedings; Land Contract Forfeiture**

#### **Rule 4.201(E) Summary Proceedings to Recover Possession of Premises; Recording**

All landlord-tenant summary proceedings conducted in open court must be recorded by stenographic or mechanical means, and only a reporter or recorder certified under MCR 8.108 (G) may file a transcript of the record in a Michigan court.

## **Chapter 3: Rules for Proceedings in Probate Court and Family Division of Circuit Court**

### **A. Subchapter 5.100 General Rules of Pleading and Practice**

#### **Rule 5.162(A) Form and Signing of Judgments and Orders**

A proposed judgment or order must include the name, address, and telephone number of the attorney or party who prepared it. All judgments and orders of the court must be typewritten or legibly printed in ink and signed by the judge to whom the proceeding is assigned.

### **B. Subchapter 5.800 Appeals**

#### **Rule 5.802(A)-(B) Appellate Procedure; Stays Pending Appeal**

(A) **Procedure.** Except as modified by this subchapter, chapter 7 of these rules governs appeals from the probate court.

**(B) Record.**

- (1) An appeal from the probate court is on the papers filed and a written transcript of the proceedings in the probate court or on a record settled and agreed to by the parties and approved by the court. The appeal is not de novo.
- (2) The probate register may transmit certified copies of the necessary documents and papers in the file if the original papers are needed for further proceedings in the probate court. The parties shall not be required to pay for the copies as costs or otherwise.

**C. Subchapter 3.600 Miscellaneous Proceeding****Rule 3.615 Parental Rights Restoration Act Proceedings**

**(A) Applicable Rules.** A proceeding by a minor to obtain a waiver of parental consent for an abortion shall be governed by the rules applicable to civil proceedings except as modified by this rule.

**(B) Confidentiality, Use of Initials, Private File, Reopening.**

- (1) The court shall assure the confidentiality of the file, the assistance given the minor by court personnel, and the proceedings.
- (2) If requested by the minor, the title of the proceeding shall be by initials or some other means of assuring confidentiality. At the time the petition is filed, the minor shall file a Confidential Information Sheet listing the minor's name, date of birth, permanent residence, title to be used in the proceeding and the method by which the minor may be reached during the pendency of the proceeding. The Confidential Information Sheet and all other documents containing identifying information shall be sealed in an envelope marked confidential on which the case number has been written and placed in a private file. Confidential information shall not be entered into a computer file.
- (3) The court shall maintain only one file of all papers for each case. The file shall be inspected only by the judge, specifically authorized court personnel, the minor, her attorney, her next friend, the guardian ad litem, and any other person authorized by the minor. After the proceedings are completed, the file may be opened only by order of the court for good cause shown and only for a purpose specified in the order of the court.
- (4) The file of a completed case shall not be destroyed until two years after the minor has reached the age of majority. The court shall not microfilm or otherwise copy the file.

....

**(J) Hearing.**

- (1) **Burden and Standard of Proof.** The petitioner has the burden of proof by preponderance of the evidence and must establish the statutory criteria at a hearing.
- (2) **Closed Hearing.** The hearing shall be closed to the public. The court shall limit attendance at the hearing to the minor, the minor's attorney, the next friend, the guardian ad litem, persons who are called to testify by the minor or with the minor's consent, necessary court personnel and one support person who would not be disqualified as a next friend by MCL 722.902(d).
- (3) All relevant and material evidence may be received.
- (4) The hearing may be conducted informally in the chambers of a judge.
- (5) The hearing shall commence and be concluded within 72 hours, excluding Sundays and holidays, of the filing of the petition, unless the minor consents to an adjournment. The order of the court shall be issued within 48 hours, excluding Sundays and holidays, of the conclusion of the hearing.

**(K) Order.**

- (2) **Order Denying Waiver, Notice of Appeal, Appointment of Counsel, Preparation of Transcript.** If the order denies relief, the court shall endorse the time and date on the order. The order shall be served on the minor's attorney or, if none, the minor along with
  - (a) a unified appellate document substantially in the form approved by the state court administrator which may be used as notice of appeal, claim of appeal, request for appointment of an attorney and order of transcript, and
  - (b) a notice that, if the minor desires to appeal, the minor must file the notice of appeal with the court within 24 hours.
- (3) **Appeal.**
  - (a) Upon receipt of a timely notice of appeal, the court must appoint counsel and order that the transcript be prepared immediately and two copies filed within 72 hours. If the minor was represented by counsel in the court proceedings, the court must reappoint the same attorney unless there is good cause for a different appointment. As soon as the transcript is filed, the court shall forward the file to the Court of Appeals.

**D. Subchapter 3.900 Proceedings Involving Juveniles****Rule 3.903(A)(25) “Records” Defined**

“Records” are as defined in MCR 1.109 and include pleadings, motions, authorized petitions, notices, memoranda, briefs, exhibits, available transcripts, findings of the court, registers of action, and court orders.

**Rule 3.923(E) Miscellaneous Procedures; Electronic Equipment; Support Person**

The court may allow the use of closed-circuit television, speaker telephone, or other similar electronic equipment to facilitate hearings or to protect the parties. The court may allow the use of videotaped statements and depositions, anatomical dolls, or support persons, and may take other measures to protect the child witness as authorized by MCL 712A.17b.

**Rule 3.925(B)-(F) Open Proceedings; Judgments and Orders; Record; Confidentiality; Destruction of Court Files; Setting Aside Adjudications**

**(B) Record of Proceedings.** A record of all hearings must be made. All proceedings on the formal calendar must be recorded by stenographic recording or by mechanical or electronic recording as provided by statute or MCR 8.108. A plea of admission or no contest, including any agreement with or objection to the plea, must be recorded.

**(C) Judgments and Orders.** The form and signing of judgments are governed by MCR 2.602(A)(1) and (2). Judgments and orders may be served on a person by first-class mail to the person’s last known address.

**(D) Public Access to Records; Confidential File.**

(1) General. Records of the juvenile cases, other than confidential files, must be open to the general public.

(2) Confidential Files. Only persons who are found by the court to have a legitimate interest may be allowed access to the confidential files. In determining whether a person has a legitimate interest, the court shall consider the nature of the proceedings, the welfare and safety of the public, the interest of the minor, and any other restriction imposed by state or federal law.

**(E) Destruction of Court Files and Records.** This subrule governs the destruction of court files and records.

(1) Destruction Generally; Effect. The court may at any time for good cause destroy its own files and records pertaining to an offense by or against a minor, other than an adjudicated offense described in MCL 712A.18e(2), except that the register of actions must not be destroyed. Destruction of a file does not negate, rescind, or set aside an adjudication.

(2) Delinquency Files and Records.

- (a) The court must destroy the diversion record of a juvenile within 28 days after the juvenile becomes 17 years of age.
- (b) The court must destroy all files of matters heard on the consent calendar within 28 days after the juvenile becomes 17 years of age or after dismissal from court supervision, whichever is later, unless the juvenile subsequently comes within the jurisdiction of the court on the formal calendar. If the case is transferred to the consent calendar and a register of actions exists, the register of actions must be maintained as a nonpublic record.
- (c) Except as provided by subrules (a) and (b), the court must destroy the files and records pertaining to a person's juvenile offenses when the person becomes 30 years old.
- (d) If the court destroys its files regarding a juvenile proceeding on the formal calendar, it shall retain the register of actions, and, if the information is not included in the register of actions, whether the juvenile was represented by an attorney or waived representation.

(3) Child Protective Files and Records.

- (a) The court, for any reason, may destroy child protective proceeding files and records pertaining to a child, other than orders terminating parental rights, 25 years after the jurisdiction over the child ends, except that where records on more than one child in a family are retained in the same file, destruction is not allowed until 25 years after jurisdiction over the last child ends.
- (b) All orders terminating parental rights to a child must be kept as a permanent record of the court.

**(F) Setting Aside Adjudications and Convictions.**

- (1) Adjudications. The setting aside of juvenile adjudications is governed by MCL 712A.18e.
- (2) Convictions. The court may only set aside a conviction as provided by MCL 780.621 *et seq.*

**(G) Access to Juvenile Offense Record of Convicted Adults**

When the juvenile offense record of an adult convicted of a crime is made available to the appropriate agency, as provided in MCL 781,228(1), the record must state whether, with regard to each adjudication, the juvenile had an attorney or voluntarily waived an attorney.



**Rule 3.930(A)-(B) Receipt and Return or Disposal of Exhibits in Juvenile Proceedings**

Except as otherwise required by statute or court rule, materials that are intended to be used as evidence at or during trial shall not be filed with the clerk of the court, but shall be submitted to the judge for introduction into evidence as exhibits. Exhibits introduced into evidence at or during court proceedings shall be received and maintained as provided by Michigan Supreme Court Trial Court Case File Management Standards. As defined in MCR 1.109, exhibits received and accepted into evidence under this rule are not court records.

At the conclusion of a trial or hearing, the court shall direct the parties to retrieve the exhibits submitted by them except that any weapons and drugs shall be returned to the confiscating agency for proper disposition. If the exhibits are not retrieved by the parties as directed, within 56 days after conclusion of the trial or hearing, the court may properly dispose of the exhibits without notice to the parties.

**Rule 3.950(E)-(F) Waiver of Jurisdiction; Grant or Denial of Motion****(E) Grant of Waiver Motion.**

- (1) If the court determines that it is in the best interests of the juvenile and public to waive jurisdiction over the juvenile, the court must:
  - (a) Enter a written order granting the motion to waive jurisdiction and transferring the matter to the appropriate court having general criminal jurisdiction for arraignment of the juvenile on an information.
  - (b) Make findings of fact and conclusions of law forming the basis for entry of the waiver order. The findings and conclusions may be incorporated in a written opinion or stated on the record.
  - (c) Advise the juvenile, orally or in writing, that
    - (i) the juvenile is entitled to appellate review of the decision to waive jurisdiction,
    - (ii) the juvenile must seek review of the decision in the Court of Appeals within 21 days of the order to preserve the appeal of right, and
    - (iii) if the juvenile is financially unable to retain an attorney, the court will appoint one to represent the juvenile on appeal.
  - (d) The court shall send, without cost, a copy of the order and a copy of the written opinion or transcript of the court's findings and conclusions, to the court having general criminal jurisdiction.

- (2) Upon the grant of a waiver motion, a juvenile must be transferred to the adult criminal justice system and is subject to the same procedures used for adult criminal defendants. Juveniles waived pursuant to this rule are not required to be kept separate and apart from adult prisoners.
- (F) **Denial of Waiver Motion.** If the waiver motion is denied, the court shall make written findings or place them on the record. A transcript of the court's findings or, if a written opinion is prepared, a copy of the written opinion must be sent to the prosecuting attorney and the juvenile, or juvenile's attorney, upon request. If the juvenile is detained and the trial of the matter in the family division has not started within 28 days after entry of the order denying the waiver motion, and the delay is not attributable to the defense, the court shall forthwith order the juvenile released pending trial without requiring that bail be posted, unless the juvenile is being detained on another matter.

### **Rule 3.993(C) Appeals; Procedure; Delayed Appeals**

- (1) Applicable Rules. Except as modified by this rule, chapter 7 of the Michigan Court Rules governs appeals from the family division of the circuit court.
- (2) Delayed Appeals; Termination of Parental Rights. The Court of Appeals may not grant an application for leave to appeal an order of the family division of the circuit court terminating parental rights if filed more than 63 days after entry of an order of judgment on the merits, or if filed more than 63 days after entry of an order denying reconsideration or rehearing.

## **Chapter 4: Criminal Procedure**

### **A. Subchapter 6.000 General Provisions**

#### **Rule 6.001 Scope**

- (A) **Felony Cases.** The rules in subchapters 6.000-6.500 govern matters of procedure in criminal cases cognizable in the circuit courts and in courts of equivalent criminal jurisdiction.
- (B) **Misdemeanor Cases.** MCR 6.001-6.004, 6.005(B) and (C), 6.006, 6.102(D) and (F), 6.103, 6.104 (A), 6.106, 6.125, 6.202, 6.427, 6.435, 6.440, 6.445(A)-(G), and the rules in subchapter 6.600 govern matters of procedure in criminal cases cognizable in the district courts.
- (C) **Juvenile Cases.** The rules in subchapter 6.900 govern matters of procedure in the district courts and in circuit courts and courts of equivalent criminal jurisdiction in cases involving juveniles against whom the prosecutor has authorized the filing of a criminal complaint as provided in MCL 764.1f.
- (D) **Civil Rules Applicable.** The provisions of the rules of civil procedure apply to cases governed by this chapter, except
  - (1) as otherwise provided by rule or statute,

- (2) when it clearly appears that they apply to civil actions only, or
- (3) when a statute or court rule provides a like or different procedure.

Depositions and other discovery proceedings under subchapter 2.300 may not be taken

for the purposes of discovery in cases governed by this chapter. The provisions of MCR 2.501(C) regarding the length of notice of trial assignment do not apply in cases governed by this chapter.

- (E) Rules and Statutes Superseded.** The rules in this chapter supersede all prior court rules in this chapter and any statutory procedure pertaining to and inconsistent with a procedure provided by a rule in this chapter.

### **Rule 6.003 Definitions**

For purposes of subchapters 6.000 - 6.800:

...

- (6) “Court reporter” includes a court recorder.

### **Rule 6.006 Video and Audio Proceedings**

- (A) Defendant in the Courtroom or at a Separate Location.** Defendant in the Courtroom or at a Separate Location. District and circuit courts may use two-way interactive video technology to conduct the following proceedings between a courtroom and a prison, jail, or other location: initial arraignments on the warrant or complaint, probable cause conferences, arraignments on the information, pretrial conferences, pleas, sentencings for misdemeanor offenses, show cause hearings, waivers and adjournments of extradition, referrals for forensic determination of competency, and waivers and adjournments of preliminary examinations.
- (B) Defendant in the Courtroom - Preliminary Examinations.** As long as the defendant is either present in the courtroom or has waived the right to be present, on motion of either party, district courts may use telephonic, voice, or video conferencing, including two-way interactive video technology, to take testimony from an expert witness or, upon a showing of good cause, any person at another location in a preliminary examination.
- (C) Defendant in the Courtroom - Other Proceedings.** As long as the defendant is either present in the courtroom or has waived the right to be present, upon a showing of good cause, district and circuit courts may use two-way interactive video technology to take testimony from a person at another location in the following proceedings:
- (1) evidentiary hearings, competency hearings, sentencings, probation revocation proceedings, and proceedings to revoke a sentence that does not entail an adjudication of guilt, such as youthful trainee status;
  - (2) with the consent of the parties, trials. A party who does not consent to the use of two-way interactive video technology to take testimony from a person at trial

shall not be required to articulate any reason for not consenting.

- (D) **Mechanics of Use.** The use of telephonic, voice, video conferencing, or two-way interactive video technology, must be in accordance with any requirements and guidelines established by the State Court Administrative Office, and all proceedings at which such technology is used must be recorded verbatim by the court.

**B. Subchapter 6.100 Preliminary Proceedings**

**Rule 6.102(A)-(B) Arrest on a Warrant; Issuance; Probable Cause Determination**

A court must issue an arrest warrant, or a summons in accordance with MCR 6.103, if presented with a proper complaint and if the court finds probable cause to believe that the accused committed the alleged offense.

A finding of probable cause may be based on hearsay evidence and rely on factual allegations in the complaint, affidavits from the complainant or others, the testimony of a sworn witness adequately preserved to permit review, or any combination of these sources.

**Rule 6.104(F) Arraignment on the Warrant or Complaint; Procedure; Recording**

A verbatim record must be made of the arraignment.

**Rule 6.106(G)(2)(b) Pretrial Release; Custody Hearing; Procedure**

The rules of evidence, except those pertaining to privilege, are not applicable. Unless the court makes findings required to enter an order under subrule (B)(1), the defendant must be ordered released under subrule (C) or (D). A verbatim record of the hearing must be made.

**Rule 6.107(A)-(B) Grand Jury Proceedings; Right to Records; Procedure to Obtain Records**

- (A) **Right to Grand Jury Records.** Whenever an indictment is returned by a grand jury or a grand juror, the person accused in the indictment is entitled to the part of the record, including a transcript of the part of the testimony of all witnesses appearing before the grand jury or grand juror, that touches on the guilt or innocence of the accused of the charge contained in the indictment.

**(B) Procedure to Obtain Records.**

- (1) To obtain the part of the record and transcripts specified in subrule (A), a motion must be addressed to the chief judge of the circuit court in the county in which the grand jury issuing the indictment was convened.
- (2) The motion must be filed within 14 days after arraignment on the indictment or at a reasonable time thereafter as the court may permit on a showing of good cause and a finding that the interests of justice will be served.

- (3) On receipt of the motion, the chief judge shall order the entire record and transcript of testimony taken before the grand jury to be delivered to the chief judge by the person having custody of it for an in camera inspection by the chief judge.
- (4) Following the in camera inspection, the chief judge shall certify the parts of the record, including the testimony of all grand jury witnesses that touches on the guilt or innocence of the accused, as being all of the evidence bearing on that issue contained in the record, and have two copies of it prepared, one to be delivered to that attorney for the accused, or to the accused if not represented by an attorney, and one to the attorney charged with the responsibility for prosecuting the indictment.
- (5) The chief judge shall then have the record and transcript of all testimony of grand jury witnesses returned to the person from whom it was received for disposition according to law.

**Rule 6.110(C) The Preliminary Examination; Conducting the Examination**

... A verbatim record must be made of the preliminary examination.

**Rule 6.113(D) The Arraignment on the Indictment or Information; Preliminary Examination Transcript**

The court reporter shall transcribe and file the record of the preliminary examination if such is demanded or ordered pursuant to MCL 766.15.

**C. Subchapter 6.300 Pleas**

**Rule 6.302(F) Pleas of Guilty and Nolo Contendere; Plea Under Advisement; Plea Record**

... A verbatim record must be made of the plea proceeding.

**Rule 6.303 Plea of Guilty But Mentally Ill**

Before accepting a plea of guilty but mentally ill, the court must comply with the requirements of MCR 6.302. In addition to establishing a factual basis for the plea pursuant to MCR 6.302(D)(1) or (D)(2)(b), the court must examine the psychiatric reports prepared and hold a hearing that establishes support for a finding that the defendant was mentally ill at the time of the offense to which the plea is entered. The reports must be made a part of the record.

**Rule 6.304(D) Plea of Not Guilty by Reason of Insanity; Report of Plea**

After accepting the defendant's plea, the court must forward to the center for forensic psychiatry a full report, in the form of a settled record, of the facts concerning the crime to which the defendant pleaded and the defendant's mental state at the time of the crime.

**D. Subchapter 6.400 Trials****Rule 6.402(B) Waiver of Jury Trial by the Defendant; Waiver and Record Requirements**

Before accepting a waiver, the court must advise the defendant in open court of the constitutional right to trial by jury. ... A verbatim record must be made of the waiver proceeding.

**Rule 6.403 Trial by the Judge in Waiver Cases**

When trial by jury has been waived, the court with jurisdiction must proceed with the trial. The court must find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment. The court must state its findings and conclusions on the record or in a written opinion made a part of the record.

**Rule 6.410(A) Jury Trial; Number of Jurors; Unanimous Verdict**

Except as provided in this rule, a jury that decides a case must consist of 12 jurors. At any time before a verdict is returned, the parties may stipulate with the court's consent to have the case decided by a jury consisting of a specified number of jurors less than 12. ... The stipulation and procedure described in this subrule must take place in open court and a verbatim record must be made.

**Rule 6.419(F) Motion for Directed Verdict of Acquittal; Explanation of Rulings on Record**

The court must state orally on the record or in a written ruling made a part of the record its reasons for granting or denying a motion for a directed verdict of acquittal and for conditionally granting or denying a motion for a new trial.

**Rule 6.420(A) Verdict; Return**

The jury must return its verdict in open court.

**Rule 6.425(E)-(G) Sentencing; Appointment of Appellate Counsel****(E) Sentencing Procedure.**

- (1) The court must sentence the defendant within a reasonably prompt time after the plea or verdict unless the court delays sentencing as provided by law. At sentencing the court must, on the record: ...

**(F) Advice Concerning the Right to Appeal; Appointment of Counsel.**

- (1) In a case involving a conviction following a trial, immediately after imposing sentence, the court must advise the defendant, on the record, that . . .
- (2) In a case involving a conviction following a plea of guilty or nolo contendere,

immediately after imposing sentence, the court must advise the defendant, on the record, that ....

**(G) Appointment of Lawyer; Trial Court Responsibilities in Connection With Appeal.**

**(2) Order to Prepare Transcript.** The appointment order also must

- (a) direct the court reporter to prepare and file, within the time limits specified in MCR 7.210,
  - (i) the trial or plea proceeding transcript,
  - (ii) the sentencing transcript, and
  - (iii) such transcripts of other proceedings, not previously transcribed, that the court directs or the parties request, and
- (b) provide for the payment of the reporter's fees.

The court must promptly serve a copy of the order on the prosecutor, the defendant, the appointed lawyer, the court reporter, and the Michigan Appellate Assigned Counsel System. If the appointed lawyer timely requests additional transcripts, the trial court shall order such transcripts within 14 days after receiving the request.

**(3) Order as Claim of Appeal; Trial Cases.** In a case involving a conviction following a trial, if the defendant's request for a lawyer, timely or not, was made within the time for filing a claim of appeal, the order described in subrules (G)(1) and (2) must be entered on a form approved by the State Court Administrative Office, entitled "Claim of Appeal and Appointment of Counsel," and the court must immediately send to the Court of Appeals a copy of the order and a copy of the judgment being appealed. The court also must file in the Court of Appeals proof of having made service of the order as required in subrule (G)(2). Entry of the order by the trial court pursuant to this subrule constitutes a timely filed claim of appeal for the purposes of MCR 7.204. (See SCAO-approved form CC 403.)

**Rule 6.431(B) New Trial; Reasons for Granting**

On the defendant's motion, the court may order a new trial on any ground that would support appellate reversal of the conviction or because it believes that the verdict has resulted in a miscarriage of justice. The court must state its reasons for granting or denying a new trial orally on the record or in a written ruling made a part of the record.

**Rule 6.433 Documents for Postconviction Proceedings; Indigent Defendant**

**(A) Appeals of Right.** An indigent defendant may file a written request with the sentencing court for specified court documents or transcripts, indicating that they are required to pursue an appeal of right. The court must order the clerk to provide the

defendant with copies of documents without cost to the defendant, and, unless the transcript has already been ordered as provided in MCR 6.425(G)(2), must order the preparation of the transcript.

**(B) Appeals by Leave.** An indigent defendant who may file an application for leave to appeal may obtain copies of transcripts and other documents as provided in this subrule.

- (1) The defendant must make a written request to the sentencing court for specified documents or transcripts indicating that they are required to prepare an application for leave to appeal.
- (2) If the requested materials have been filed with the court and not provided previously to the defendant, the court clerk must provide a copy to the defendant. If the requested materials have been provided previously to the defendant, on defendant's showing of good cause to the court, the clerk must provide the defendant with another copy.
- (3) If the request includes the transcript of a proceeding that has not been transcribed, the court must order the materials transcribed and filed with court. After the transcript has been prepared, court clerk must provide a copy to the defendant.

**(C) Other Postconviction Proceedings.** An indigent defendant who is not eligible to file an appeal of right or an application for leave to appeal may obtain records and documents as provided in this subrule.

- (1) The defendant must make a written request to the sentencing court for specific court documents or transcripts indicating that the materials are required to pursue postconviction remedies in a state or federal court and are not otherwise available to the defendant.
- (2) If the documents or transcripts have been filed with the court, the clerk must provide the defendant with copies of such materials without cost to the defendant. If the requested materials have been provided previously to the defendant, on defendant's showing of good cause to the court, the clerk must provide the defendant with another copy.
- (3) The court may order the transcription of additional proceedings if it finds that there is good cause for doing so. After such a transcript has been prepared, the clerk must provide a copy to the defendant.
- (4) Nothing in this rule precludes the court from ordering materials to be supplied to the defendant in a proceeding under subchapter 6.500.

#### **Rule 6.435 Correcting Mistakes**

**(A) Clerical Mistakes.** Clerical mistakes in judgments, orders, or other parts of the record and errors arising from oversight or omission may be corrected by the court at any time on its own initiative or on motion of a party, and after notice if the court orders it.



- (B) **Substantive Mistakes.** After giving the parties an opportunity to be heard, and provided it has not yet entered judgment in the case, the court may reconsider and modify, correct, or rescind any order it concludes was erroneous.
- (C) **Correction of Record.** If a dispute arises as to whether the record accurately reflects what occurred in the trial court, the court, after giving the parties the opportunity to be heard, must resolve the dispute and, if necessary, order the record to be corrected.
- (D) **Correction During Appeal.** If a claim of appeal has been filed or leave to appeal granted in the case, corrections under this rule are subject to MCR 7.208(A) and (B).

#### E. Subchapter 6.500 Postappeal Relief

##### **Rule 6.508(C) Procedure; Evidentiary Hearing; Determination**

If the court decides that an evidentiary hearing is required, it shall schedule and conduct the hearing as promptly as practicable. At the hearing, the rules of evidence other than those with respect to privilege do not apply. The court shall assure that a verbatim record is made of the hearing.

#### F. Subchapter 6.600 Criminal Procedure in District Court

##### **Rule 6.610 Criminal Procedure Generally**

- (A) **Precedence.** Criminal cases have precedence over civil actions.
- (C) **Record.** Unless a writing is permitted, a verbatim record of the proceedings before a court under subrules (D)-(F) must be made.
- (E) **Pleas of Guilty and Nolo Contendere.**
  - (4) A defendant or defendants may be informed of the trial rights listed in subrule (3)(b) as follows:
    - (a) on the record,
    - (b) in a writing made part of the file, or
    - (c) in a writing referred to on the record.

If the court uses a writing pursuant to subrule (E)(4)(b) or (c), the court shall address the defendant and obtain from the defendant orally on the record a statement that the rights were read and understood and a waiver of those rights. The waiver may be obtained without repeating the individual rights.

**G. Subchapter 6.900 Rules Applicable to Juveniles Charged with Specified Offenses Subject to the Jurisdiction of the Circuit or District Court****Rule 6.901(B) Applicability; Scope**

The rules apply to criminal proceedings in the district court and the circuit court concerning a juvenile against whom the prosecuting attorney has authorized the filing of a criminal complaint charging a specified juvenile violation instead of approving the filing of a petition in the family division of the circuit court. The rules do not apply to a person charged solely with an offense in which the family division has waived jurisdiction pursuant to MCL 712A.4.

**Rule 6.911(A)-(B) Preliminary Examination**

(A) **Waiver.** The juvenile may waive a preliminary examination if the juvenile is represented by an attorney and the waiver is made and signed by the juvenile in open court. The magistrate shall find and place on the record that the waiver was freely, understandingly, and voluntarily given.

(B) **Transfer to Family Division of Circuit Court.** If the magistrate, following preliminary examination, finds that there is no probable cause to believe that a specified juvenile violation occurred or that there is no probable cause to believe that the juvenile committed the specified juvenile violation, but that some other offense occurred that if committed by an adult would constitute a crime, and that there is probable cause to believe that the juvenile committed that offense, the magistrate shall transfer the matter to the family division of the circuit court in the county where the offense is alleged to have been committed for further proceedings. If the court transfers the matter to the family division, a transcript of the preliminary examination shall be sent to the family division without charge upon request.

**Rule 6.931(E)(5) Juvenile Sentencing Hearing; Procedure; Findings**

The court must make findings of fact and conclusions of law forming the basis for the juvenile probation and commitment decision or the decision to sentence the juvenile as though an adult offender. The findings and conclusions may be incorporated in a written opinion or stated on the record.

## Chapter 5: Appellate Rules

### A. Subchapter 7.100 Appeals to Circuit Court Rule 7.109 Record on Appeal

(A) **Content of Record.** Appeals to the circuit court are heard on the original record.

- (1) *Appeal From Trial Court.* The record is as defined in MCR 7.210(A)(1).
- (2) *Appeal From Agency.* The record is as defined in MCR 7.210(A)(2).
- (3) *Excluded Evidence.* The record on appeal must include the substance of the excluded evidence or the transcript of proceedings in the trial court or agency excluding it. Excluded exhibits must be maintained by the party offering them.
- (4) *Stipulations.* The parties may stipulate in writing regarding any matters relevant to the trial court or agency record if the stipulation is made a part of the record on appeal and sent to the circuit court.

### (B) Transcript.

- (1) *Appellant's Duties; Orders; Stipulations.*
  - (a) The appellant is responsible for securing the filing of the transcript as provided in this rule. Unless otherwise provided by circuit court order or this subrule, the appellant shall order the full transcript of testimony and other proceedings in the trial court or agency. Under MCR 7.104(D)(2), a party must serve a copy of any request for transcript preparation on the opposing party and file a copy with the circuit court.
  - (b) In an appeal from probate court, only that portion of the transcript concerning the order appealed need be filed. The appellee may file additional portions of the transcript.
  - (c) On the appellant's motion, with notice to the appellee, the trial court or agency may order that no transcript or some portion less than the full transcript be included in the record on appeal. The motion must be filed within the time required for filing an appeal, and, if the motion is granted, the appellee may file any portions of the transcript omitted by the appellant.
  - (d) The parties may stipulate that no transcript or some portion less than the full transcript be filed.
  - (e) The parties may agree on a statement of facts without procuring the transcript and the statement signed by the parties may be filed with the trial court or agency and sent as the record of testimony in the action.

- (2) *Transcript Unavailable.* When a transcript of the proceedings in the trial court or agency cannot be obtained, the appellant shall file a settled statement of facts using the procedure in MCR 7.210(B)(2) unless a statute provides otherwise.
- (3) *Duties of Court Reporter or Recorder.*
- (a) *Certificate.* Within 7 days after a transcript is ordered by a party or the court, the court reporter or recorder shall furnish a certificate stating that the transcript has been ordered and payment for it made or secured and that it will be filed as soon as possible or has already been filed.
- (b) *Time for Filing.*
- (i) The court reporter or recorder shall file the transcript in the trial court or agency within:
- [A] 14 days after a transcript is ordered by a party or the court for an application for leave to appeal from an order granting or denying a motion to suppress evidence in a criminal case;
- [B] 28 days after a transcript is ordered by a party or the court in an appeal of a criminal conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere or an appeal from the dismissal or reduction of a felony charge following a preliminary examination; or
- [C] 56 days after a transcript is ordered by a party or the court in all other cases.
- (ii) The circuit court may extend or shorten these time limits in an appeal pending in the court on motion filed by the court reporter or recorder or a party.
- (c) *Copies.* Additional copies of the transcripts required by the appellant may be ordered from the court reporter or recorder. Photocopies of the transcript furnished by the court reporter or recorder may also be made.
- (d) *Form of Transcript.* The transcript must be prepared in the form provided by MCR 7.210(B)(3)(d).
- (e) *Notice.* Immediately after the transcript is filed, the court reporter or recorder shall notify the circuit court and all parties that it has been filed and file in the circuit court an affidavit of mailing of notice to the parties.
- (f) *Discipline.* A court reporter or recorder failing to comply with the requirements of these rules is subject to disciplinary action, including punishment for contempt of court.
- (g) *Responsibility When More Than One Reporter or Recorder.* In a case in which portions of the transcript must be prepared by more than one

reporter or recorder, the person who recorded the beginning of the proceeding is responsible for ascertaining that the entire transcript has been prepared, filing it, and giving the notice required by subrule (B)(3)(e), unless the court has designated another person.

- (C) **Exhibits.** Unless otherwise ordered by the circuit court, trial court, or agency, the offering parties shall maintain exhibits in their possession.
- (D) **Reproduction of Records.** The trial court or agency shall procure copies of file contents as provided in MCR 7.210(D).
- (E) **Record on Motion.** If, before the complete record on appeal is sent to the circuit court, a party files a motion that requires the circuit court to have the record, the trial court or agency shall, on request of a party or the circuit court, send the circuit court the documents needed.
- (F) **Service of the Record.** Within 14 days after the transcript is filed with the trial court or agency, the appellant shall serve a copy of the entire record on appeal, including the transcripts and exhibits in his or her possession, on each appellee. However, copies of documents the appellee already possesses need not be served. On request, the appellant shall make available to the appellee exhibits incapable of being copied. Proof that the record was served must be promptly filed with the circuit court and the trial court or agency. If the filing of a transcript has been excused as provided in subrule (B), the record shall be served within 14 days after the filing of the transcript substitute.

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## **B. Subchapter 7.200 Court of Appeals**

### **Rule 7.201(B)(1)-(3) Organization and Operation of Court of Appeals; Clerk; Place of Filing Papers; Fees**

- (1) The court shall appoint a chief clerk who is subject to the requirements imposed on the Supreme Court clerk in MCR 7.319. The clerk's office must be located in Lansing and be operated under the court's direction. With the court's approval, the clerk may appoint assistant and deputy clerks.
- (2) Papers to be filed with the court or the clerk must be filed in the clerk's office in Lansing or with a deputy clerk in Detroit, Troy, or Grand Rapids. Fees paid to a deputy clerk must be forwarded to the clerk's office in Lansing. Claims of appeal, applications, motions, and complaints need not be accepted for filing until all required documents have been filed and the requisite fees have been paid.
- (3) If a case is accepted for filing without all of the required documents, transcripts, or fees, the appellant, or the plaintiff in an original action under MCR 7.206, must supply the missing items within 21 days after the date of the clerk's notice of deficiency. The chief judge or another designated judge may dismiss the appeal and assess costs if the deficiency is not remedied within that time.

**Rule 7.204(C), (E) Filing Appeal of Right; Appearance**

(C) **Other Documents.** With the claim of appeal, the appellant shall file the following documents with the clerk:

- (1) a copy of the judgment or order appealed from;
- (2) a copy of the certificate of the court reporter or recorder filed under subrule (E)(4), a statement by the attorney that the transcript has been ordered (in which case the certificate of the court reporter or recorder must be filed as soon as possible thereafter), or a statement by the attorney that there is no record to be transcribed; [see SCAO-approved form CC 402]

...

(E) **Trial Court Filing Requirements.** Within the time for taking the appeal, the appellant shall file in the court or the tribunal from which the appeal is taken

- (4) unless there is no record to be transcribed, the certificate of the court reporter or recorder stating that a transcript has been ordered and payment for it made or secured, and that it will be filed as soon as possible or has already been filed.

**Rule 7.205(B)(4) Application for Leave to Appeal; Manner of Filing**

To apply for leave to appeal, an appellant shall file with the clerk: . . .

- (4) 1 copy of certain transcripts, as follows:
  - (a) in an appeal relating to the evidence presented at an evidentiary hearing in a civil or criminal case, the transcript of the evidentiary hearing, including the opinion or findings of the court which conducted the hearing;
  - (b) in an appeal from the circuit court or recorder's court after appeal from another court, the transcript of proceedings in the court reviewed by the circuit court or recorder's court;
  - (c) in an appeal challenging jury instructions, the transcript of the entire charge to the jury;
  - (d) in an appeal from a judgment in a criminal case entered pursuant to a plea of guilty or nolo contendere, the transcripts of the plea and sentence;
  - (e) in an appeal from an order granting or denying a new trial, such portion of the transcript of the trial as, in relation to the issues raised, permits the court to determine whether the trial court's decision on the motion was for a legally recognized reason and based on arguable support in the record;

- (f) in an appeal raising a sentencing issue, the transcript of the sentencing proceeding and the transcript of any hearing on a motion relating to sentencing;
- (g) in an appeal raising any other issue, such portion of the transcript as substantiates the existence of the issue, objections or lack thereof, argument of counsel, and any comment or ruling of the trial judge.

If the transcript is not yet available, or if there is no record to be transcribed, the appellant shall file a copy of the certificate of the court reporter or recorder or a statement by the appellant's attorney as provided in MCR 7.204(C)(2). The appellant must file the transcript with the Court of Appeals as soon as it is available.

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#### **Rule 7.207(C)-(D) Cross Appeals**

- (C) **Additional Requirements.** The cross appellant shall perform the steps required by MCR 7.204(E) and (F), except that the cross appellant is not required to order a transcript or file a court reporter's or recorder's certificate unless the initial appeal is abandoned or dismissed. Otherwise the cross appeal proceeds in the same manner as an ordinary appeal.
- (D) **Abandonment of Dismissal of Appeal.** If the appellant abandons the initial appeal or the court dismisses it, the cross appeal may nevertheless be prosecuted to its conclusion. Within 21 days after the clerk certifies the order dismissing the initial appeal, if there is a record to be transcribed, the cross appellant shall file a certificate of the court reporter or recorder that a transcript has been ordered and payment for it made or secured and will be filed as soon as possible or has already been filed.

#### **Rule 7.210 Record on Appeal**

- (A) **Content of Record.** Appeals to the Court of Appeals are heard on the original record.
  - (1) **Appeal From Court.** In an appeal from a lower court, the record consists of the original papers filed in that court or a certified copy, the transcript of any testimony or other proceedings in the case appealed, and the exhibits introduced. In an appeal from probate court in an estate or trust proceeding, only the order appealed from and those petitions, opinions, and other documents pertaining to it need be included.
  - (2) **Appeal From Tribunal or Agency.** In an appeal from an administrative tribunal or agency, the record includes all documents, files, pleadings, testimony, and opinions and orders of the tribunal, agency, or officer (or a

certified copy), except those summarized or omitted in whole or in part by stipulation of the parties. Testimony not transcribed when the certified record is sent for consideration of an application for leave to appeal, and not omitted by stipulation of the parties, must be filed and sent to the court as promptly as possible.

- (3) **Excluded Evidence.** The substance or transcript of excluded evidence offered at a trial and the proceedings at the trial in relation to it must be included as part of the record on appeal.
  - (4) **Stipulations.** The parties in any appeal to the Court of Appeals may stipulate in writing regarding any matters relevant to the lower court or tribunal or agency record if the stipulation is made a part of the record on appeal and sent to the Court of Appeals.
- (B) Transcript.**
- (1) **Appellant's Duties; Orders; Stipulations.**

    - (a) The appellant is responsible for securing the filing of the transcript as provided in this rule. Except in cases governed by MCR 3.977(J)(3) or MCR 6.425(G)(2) or as otherwise provided by Court of Appeals order or the remainder of this subrule, the appellant shall order from the court reporter or recorder the full transcript of testimony and other proceedings in the trial court or tribunal. Once an appeal is filed in the Court of Appeals, a party must serve a copy of any request for transcript preparation on opposing counsel and file a copy with the Court of Appeals.
    - (b) In an appeal from probate court in an estate or trust proceeding, only that portion of the transcript concerning the order appealed from need be filed. The appellee may file additional portions of the transcript.
    - (c) On the appellant's motion, with notice to the appellee, the trial court or tribunal may order that some portion less than the full transcript (or no transcript at all) be included in the record on appeal. The motion must be filed within the time required for filing an appeal, and, if the motion is granted, the appellee may file any portions of the transcript omitted by the appellant. The filing of the motion extends the time for filing the court reporter's or recorder's certificate until 7 days after entry of the trial court's or tribunal's order on the motion.
    - (d) The parties may stipulate that some portion less than the full transcript (or none) be filed.
    - (e) The parties may agree on a statement of facts without procuring the transcript and the statement signed by the parties may be filed with the trial court or tribunal clerk and sent as the record of testimony in the



action.

- (2) **Transcript Unavailable.** When a transcript of the proceedings in the trial court or tribunal cannot be obtained from the court reporter or recorder, the appellant shall file a settled statement of facts to serve as a substitute for the transcript.

...

- (d) The statement of facts and the certifying order must be filed with the trial court or tribunal clerk and a copy of the certifying order must be filed with the Court of Appeals.

(3) **Duties of Court Reporter or Recorder.**

- (a) Certificate. Within 7 days after a transcript is ordered by a party or the court, the court reporter or recorder shall furnish a certificate stating:
- (i) that the transcript has been ordered, that payment for the transcript has been made or secured, that it will be filed as soon as possible or has already been filed, and the estimated number of pages for each of the proceedings requested;
  - (ii) as to each proceeding requested, whether the court reporter or recorder filing the certificate recorded the proceeding; and if not,
  - (iii) the name and certification number of the court reporter or recorder responsible for the transcript of that proceeding.
- (b) Time for Filing. The court reporter or recorder shall give precedence to transcripts necessary for interlocutory criminal appeals and custody cases. The court reporter or recorder shall file the transcript with the trial court or tribunal clerk within
- (i) 14 days after it is ordered for an application for leave to appeal from an order granting or denying a motion to suppress evidence in a criminal case;
  - (ii) 28 days after it is ordered in an appeal of a criminal conviction based on a plea of guilty, guilty but mentally ill, or nolo contendere;
  - (iii) 42 days after it is ordered in any other interlocutory criminal appeal or custody case;
  - (iv) 91 days after it is ordered in other cases.

The Court of Appeals may extend or shorten these time limits in an appeal pending in the court on motion filed by the court reporter or recorder or a party.

- (c) **Copies.** Additional copies of the transcripts required by the appellant may be ordered from the court reporter or recorder or photocopies may be made of the transcript furnished by the court reporter or recorder.
  - (d) **Form of Transcript.** The transcript must be filed in one or more volumes under a hard-surfaced or other suitable cover, stating the title of the action, and prefaced by a table of contents showing the subject matter of the transcript with page references to the significant parts of the trial or proceedings, including the testimony of each witness by name, the arguments of the attorneys, and the jury instructions. The pages of the transcript must be consecutively numbered on the bottom of each page. Transcripts filed with the court must contain only a single transcript page per document page, not multiple pages combined on a single document page.
  - (e) **Notice.** Immediately after the transcript is filed, the court reporter or recorder shall notify the Court of Appeals and all parties that it has been filed and file in the Court of Appeals an affidavit of mailing of notice to the parties.
  - (f) **Discipline.** A court reporter or recorder failing to comply with the requirements of these rules is subject to disciplinary action by the courts, including punishment for contempt of court, on the court's own initiative or motion of a party.
  - (g) **Responsibility When More Than One Reporter or Recorder.** In a case in which portions of the transcript must be prepared by more than one reporter or recorder, unless the court has designated another person, the person who recorded the beginning of the proceeding is responsible for ascertaining that the entire transcript has been prepared, filing it, and giving the notice required by subrule (B)(3)(e).
- (C) **Exhibits.** Within 21 days after the claim of appeal is filed, a party possessing any exhibits offered in evidence, whether admitted or not, shall file them with the trial court or tribunal clerk, unless by stipulation of the parties or order of the trial court or tribunal they are not to be sent, or copies, summaries, or excerpts are to be sent. Xerographic copies of exhibits may be filed in lieu of originals unless the trial court or tribunal orders otherwise. When the record is returned to the trial court or tribunal, the trial court or tribunal clerk shall return the exhibits to the parties who filed them.
- (D) **Reproduction of Records.** Where facilities for the copying or reproduction of records are available to the clerk of the court or tribunal whose action is to be reviewed, the clerk, on a party's request and on deposit of the estimated cost or security for the cost, shall procure for the party as promptly as possible and at the cost to the clerk the requested number of copies of documents, transcripts, and exhibits on file.

- (E) **Record on Motion.** If, before the time the complete record on appeal is sent to the Court of Appeals, a party files a motion that requires the Court of Appeals to have the record, the trial court or tribunal clerk shall, on request of a party or the Court of Appeals, send the Court of Appeals the documents needed.
- (F) **Service of Record.** Within 21 days after the transcript is filed with the trial court clerk, the appellant shall serve a copy of the entire record on appeal, including the transcript and exhibits, on each appellee. However, copies of documents the appellee already possesses need not be served. Proof that the record was served must be promptly filed with the Court of Appeals and the trial court or tribunal clerk. If the filing of a transcript has been excused as provided in subrule (B), the record is to be served within 21 days after the filing of the transcript substitute.

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## Chapter 6: Administrative Rules of Court

### A. Subchapter 8.100 General Administrative Orders

#### Rule 8.108 Court Reporters and Recorders

- (A) **Scope of Rule.** This rule prescribes the duties of court reporters and recorders, the procedure for certifying them, the effect of noncertification, objections to certification, and display requirements.
- (B) **Attendance at Court; Taking Testimony.**
- (1) The court reporter or recorder shall attend the court sessions under the direction of the court and take a verbatim record of the following:
    - (a) the voir dire of prospective jurors;
    - (b) the testimony;
    - (c) the charge to the jury;
    - (d) in a jury trial, the opening statements and final arguments;
    - (e) the reasons given by the court for granting or refusing any motion made by a party during the course of a trial; and
    - (f) opinions and orders dictated by the court and other matters as may be prescribed by the court.

This subrule does not apply to actions tried in the small claims division of the

district court or in the municipal courts. In the probate court proceedings, the reporter or recorder shall take a verbatim record of proceedings as required by law and chapter 5 of these rules.

- (2) The court reporter or recorder who begins to record a case shall take the record of the entire case unless he or she shows good cause for failure to do so or is otherwise excused by the court.
- (C) **Records Kept.** All records, as defined in MCR 8.119(F) and regardless of format, that are created and kept by the court reporter or recorder belong to the court, must remain in the physical possession of the court, and are subject to access in accordance with MCR 8.119(H). The court reporter or recorder who takes the testimony on the trial or the hearing of any case shall prefix the record of the testimony of each witness with the full name of the witness and the date and time the testimony was taken. At the conclusion of the trial of the case the reporter or recorder shall secure all of the records and properly entitle them on the outside, and shall safely keep them in the court according to the Michigan Trial Court Case File Management Standards. If the court reporter or recorder needs access to the records for purposes of transcribing off-site, the reporter or recorder may take only a reproduction of the original recording, which must be returned to the court upon filing of the transcript.
- (D) **Transfer of Records; Inspection.** If the court reporter or recorder dies, resigns, is removed from office, or leaves the state, records he or she created and kept in each case pursuant to subrule (C) must be transferred to the clerk of the court in which the case was tried. The clerk shall safely keep the records in accordance with the [Michigan Trial Court Case File Management Standards](#) and MCR 8.119(F). On order of the court, a transcript shall be made from the records and filed as a part of the public record in the case.
- (E) **Furnishing Transcript.** The court reporter or recorder shall furnish without delay, in legible English, a transcript of the records taken by him or her (or any part thereof) to any party on request. The reporter or recorder is entitled to receive the compensation prescribed in the statute on fees from the person who makes the request.
- (F) **Filing Transcript.**
- (1) On order of the trial court, the court reporter or recorder shall make and file in the clerk's office a transcript of his or her records, in legible English, of any civil or criminal case (or any part thereof) without expense to either party; the transcript is a part of the records in the case.
  - (2) Except when otherwise provided by contract, the court reporter or recorder shall receive from the appropriate governmental unit the compensation specified in the statute on fees for a transcript ordered by a court.

**(G) Certification.****(1) Certification Requirement.**

- (a) Only reporters, recorders, or voice writers certified pursuant to this subrule may record or prepare transcripts of proceedings held in Michigan courts or of depositions taken in Michigan pursuant to these rules. This rule applies to the preparation of transcripts of videotaped courtroom proceedings or videotaped or audiotaped depositions, but not to the recording of such proceedings or depositions by means of videotaping. An operator holding a CEO certification under subrule (G)(7)(b) may record proceedings but may not prepare transcripts.
- (b) Proceedings held pursuant to MCR 6.102 or 6.104 need not be recorded by persons certified under this rule; however, transcripts of such proceedings must be prepared by court reporters, recorders, or voice writers certified pursuant to this rule.
- (c) An indigent party who is represented by a nonprofit legal aid program providing free civil legal services to the indigent may use persons who are not certified pursuant to this rule to transcribe and file depositions taken by videotaping or audiotaping. Such depositions shall be otherwise prepared and certified in accordance with this rule.
- (d) Any person who acts in the capacity of a court reporter or recorder shall not maintain an action in the courts of this state for the collection of compensation for the performance of an act for which certification is required by this rule without alleging and proving that the person was certified under this rule at the time of the performance of the act. "Person" refers to both individuals and the entity or entities for which a court reporter or recorder performs services.
- (e) Any other court rule notwithstanding, an objection to the status of a court reporter's or recorder's certification or lack thereof must be placed on the record at the outset of the court proceeding or deposition or that objection is waived. If the objection is waived, the use of transcripts of the court proceeding or deposition for any purpose provided in these rules shall be allowed.
- (f) Prior to the beginning of any deposition taken under these rules, the court reporter or recorder must display to all counsel initially present, and to each other person attending the deposition who is not represented by counsel, proof that the reporter or recorder has been certified as required by this rule. Proof of such certification, by certification number, shall also be displayed on the title page and certificate page of each court and

deposition transcript and on the stationery and business cards, if any, of each court reporter or recorder required to be certified by this rule.

(2) Court Reporting and Recording Board of Review.

- (a) The Supreme Court shall appoint a Court Reporting and Recording Board of Review, composed of
  - (i) a Court of Appeals judge, to be the chairperson,
  - (ii) a circuit judge,
  - (iii) a probate judge,
  - (iv) a district judge,
  - (v) a court reporter who is an employee of a Michigan court,
  - (vi) a court recorder who is an employee of a Michigan court,
  - (vii) a court reporter who is not an employee of a Michigan court,
  - (viii) a court recorder who is not an employee of a Michigan court, and
  - (ix) an attorney.
- (b) Appointments to the board shall be for terms of 4 years. A board member may be reappointed to a new term. Initial appointments may be of different lengths so that no more than 3 terms expire in the same year. The Supreme Court may remove a member at any time.
- (c) If a position on the board becomes vacant because of death, resignation, or removal, or because a member is no longer employed in the capacity in which he or she was appointed, the board shall notify the Supreme Court Clerk and the Court shall appoint a successor to serve the remainder of the term.
- (d) The state court administrator shall assign a staff person to serve as board secretary.

(3) Certification by Testing.

- (a) At least twice each year the board shall administer an examination testing knowledge and speed, and, as to a recorder, operator, or voice writer, familiarity with basic logging techniques and minor repair and maintenance procedures. The board shall determine the passing score.

- (b) In order to be eligible for registration for an examination, an applicant must
    - (i) be at least 18 years of age,
    - (ii) be a high school graduate, and
    - (iii) not have been under sentence for a felony for a period of two years.
  - (c) In addition, an applicant for the certified shorthand reporter examination must have satisfactorily completed a post-high school approved, accredited, or recognized course of study in court reporting and submitted documentation of same prior to testing.
  - (d) An applicant for the CER/CSMR/CEO examination must have satisfactorily completed a post-high school board-approved workshop or course of study, or other board-approved curriculum and submitted documentation of same prior to testing.
  - (e) All CERs/CSMRs/CEOs who are fully certified by December 31, 2005, are exempt from the requirements of subparagraph (d).
  - (f) The registration fee is \$60.
- (4) Reciprocal Certification. A reporter, recorder, operator, or voice writer certified in another state may apply to the board for certification based on the certification already obtained.
- (5) Temporary Certification. A new reporter, recorder, operator, or voice writer may receive one temporary certification to enable him or her to work until the results of the next test are released. If the person does not take the test, the temporary certification may not be extended unless good cause is shown. If the person takes the test and fails, the board may extend the temporary certification.
- (6) Renewal, Review, and Revocation of Certification.
- (a) Certifications under this rule must be renewed annually. The fee for renewal is \$30. Renewal applications must be filed by August 1. A renewal application filed after that date must be accompanied by an additional late fee of \$100. The board may require certified reporters, recorders, operators, and voice writers to submit, as a condition of renewal, such information as the board reasonably deems necessary to determine that the reporter, recorder, operator, or voice writer has used his or her reporting or recording skills during the preceding year.

- (b) The board must review the certification of a reporter, recorder, operator, or voice writer who has not used his or her skills in the preceding year, and shall determine whether the certification of such a reporter, recorder, operator, or voice writer may be renewed without the necessity of a certification test.
  - (c) The board may review the certification of a reporter, recorder, operator, or voice writer and may impose sanctions, including revoking the certification, for good cause after a hearing before the board.
  - (d) If, after a reporter's, recorder's, operator's, or voice writer's certification is revoked or voided by the board and the reporter, recorder, operator, or voice writer applies to take the certification examination and passes, the board may issue a conditional certification for a prescribed period imposing restrictions or conditions that must be met for continued certification. At the end of the conditional period, an unconditional certification may be issued.
- (7) Designations. The board shall assign an identification number to each person certified. A court reporter or recorder must place the identification number assigned on his or her communications with the courts, including certificates, motions, affidavits, and transcripts. The board will use the following certification designations:
- (a) certified electronic recorder (CER),
  - (b) certified electronic operator (CEO),
  - (c) certified shorthand reporter (CSR), and
  - (d) certified voice writer/stenomask reporter (CSMR).

The designations are to be used only by reporters, recorders, operators, or voice writers certified by the board. A reporter, recorder, operator, or voice writer may be given more than one designation by passing different tests.

#### **Rule 8.109(A)-(B) Mechanical Recording of Court Proceedings**

- (A) **Official Record.** If a trial court uses audio or video recording devices for making the record of court proceedings, it shall use only recording devices that meet the standards published by the State Court Administrative Office.
- (B) **Other Recordings.** On motion of an attorney or of a party appearing on his or her own behalf, a court may permit audio recording of a part or all of a proceeding and may permit photographic recording of visual exhibits. The court may regulate the manner of audio or photographic recording so that it does not disrupt the proceeding. An audio or photographic recording made under this rule may be used solely to assist





in the prosecution or defense during the proceeding recorded; it may not be used publicly.

**Rule 8.110(C) Chief Judge Rule; Duties and Powers of Chief Judge**

- (3) As director of the administration of the court, a chief judge shall have administrative superintending power and control over the judges of the court and all court personnel with authority and responsibility to:
- (c) determine the hours of the court and the judges; coordinate and determine the number of judges and court personnel required to be present at any one time to perform necessary judicial administrative work of the court, and require their presence to perform that work;
  - (d) supervise the performance of all court personnel, with authority to hire, discipline, or discharge such personnel, with the exception of a judge's secretary and law clerk, if any;
  - (e) coordinate judicial and personnel vacations and absences, subject to the provisions of subrule (D); ...
- ...
- (6) A chief judge may delegate administrative duties to a trial court administrator or others.
- ....

**Rule 8.119 Court Records and Reports; Duties of Clerks**

- (C) Filing of Documents and Other Materials.** The clerk of the court shall endorse on the first page of every document the date on which it is filed. Documents and other materials filed with the court as defined in MCR 2.107(G) must comply with Michigan Court Rules and Michigan Supreme Court records standards. The clerk of the court may only reject documents that do not meet the following minimum requirements:
- (1) standards prescribed by MCR 1.109,
  - (2) legibility and language as prescribed by MCR 2.113(B) and MCR 5.113,
  - (3) captioning prescribed by MCR 2.113(C)(1) and MCR 5.113,
  - (4) signature prescribed by MCR 2.114(C) and MCR 5.114, and
  - (5) the filing fee is not paid at the time of filing, unless waived or suspended by court order.
- (F) Court Recordings, Log Notes, Jury Seating Charts, and Media.** Court recordings,

log notes, jury seating charts, and all other records such as tapes, backup tapes, discs, and any other medium used or created in the making of a record of proceedings and kept pursuant to MCR 8.108 are court records and are subject to access in accordance with subrule (H)(2)(b).

- (H) Access to Records.** Except as otherwise provided in subrule (F), only case records as defined in subrule (D) are public records, subject to access in accordance with these rules. The clerk may not permit any case record to be taken from the court without the order of the court. A court may provide access to the public information in a register of actions through a publicly accessible website; however, all other public information in its case records may be provided through electronic means only upon request. The court may provide access to any case record that is not a document, as defined by MCR 1.109(B), if it can reasonably accommodate the request. Any materials filed with the court pursuant to MCR 1.109(C)(2), in a medium in which the court does not have the means to readily access and reproduce those materials, may be made available for public inspection using court equipment only. The court is not required to provide the means to access or reproduce the contents of those materials if the means is not already available.
- (1) Unless access to a case record or information contained in a record as defined in subrule (D) is restricted by statute, court rule, or an order entered pursuant to subrule (I), any person may inspect that record and may obtain copies as provided in subrule (J). In accordance with subrule (J), the court may collect a fee for the cost of this service, including the cost of providing the new record in a particular medium.
  - (2) Every court, shall adopt an administrative order pursuant to MCR 8.112(B) to
    - (a) make reasonable regulations necessary to protect its public records and prevent excessive and unreasonable interference with the discharge of its functions;
    - (b) establish a policy for whether to provide access for records defined in subrule (F) and if access is to be provided, outline the procedure for accessing those records;
    - (c) specify the reasonable cost of reproduction of records provided under subrule (J); and
    - (d) specify the process for determining costs under subrule (J).

**(I) Sealed Records.**

- (1) Except as otherwise provided by statute or court rule, a court may not enter an order that seals courts records, in whole or in part, in any action or proceeding, unless
  - (a) a party has filed a written motion that identifies the specific interest to be protected,
  - (b) the court has made a finding of good cause, in writing or on the record, which specifies the grounds for the order, and
  - (c) there is no less restrictive means to adequately and effectively protect the specific interest asserted.
- (2) In determining whether good cause has been shown, the court must consider
  - (a) the interests of the parties, including, where there is an allegation of domestic violence, the safety of the alleged or potential victim of the domestic violence, and
  - (b) the interest of the public.
- (3) The court must provide any interested person the opportunity to be heard concerning the sealing of the records.
- (4) For purposes of this rule, “court records” includes all documents and records of any nature that are filed with the clerk in connection with the action. Nothing in this rule is intended to limit the court's authority to issue protective orders pursuant to MCR 2.302(C). Materials that are subject to a motion to seal a record in whole or in part shall be held under seal pending the court’s disposition of the motion.
- (5) A court may not seal a court order or opinion, including an order or opinion that disposes of a motion to seal the record.
- (6) Any person may file a motion to set aside an order that disposes of a motion to seal the record, or an objection to entry of a proposed order. MCR 2.119 governs the proceedings on such a motion or objection. If the court denies a motion to set aside the order or enters the order after objection is filed, the moving or objecting person may file an application for leave to appeal in the same manner as a party to the action. See MCR 8.116(D).
- (7) Whenever the court grants a motion to seal a court record, in whole or in part, the court must forward a copy of the order to the Clerk of the Supreme Court and to the State Court Administrative Office.

**B. Subchapter 8.200 Administrative Rules Applicable in District Court****Rule 8.202(B) Payment of Assigned Attorneys and Transcript Costs; Appeals**

If an indigent defendant appealing to circuit court from a district or municipal court conviction

is entitled to an assigned attorney or a transcript, the cost shall be paid by the same political subdivision or divisions that were responsible for or would have been responsible for paying an assigned attorney under subrule (A).

**C. Subchapter 8.300 Administrative Rules Applicable in Probate Court****Rule 8.302 Documents and Files**

Original orders and letters of authority, after being recorded, must be placed in the files of the court. For security purposes, testamentary documents of deceased persons, bonds, orders, and such other documents as the court directs must be copied by microfilming or other means promptly after filing or issuance and preserved in the records of the court separately from the files. In addition, the clerk of every probate court shall maintain court records and make reports as prescribed by MCR 8.119.

**Chapter 7: Special Proceedings and Actions****A. Subchapter 3.200 Domestic Relations Actions****Rule 3.215(D)(4) Domestic Relations Referees; Conduct of Hearings**

- (4) An electronic or stenographic record must be kept of all hearings.
  - (a) The parties must be allowed to make contemporaneous copies of the record if the referee's recording equipment can make multiple copies simultaneously and if the parties supply the recording media. A recording made under this rule may be used solely to assist the parties during the proceeding recorded or, at the discretion of the trial judge, in any judicial hearing following an objection to the referee's recommended order; it may not be used publicly.
  - (b) If ordered by the court, or if stipulated by the parties, the referee must provide a transcript, verified by oath, of each hearing held. The cost of preparing a transcript must be apportioned equally between the parties, unless otherwise ordered by the court.
  - (c) At least 7 days before the judicial hearing, a party who intends to offer evidence from the record of the referee hearing must provide notice to the court and each other party. If a stenographic transcript is necessary, except as provided in subrule (4)(b), the party offering the evidence must pay for

the transcript.

- (d) If the court on its own motion uses the record of the referee hearing to limit the judicial hearing under subrule (F), the court must make the record available to the parties and must allow the parties to file supplemental objections within 7 days of the date the record is provided to the parties. Following the judicial hearing, the court may assess the costs of preparing a transcript of the referee hearing to one or more of the parties. This subrule does not apply when a party requests the court to limit the judicial hearing under subrule (F) or when the court orders a transcript to resolve a dispute concerning what occurred at the referee hearing.

## **B. Subchapter 3.700 Personal Protection Proceedings**

### **Rule 3.705(B)(3) Issuance of Personal Protection Orders; Hearings**

The hearing shall be held on the record.

### **Rule 3.708(H)(4) Contempt Proceedings for Violation of Personal Protection Orders; Violation Hearing**

- (4) *Judicial Findings.* At the conclusion of the hearing, the court must find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment. The court must state its findings and conclusions on the record or in a written opinion made a part of the record.

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## **Section 10: Selected Michigan Compiled Laws**

### **Chapter 1: Appointment and Compensation**

#### **A. Circuit Court**

##### **MCL 46.12a. County boards of commissioners; insurance, pension or retirement benefits for county employees.**

(3) A circuit court stenographer is eligible for membership in, and the benefits of, a pension or retirement benefit under a plan established pursuant to this section, or a social security plan established by the county or 1 of the counties that pays a portion of the compensation of a circuit court stenographer.

##### **MCL 600.1101. Court reporters or certified court recorders number**

Sec 1101. Each circuit court in this state shall have as many court reporters or certified court recorders as it has judges.

##### **MCL 600.1104. Appointment, oath of office; appointment for more than 1 circuit**

Sec. 1104. Every reporter or recorder shall be appointed by the governor after having first been recommended by the judge or judges of the court to which he or she is appointed and he or she is an officer of that court. Before entering upon the duties of his or her office he or she shall take and subscribe the constitutional oath of office which shall be filed in the office of the secretary of state. No person may be appointed a reporter or recorder for more than 1 judicial circuit unless he or she personally performs the duties of reporter or recorder in each of the circuits for which he or she has been appointed.

##### **MCL 600.1105. Term, suspension**

Sec. 1105. Every reporter or recorder shall hold office at the pleasure of the governor unless suspended for incompetency or misconduct, by the court to which he or she is appointed. In the case of a suspension, the reporter or recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant.

##### **MCL 600.1106. Vacancy; temporary absence; payment of salary**

Sec. 1106. In case of a vacancy in the office of the reporter or recorder from any cause of a permanent nature, the appointment shall be made in accordance with section 1104, after notice has been given the governor of the vacancy by the chief or only judge of the circuit or the court administrator. In case of a temporary absence of the reporter or recorder,

the reporter or recorder shall appoint some competent person who has been approved by the judge to act as a reporter or recorder pro tempore and who shall be paid by the reporter or recorder in whose place he or she acts. If the temporary absence of the reporter or recorder is due to illness, the reporter or recorder pro tempore shall be paid out of the county treasury, such sum as may be approved by the county board of commissioners or in counties having a board of auditors by that board. However, such payment shall not exceed payment for 30 calendar days in any 1 calendar year.

#### **MCL 600.1107. Additional reporters or recorders**

Sec. 1107. Every reporter or recorder may appoint 1 or more assistants who have first been approved by the circuit judge or judges and who shall qualify as reporters or recorders as prescribed in this statute. The assistant or additional reporter or recorder shall have the power to act in the place of the reporter or recorder and shall be paid by the reporter or recorder. The reporter or recorder or circuit judge shall have the power to revoke the appointment at any time. Whenever the chief or only judge of any judicial circuit deems it necessary for the dispatch of business of the court he or she may authorize the reporter or recorder to employ 1 or more temporary assistants who shall receive compensation to be paid by the county, after the judge of the court certifies to the reasonableness of the compensation.

#### **MCL 600.1114. Salary, payment by counties**

Sec. 1114. (1) The reporter or recorder of each circuit shall receive as compensation for his or her services the salary specified in this chapter payable in monthly installments out of the treasuries of the counties composing the circuit of which he or she is the reporter or recorder upon the order of the clerk of the court or board of county auditors who are authorized and required to draw the orders. The county treasurer shall pay an installment upon presentation of an order.

#### **MCL 600.1115. Apportionment of salary in multi-county circuits**

Sec. 1115. In every circuit composed of more than 1 county, unless some other method of apportionment is prescribed in this act to make up the salary of the reporter or recorder, each county board of commissioners in the circuit shall appropriate annually such portion of the amount of the salary as shall be assigned to it by the chief or only circuit judge in proportion to the number of civil actions commenced in the circuit court for those counties respectively during the preceding year. It shall be the duty of the chief or only circuit judge of each circuit composed of more than 1 county on the first day of January of each year or as soon thereafter as possible, to apportion the amount of the salary to be paid by each county in his or her circuit as provided in this section and to notify the clerk of each county in the circuit of the proportion to be paid by that county. If there is only 1 county in the circuit, the salary of the reporter or recorder shall be paid out of the treasury of that county in the manner prescribed in section 1114(1).

**MCL 600.1116. Membership in retirement or social security plan**

Sec. 1116. All reporters or recorders shall be eligible for membership in and benefits of the retirement or the social security plan by the county or any 1 of the counties which pays a portion of his or her salary.

**MCL 600.1121. Salary; first circuit**

Sec. 1121. In the first circuit, the stenograph shall be paid an annual salary of \$12,000.00.

**MCL 600.1162i. Stenographer; annual salary**

Section 1162i. In a judicial circuit created after May 1, 1978, the stenographer shall be paid an annual salary of \$12,000.00.

**MCL 600.1168. Supplemental salaries**

Sec. 1168. The county board of commissioners of the counties comprising any judicial circuit may appropriate annually from the general fund additional amounts to supplement the salary of any reporter or recorder.

**MCL 600.1171. Expenses**

Sec. 1171. The reporters or recorders shall be entitled to receive in addition to the salary provided for in this act the necessary and actual expenses incurred in attending court in the counties other than the county in which the reporter or recorder resides. Upon filing with the clerk of the county in which the reporter or recorder has attended a sworn statement that the money was expended by the reporter or recorder and that the expenditures were necessary in the performance of his or her service in that county, the clerk shall draw an order for payment and the treasurer of the county shall pay the ordered sum to the person entitled to it on the presentation of an order for payment properly drawn by the clerk. If the reporter or recorder does not reside within the circuit to which he or she is appointed, he or she shall be considered for the purpose of this section to reside in the county where the chief or only circuit judge of that circuit resides.

**MCL 600.1175. Wayne and Kent counties; offices for reporters or recorders**

Sec. 1175. In the counties of Wayne and Kent, the county auditor shall provide a suitable office for the use of the reporters or recorder contiguous to the office of the clerk of the county.

**MCL 600.1179. Assignment of reporters or recorders**

Sec. 1179. Upon the request of the judge to which the reporter or recorder is assigned the court administrator may assign a report or recorder to a circuit other than the circuit to which the reporter or recorder was appointed. The reporter or recorder shall continue to receive his or her salary from the circuit to which he or she was appointed. If the salary listed in this chapter for the circuit visited is higher than the regular salary of the reporter or recorder, the circuit visited shall pay the difference to the reporter or recorder.

**B. District Court****MCL 600.8602. Appointment of recorders or reporters**

Sec. 8602. (1) Each judge of the district court shall appoint his or her own reporter or recorder.

(2) Pursuant to supreme court rule, the chief or only judge of the district may appoint additional certified recorders or reporters. Appointed additional recorders or reporters shall perform the duties and functions of recorder or reporter when so assigned and shall perform other functions and duties as may be assigned by the chief or only judge of the district or the court administrator.

**MCL 600.8615. Compensation**

Sec. 8615. The annual salary of district court recorders or reporters appointed pursuant to section 8602(1) shall be not less than \$8,000.00 per year.

**MCL 600.8621. Compensation to be paid by district control unit, proportional contributions, recording devices and supplies**

Sec. 8621. (1) District court recorders and reporters shall be paid by each district control unit. In districts consisting of more than 1 district control unit, each district control unit shall contribute to the salary in the same proportion as the number of cases entered and commenced in the district control unit bears to the number of cases entered and commenced in the district, as determined by the judges of the district court under rules prescribed by the supreme court.

(2) The state shall purchase and pay for a recording device for each district or municipal judge, but the replacement, maintenance, and repair of the recording devices and the cost of supplies shall be paid for by the district or municipality. The recording devices shall be the property of the district or municipal court.

**MCL 600.8625. Expenses, procedure for payment**

Sec. 8625. The recorders or reporters of district courts composed of more than 1



county shall be entitled to receive, in addition to the salary provided for in this act, their necessary and actual expenses incurred in attending court in the counties of their district other than the county in which the recorder or reporter resides. Upon filing with the clerk of the district control unit in which the recorder or reporter has attended court a sworn statement that the expenses were incurred by the recorder or reporter and that the expenditures were necessary in performing such services, the district control unit treasurer shall pay such sum to the person entitled to it on presentation of an order properly drawn by the clerk, which order the clerk shall draw on receiving the sworn statement.

**MCL 600.8626. Residence defined**

Sec. 8626. For the purposes of this chapter, the residence of a recorder or reporter who does not reside in the district in which he or she serves shall be deemed to be the same as the residence of the district judge for whom he or she serves.

**MCL 600.8631. Fees for transcripts ordered by the parties or district or circuit judge; recovery as taxable costs**

Sec. 8631. (1) A district court recorder or reporter shall be entitled to receive for a transcript ordered by any person the same fees as provided by law for circuit court reporters or recorders. For a transcript ordered by the district judge or a circuit judge, recorders or reporters shall be entitled to receive from the district control unit the same compensation.

(2) The amount of recorder's or reporter's fees paid shall be recoverable as part of the taxable costs by the prevailing party in a motion or on appeal.

**C. Probate Court**

**MCL 600.835. Official court reporters or certified recorders**

Sec. 835. (1) The probate judge or chief probate judge of any county or probate court district may appoint, and in counties having a population of 50,000 or more shall appoint, 1 or more official court reporters or certified recorders of the probate court, at a reasonable salary fixed by the county board of commissioners. The reporters or recorders so appointed shall take and subscribe the constitutional oath of office, which shall be filed with the county clerk of the county.

(2) The reporter or recorder serving in a probate court district shall be entitled to receive, in addition to the salary provided for in this section, the necessary and actual expenses incurred in attending court in the county other than the county in which the reporter or recorder resides. Upon filing with the clerk of the county in which the reporter or recorder attended court a sworn statement that the expenses were incurred by the reporter or recorder and that the expenditures were necessary in performing the services, the clerk shall draw an order for payment and upon presentation of that

properly drawn order, the treasurer of the county shall pay the ordered sum to the person entitled to the payment. If the reporter or recorder does not reside within the probate court district in which he or she serves, he or she shall be considered for the purpose of this subsection to reside in the county where the probate judge of that district resides.

**MCL 600.839. Conflicting employment, probate court judges and employees**

Sec. 839. (1) A probate judge, probate register, or employee of probate court shall not be:

(a) A fiduciary or appraiser of an estate under the jurisdiction of the probate court in the county or probate court district in which he is a probate judge, probate register, or employee.

(b) An attorney or counsel in an action or matter which may depend upon, or relate to, a sentence or order made or entered by the probate judge in the county or probate court district in which he is a probate judge, probate register, or employee.

(c) An attorney or counsel for or against a fiduciary appointed under the jurisdiction of the probate court in the county or probate court district in which he is a probate judge, probate register, or employee, in an action or proceeding brought by or against the fiduciary as such or in any action or proceeding relating to the official conduct of that fiduciary.

(3) A clerk or employee of the probate court may not be an appraiser, referee, or divider of an estate which is under the jurisdiction of the probate court in the county or probate court district in which he is a clerk or employee.

**D. Other**

**MCL 725.201. Compensation of reporters or recorders of a court of record other than circuit courts**

Sec. 1. Reporters or recorders who are officers of a court of record, having general criminal jurisdiction, other than circuit courts, shall receive the same compensation received by circuit court reporters or recorders in the circuit where the court of record is located. Such compensation shall be audited and paid in the same manner and by the same authority as in the case of the compensation received by such circuit court reporters and recorders.

**MCL 600.1491. Compensation and fees of freelance reporters/recorders or firms**

Sec. 1491. (2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$25.00 per transaction or \$100.00 in the aggregate per recipient each year.

(b) Charge more than 2/3 of the price of an original transcript for a copy of that transcript.

## **Chapter 2: General Duties**

### **A. General**

#### **MCL 600.2159. Parties as witnesses; depositions; comment on failure of criminal defendant to testify**

Sec. 2159. On the trial of any issue joined, or in any matter, suit or proceeding, in any court or on any inquiry arising in any suit or proceeding in any court, or before any officer or person having by law, or by consent of parties, authority to hear, receive, and examine evidence, the parties to any such suit or proceeding named in the record, and persons for whose benefit such suit or proceeding is prosecuted, or defended, may be witnesses therein in their own behalf or otherwise, in the same manner as other witnesses, except as hereinafter otherwise provided; and the deposition of any such party or person may be taken and used in evidence under the rules and statutes governing depositions, and any such party or person may be proceeded against and compelled to attend and testify, as is provided by law for other witnesses. No person shall be disqualified as a witness in any civil or criminal case or proceeding by reason of his interest in the event of the same as a party or otherwise or by reason of his having been convicted of any crime; but such interest or conviction may be shown for the purpose of affecting his credibility. A defendant in any criminal case or proceeding shall only at his own request be deemed a competent witness, and his neglect to testify shall not create any presumption against him, nor shall the court permit any reference or comment to be made to or upon such neglect.

### **B. Circuit Court**

#### **MCL 600.1111. Duties, supervision**

Sec. 1111. The reporter or recorder shall perform the duties assigned by the rules of the supreme court, and by the court to which he or she is appointed, under the supervision of a judge of the court to which he or she is appointed.

**C. District Court****MCL 600.8331. Record of proceedings**

Sec. 8331. All proceedings in the district court, except as otherwise provided by law or supreme court rule, shall be recorded.

**MCL 600.8341. Appeals from district court; written transcript of record**

Sec. 8341. Appeals from the district court shall be on a written transcript of the record made in the district court or on a record settled and agreed to by the parties and approved by the court.

**MCL 600.8601. District court certified recorder or reporter; additional functions and duties**

Sec. 8601. There shall be not less than 1 district court certified recorder or reporter for each judge of the district court who, in addition to acting as official court recorder or reporter, may act as secretary to the district court judge and perform other functions and duties as may be required by rule of the supreme court.

**MCL 600.8635. Verbatim records of preliminary examinations, filing; costs of examinations**

Sec. 8635. (1) An original and copy of the verbatim record of all preliminary examinations in which the defendant is bound over to the circuit court for further proceedings shall be reduced to writing by the district court recorder or reporter when ordered by the circuit court and upon completion of the verbatim record shall be filed with the clerk of the circuit court or as directed by the circuit court. An original of the verbatim record of other matters as may be required by supreme court rule shall be reduced to writing by the district court recorder or reporter and upon completion of the verbatim record shall be filed with the clerk of the district court or as directed by the district court. The county shall pay the costs of transcribing preliminary examinations in accordance with the schedule provided in section 8631.

(2) If a transcript of a trial or other proceeding is ordered other than for filing in the case file, the district court recorder or reporter also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court, unless the circuit court has a copy pursuant to subsection (1), or unless the chief judge of the district court orders otherwise in an order filed in the case file.

**D. Probate Court****MCL 600.836. Deputy registers, clerks, reporters and recorders, allocation of duties**

Sec. 836. The probate judge or chief probate judge may allocate the duties of the deputy registers, clerks, and reporters or recorders, and may combine the title and powers in any 1 or more persons.

**MCL 600.859. Taking of testimony**

Sec. 859. (1) The following testimony before a probate judge shall be recorded:

- (a) Testimony in contested matters.
- (b) Testimony in matters pertaining to the admission to a hospital or other facility for mentally ill or developmentally disabled persons.
- (c) Testimony in matters pertaining to persons having a contagious disease.
- (d) Testimony in other matters if requested by an interested party.
- (e) Testimony and other proceedings required by supreme court rule.

(2) In matters not governed by subsection (1), testimony before a probate judge, probate register, or deputy probate register may be given orally without a record being made of the testimony.

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes as prescribed by supreme court rules.

**E. Circuit Court - Family Division****MCL 712A.17. Hearings; jury; bond; legal counsel to represent child**

Sec. 17. (1) The court may conduct a hearing other than a criminal hearing in an informal manner. The court shall require stenographic notes or another transcript to be taken of the hearing.

**MCL 712A.17a. Record of hearing, tape recordings, transcription**

Sec. 17a. In any case in which a record of the hearing is kept by a recording device, a transcription of the hearing need not be made in the absence of a request by an interested party. The recording of the hearing shall be maintained as prescribed by rules of the supreme court.

**F. Freelance Court Reporters/Recorders**

Any court reporter or recorder under contractual agreement is subject to the statutory and court rule requirements for certification and for producing transcripts and maintaining exhibits, as well as the following.

**MCL 600.1492. Court reporter, court recorder, stenomask reporter; duties**

(1) A court reporter, court recorder, or stenomask reporter shall do all of the following in the performance of his or her duties:

(a) Deliver a transcript or statement of facts to a client or court in a timely manner as determined by law, by court order, or by agreement of the parties.

(b) Produce an accurate transcript or statement of facts.

(c) Produce complete transcripts or statements of facts, unless an excerpt of a transcript is authorized by court order, agreement of the parties, or request of a party.

(d) Before accepting an assignment as an independent contractor or employee to provide court reporting or recording services, request information from the person, employer, or entity engaging his or her services as to the existence and nature of the contract between the person, employer, or entity and the client to confirm that the contract is not a blanket contract in violation of section 1491(1)(b). A person, employer, or entity who is party to a blanket contract and who knowingly provides false information in reply to an inquiry required under this subdivision shall be considered to have committed an act that is grounds for discipline or censure under section 1493. This subdivision does not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, this state, or the United States.

(e) Advertise or represent truthfully that he or she is a certified court reporter, court recorder, or stenomask reporter and that only a certified individual will be making the record.

(f) Charge all parties or their attorneys to an action the same price for an original transcript or statement of facts and charge all parties or their attorneys the same price for a copy of a transcript or statement of facts or for like services performed in an action.

(g) Stay “on the record” during a deposition unless agreed to by all parties or their attorneys or unless otherwise ordered by the court.

## **Chapter 3: Fees**

### **A. General**

#### **MCL 600.2501. Fees; allowance**

Sec. 2501. For the services mentioned in this chapter, hereafter done or performed in the several courts in this state, by the officers thereof, or in any proceeding authorized by law, the fees hereinafter prescribed shall be allowed.

#### **MCL 600.2504. Fees; special provisions**

Sec. 2504. The allowance of any fees by this chapter, shall not apply to any case where special provision is otherwise made by law for any particular service, but the fees for such service shall be such as are provided in the statute requiring the service, or providing the compensation thereof.

#### **MCL 600.2507. Fees; state officers, certified copies of certain documents**

Sec. 2507. (1) The secretary of state, the auditor general, the state treasurer and the attorney general may require searches in the respective offices of each other and in the offices of the clerks of any court of record or municipal court, or in the office of a register of deeds, for any papers, records, or documents necessary to the discharge of their respective duties, and may obtain certified copies and certified extracts of such papers, records or documents without the payment of a fee or charge.

#### **MCL 600.2510. Page, definition**

Sec. 2510. (1) When used as a measure for computing fees or compensation, "page" is defined as follows: a page shall consist of 25 lines written on paper 8 -1/2 by 11 inches in size, prepared for binding on the left side, with 1-3/8 inch margin on the left side and 3/8 margin on the right side. Typing shall be 10 letters to the inch.

(2) A page prepared in accordance with the format prescribed by the state court administrative office shall be counted, billed, and paid for a full page.

#### **MCL 600.2513. Fees; excessive amount prohibited**

Sec. 2513. A judge of any court, sheriff, bailiff, district court magistrate, or other officer, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall not take or receive any other or greater fee or reward for his service, but such as is or shall be allowed by the laws of this state.

**MCL 600.2516. Fees; for services actually rendered**

Sec. 2516. No fee or compensation allowed by law, shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him; but this section shall not prevent any officer from demanding any fee herein allowed for any service of which he is entitled by law to require the payment previous to rendering such service.

**MCL 600.2519. Fees; violation, misdemeanor, civil liability, forfeiture of office**

Sec. 2519. A violation of either section 2513 or 2516 shall be deemed a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him, and such violation shall be a cause for forfeiture of office.

**MCL 600.2522. Fees; taxation for services actually rendered**

Section 2522. No fee shall be taxed for services as having been rendered by any attorney, clerk, sheriff, or other officer, in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

**MCL 600.2525. Fees; receipt, liability for refusal**

Sec. 2525. Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuse or neglect to do so, he shall be liable to the party paying the same for 3 times the amount so paid.

**MCL 600.2546. Certified copies of records, fee per page**

Sec. 2546. Except as otherwise provided by law, in the circuit court, district court, or probate court, for all certified copies, and exemplifications of records, pleadings and proceedings furnished on request, where no special provision is otherwise made, the fee is \$10.00 plus \$1.00 per page.

**MCL 600.2549. Depositions, certified copies, fees taxable as costs**

Sec. 2549. Reasonable and actual fees paid for depositions of witnesses filed in any clerk's office, and for the certified copies of documents or papers recorded or filed in any public office shall be allowed in the taxation of costs only if, at the trial or when damages were assessed, the depositions were read in evidence, except for impeachment purposes, or the documents or papers were necessarily used.



**B. Circuit Court****MCL 600.2543. Circuit court reporters or recorders; transcripts, fees**

Sec. 2543. (1) The circuit court reporters or recorders are entitled to demand and receive per page for a transcript ordered by any person the sum of \$1.75 per original page and 30 cents per page for each copy, unless a lower rate is agreed upon. For a transcript ordered by the circuit judge, reporters or recorders are entitled to receive from the county the same compensation. The supreme court, by administrative order or court rule, may authorize the payment to circuit court reporters or recorders the sum of \$3.00 per original page and 50 cents per page for each copy for transcripts ordered and timely filed as part of a program of differentiated case management for appeals of civil cases in which the circuit court either grants or denies summary disposition. If a transcript ordered under a program of differentiated case management is not timely filed, the circuit court reporter or recorder is not entitled to receive the increased rate for that transcript.

(2) Only if the transcript is desired for the purpose of moving for a new trial or preparing a record for appeal shall the amount of reporters' or recorders' fees paid for the transcript be recovered as a part of the taxable costs of the prevailing party in the motion, in the court of appeals or the supreme court.

**C. District Court****MCL 600.8631. Fees for transcripts ordered by the parties or district or circuit judge; recovery as taxable costs**

Sec. 8631. (1) A district court recorder or reporter shall be entitled to receive for a transcript ordered by any person the same fees as provided by law for circuit court reporters or recorders. For a transcript ordered by the district judge or a circuit judge, recorders or reporters shall be entitled to receive from the district control unit the same compensation.

(2) The amount of recorder's or reporter's fees paid shall be recoverable as part of the taxable costs by the prevailing party in a motion or on appeal.

**D. Court of Claims****MCL 600.6410. Clerks; fees; service of process**

Sec. 6410. (4) For making copies of records, proceedings and testimony and furnishing the same at the request of the claimant, or any other person, the clerk of the court of claims, or any reporter or recorder serving in the court of claims shall be entitled in addition to salary, to the same fees as are by law provided for court reporters or recorders

in the circuit court. No charge shall be made against the state for services rendered for furnishing copies of records, proceedings, or testimony or other papers to the attorney general.

#### **E. Freelance Court Reporters/Recorders and Court Reporting/Recording Firms**

##### **MCL 600.1491. Fees and Compensation**

(2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$25.00 per transaction or \$100.00 in the aggregate per recipient each year.

(b) Charge more than  $\frac{2}{3}$  of the price of an original transcript for a copy of that transcript.

### **Chapter 4: Maintaining Files and Records**

#### **A. Circuit Court**

##### **MCL 600.1428. Record management policies and procedures; establishment and maintenance; record retention and disposal**

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony unless a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease shall be destroyed only after the discharge of the person from the hospital or facility.

(4) Notes may not be destroyed until after 10 years after the date of the hearing or as provided in subsection (3), whichever is longer.

**State of Michigan Retention and Disposal Schedule General Schedule #15**, indicates the period of time untranscribed stenographic notes, tapes, and recordings must be retained. Transcribed stenographic notes, tapes, and recordings (does not include videotapes) must be retained 1 year after being transcribed and filed with the court. See the [State of Michigan Retention and Disposal Schedule General Schedule #15 – Circuit Courts](#).

**B. District Court****MCL 600.1428. Record management policies and procedures; establishment and maintenance; record retention and disposal**

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony unless a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease shall be destroyed only after the discharge of the person from the hospital or facility.

(4) Notes may not be destroyed until after 10 years after the date of the hearing or as provided in subsection (3), whichever is longer.

**State of Michigan Retention and Disposal Schedule General Schedule #13**, indicates the period of time untranscribed stenographic notes, tapes, and recordings must be retained. Transcribed stenographic notes, tapes, and recordings (does not include videotapes) must be retained 1 year after being transcribed and filed with the court. See the [State of Michigan Retention and Disposal Schedule General Schedule #13 – District Courts](#).

**C. Probate Court****MCL 600.1428. Record management policies and procedures; establishment and maintenance; record retention and disposal**

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony unless a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease shall be destroyed only after the discharge of the person from the hospital or facility.

(4) Notes may not be destroyed until after 10 years after the date of the hearing or as provided in subsection (3), whichever is longer.

**State of Michigan Retention and Disposal Schedule General Schedule #14**, indicates the period of time untranscribed stenographic notes, tapes, and recordings must be retained. Transcribed stenographic notes, tapes, and recordings (does not include videotapes) must be retained 1 year after being transcribed and filed with the court. See the [State of Michigan Retention and Disposal Schedule General Schedule #14 – Probate Courts](#).

**D. Circuit Court - Family Division****MCL 712A.17a. Record of hearing, tape recordings, transcription**

In any case in which a record of the hearing is kept by a recording device, a transcription of the hearing need not be made in the absence of a request by an interested party. The recording of the hearing shall be maintained as prescribed by rules of the supreme court.

**State of Michigan Retention and Disposal Schedule General Schedule #15**, indicates the period of time untranscribed stenographic notes, tapes, and recordings must be retained. Transcribed stenographic notes, tapes, and recordings (does not include videotapes) must be retained 1 year after being transcribed and filed with the court. See the [State of Michigan Retention and Disposal Schedule General Schedule #15 – Circuit Courts](#).

**Chapter 5: Freelance Court Reporters/Recorders and Court Reporting Firms****A. Definitions****MCL 600.1490. Definitions**

(1) As used in this section and sections 1491, 1492, and 1493:

(a) “Blanket contract” means a contract under which a court reporter, court recorder, stenomask reporter, or court reporting firm agrees to perform all court reporting or court recording services for a client for 2 or more cases at a rate of compensation fixed in the contract.

(b) “Court reporting firms” means a business entity that provides the services of court reporters, court recorders, or stenomask reporters.

(c) “Owner” means a person who has any ownership interest in a court reporting firm.

**B. Contractual Agreements****MCL 600.1490. Definitions; court reporter, court recorder, stenomask reporter, or owner of firm; familial relationship with party or attorney; disclosure required; financial interest**

(2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not provide or arrange to provide court reporting or recording services if he or she is a relative, employee, attorney, or counsel of any of the parties, or is a relative or employee of an attorney or counsel of any of the parties, without disclosing that familial relationship.

(3) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not provide or arrange to provide court reporting or recording services if he or she is financially interested in the action.

**MCL 600.1491. Court reporter, court recorder, stenomask reporter, or owner of firm; prohibited conduct**

(1) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do either of the following:

(a) Enter into or arrange for any financial relationship that compromises the impartiality of court reporters, court recorders, or stenomask reporters or that may result in the appearance that the impartiality of a court reporter, court recorder, or stenomask reporter has been compromised.

(b) Enter into a blanket contract with parties, litigants, attorneys, or their representatives unless all parties to the action are informed on the record in every deposition of the fees to be charged to all parties for original transcripts, copies of transcripts, and any other court reporting services to be provided. This subdivision does not apply to contracts for court reporting or recording services for the court, agencies, or instrumentalities of local units of government, this state, or the United States.

**C. Fees and Compensation**

**MCL 600.1491. Court reporter, court recorder, stenomask reporter, or owner of firm; prohibited conduct**

(2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$25.00 per transaction or \$100.00 in the aggregate per recipient each year.

(b) Charge more than  $\frac{2}{3}$  of the price of an original transcript for a copy of that transcript.

**D. Duties**

**MCL 600.1492. Court reporter, court recorder, stenomask reporter; duties**

(1) A court reporter, court recorder, or stenomask reporter shall do all of the following in the performance of his or her duties:

(a) Deliver a transcript or statement of facts to a client or court in a timely manner as determined by law, by court order, or by agreement of the parties.

(b) Produce an accurate transcript or statement of facts.

(c) Produce complete transcripts or statements of facts, unless an excerpt of a transcript is authorized by court order, agreement of the parties, or request of a party.

(d) Before accepting an assignment as an independent contractor or employee to provide court reporting or recording services, request information from the person, employer, or entity engaging his or her services as to the existence and nature of the contract between the person, employer, or entity and the client to confirm that the contract is not a blanket contract in violation of section 1491(1)(b). A person, employer, or entity who is party to a blanket contract and who knowingly provides false information in reply to an inquiry required under this subdivision shall be considered to have committed an act that is grounds for discipline or censure under section 1493. This subdivision does not apply to contracts for court reporting or recording services for the courts, agencies, or instrumentalities of local units of government, this state, or the United States.

(e) Advertise or represent truthfully that he or she is a certified court reporter, court recorder, or stenomask reporter and that only a certified individual will be making the record.

(f) Charge all parties or their attorneys to an action the same price for an original transcript or statement of facts and charge all parties or their attorneys the same price for a copy of a transcript or statement of facts or for like services performed in an action.

(g) Stay “on the record” during a deposition unless agreed to by all parties or their attorneys or unless otherwise ordered by the court.

(2) ...Rules applicable to court reporters and court recorders are also applicable to court reporting firms. ...

## **E. Registration with the State Court Administrative Office**

### **MCL 600.1492. Court reporter, court recorder, stenomask reporter; duties**

(2) All court reporting firms and court reporters, recorders, and stenomask reporters, including out-of-state court reporting firms and court reporters, recorders, and stenomask reporters, shall register with the state court administrative office by completing an application in a form adopted by the state court administrative office. If a court reporting firm or a court reporter, recorder, or stenomask reporter fails to comply with this subsection, the state court administrative office may assess a

reasonable administrative fine that is prescribed by rule of the supreme court, that does not exceed \$500.00, and that is payable to the state general fund.

#### **F. Enforcement and Violations of Statute**

##### **MCL 600.1493. Enforcement of §§ 600.1490, 600.1491, and 600.1492; violation**

(1) The state court administrative office is responsible for enforcing sections 1490, 1491, and 1492 through the court recording and reporting board of review or by other administrative means.

(2) Any violation of section 1490, 1491, or 1492 shall be cause for refusal of the state court administrative office's board of review to issue renewal certificates to certified court reporters, court recorders, or stenomask reporters. Any willful violation of section 1490, 1491, or 1492 shall be grounds for discipline or censure, or suspension or revocation of certification as a Michigan certified court reporter, court recorder, stenomask reporter, or court reporting firm.

#### **G. Applicability of Statute to Official Court Reporters and Recorders**

##### **MCL 600.1494. Applicability of §§ 600.1490 to 600.1493; exception**

Section 1490 to 1493 do not apply to official court stenographers, recorders, reporters, or stenomask reporters appointed under chapter 8, 11, or 86 while in the performance of their official duties or to a court stenographer, recorder, or reporter appointed to serve in a municipal court while in the performance of his or her official duties.

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