

State of Kansas



Handbook for Official Court Reporters

August 2012

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The Section I: Kansas Unified Court System

There are three levels of courts in Kansas with which official court reporters have business.

A. The Kansas Supreme Court

Since 1977, Kansas courts have operated under a unified judicial system administered by the Kansas Supreme Court. Pursuant to Article 3, §1 of the Kansas Constitution, the Supreme Court has general administrative authority over all courts in the State. The Chief Justice serves as spokesperson for the Court, executing and implementing the administrative rules and policies of the Supreme Court including personnel and financial decisions. See K.S.A. 20-101.

The 105 counties of the State are divided into 31 judicial districts and 6 judicial departments. See K.S.A. 4-202, *et seq.*; K.S.A. 20-318. See pages 4 – 5 of this Handbook. Each Justice of the Supreme Court, other than the Chief Justice, is assigned as departmental justice for a judicial department. That Justice serves as liaison to the full Court for administrative matters which arise within the judicial department.

The Supreme Court sits in Topeka and is this state's court of last resort. The Supreme Court hears direct appeals from the district courts in the most serious criminal cases and appeals in any case in which a statute has been held unconstitutional. The Supreme Court may review cases decided by the Court of Appeals and may transfer cases from the Court of Appeals to the Supreme Court. The Supreme Court also has original jurisdiction in several types of cases.

Chief Justice

Lawton R. Nuss

Justices

Marla J. Luckert

Carol A. Beier

Eric S. Rosen

Lee A. Johnson

Dan Biles

Nancy L. Moritz

Nancy M. Dixon serves as Judicial Administrator.

B. The Kansas Court of Appeals

The Kansas Court of Appeals is an intermediate appellate court, established by statute in 1977. See K.S.A. 20-3001. The Court, originally established as a seven-member body, currently has thirteen members who sit in three-judge panels anywhere in the State. The Court of Appeals hears all appeals from the district courts in both civil and criminal cases, except those which may be appealed directly to the Supreme Court. It also directly reviews some administrative appeals and has original jurisdiction in habeas corpus.

Chief Judge

Richard D. Greene

Judges

G. Joseph Pierron, Jr.
Henry W. Green, Jr.
Christel E. Marquardt
Tom Malone
Stephen D. Hill
Patrick D. McAnany
Michael B. Buser
Steve Leben
Melissa Standridge
G. Gordon Atcheson
Karen Arnold-Burger
David E. Bruns

Carol G. Green serves as Clerk of the Supreme Court and the Court of Appeals. She is also referred to as Clerk of the Appellate Courts.

C. Method of Selection of Appellate Justices and Judges

Supreme Court Justices and Court of Appeals Judges are appointed to office through a merit selection process and are subject to a retention vote by the public every six years for justices and every four years for judges. Vacancies are filled by the Governor's appointment of a justice or judge from names recommended by the Supreme Court Nominating Commission. The Commission is composed of one lawyer member elected by lawyers and one lay member appointed by the Governor from each congressional district, chaired by a lawyer elected statewide by lawyers, for a total of nine members.

D. District Courts

District courts are the trial courts of Kansas, having general original jurisdiction over all civil and criminal cases. The district court also has appellate jurisdiction from municipal courts and some administrative agencies.

There are two types of judges of the district court: District Judges who exercise the full power and authority of the court and District Magistrate Judges whose jurisdiction is limited. District Judges must be lawyers. District Magistrate Judges may or may not be lawyers.

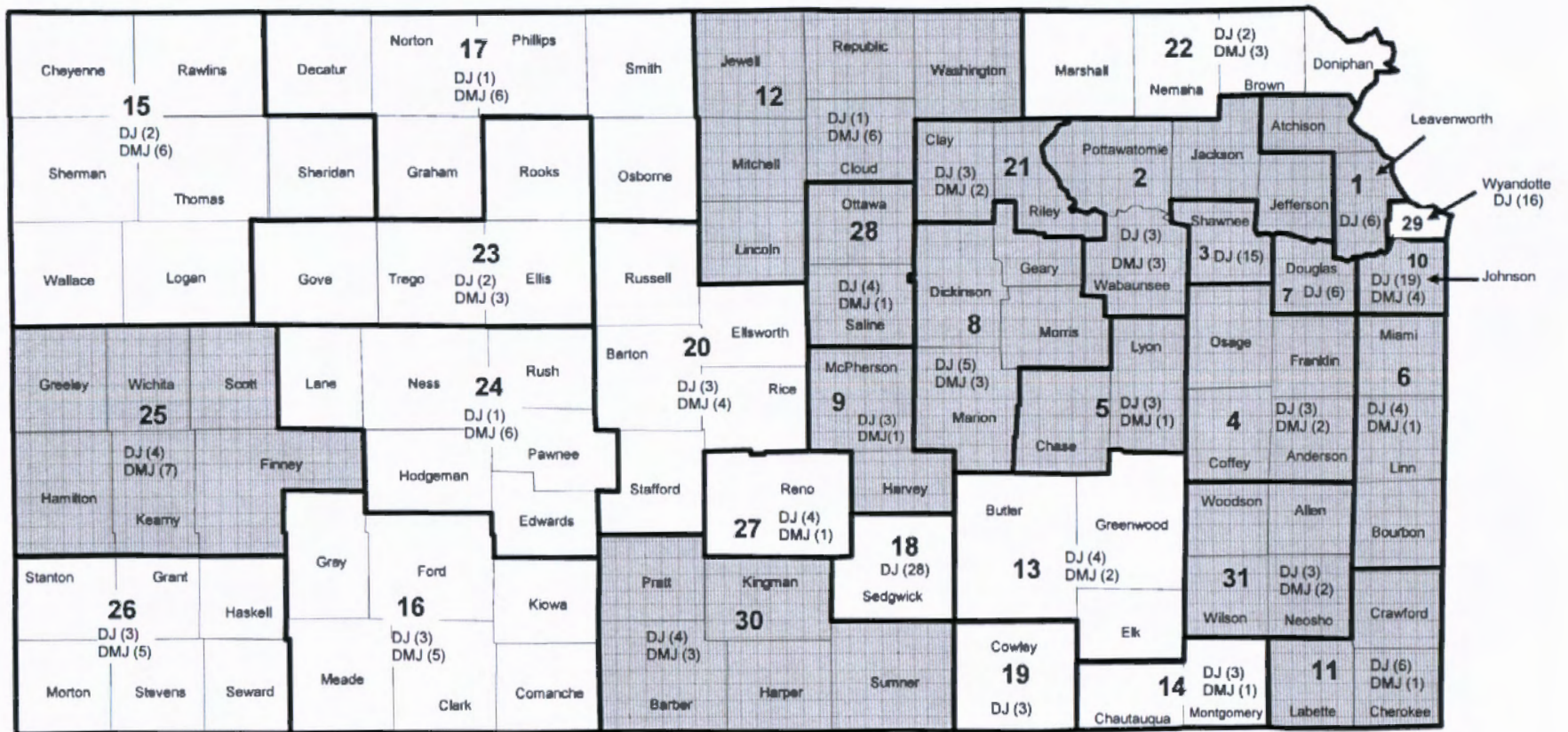
Each judicial district has a chief judge who is appointed by members of the Supreme Court. Judges of the district court are subject to assignment to sit in any court within the judicial district by the chief judge and in other districts by the departmental justice. A district court may have specialized divisions or departments with approval of the Supreme Court. The district court may, with approval of the Supreme Court, hold court other than in the county courthouse, if suitable facilities are available.

District Judges and District Magistrate Judges in 17 judicial districts are appointed to office through a merit selection process and are subject to a retention vote by the public every four years. Judges in 14 judicial districts run for office in a political party election process. In nonpartisan selection districts, vacancies for District Judges are filled by the Governor's appointment of a judge from the recommendations of that district's District Judicial Nominating Commission. Vacancies for a District Magistrate Judge position are filled by the District Judicial Nominating Commission itself in nonpartisan districts.

Some districts have official court reporters assigned to individual judges. Others have reporters designated as Rovers. Recording devices are used in some district courts. In districts that have only one official reporter, the reporter works for all judges in the district at times, especially where no recording device is installed in the district court.

There is a Clerk of the District Court appointed by the Chief Judge of a district in each county in the State of Kansas. All districts have a Court Administrator or Chief Clerk.

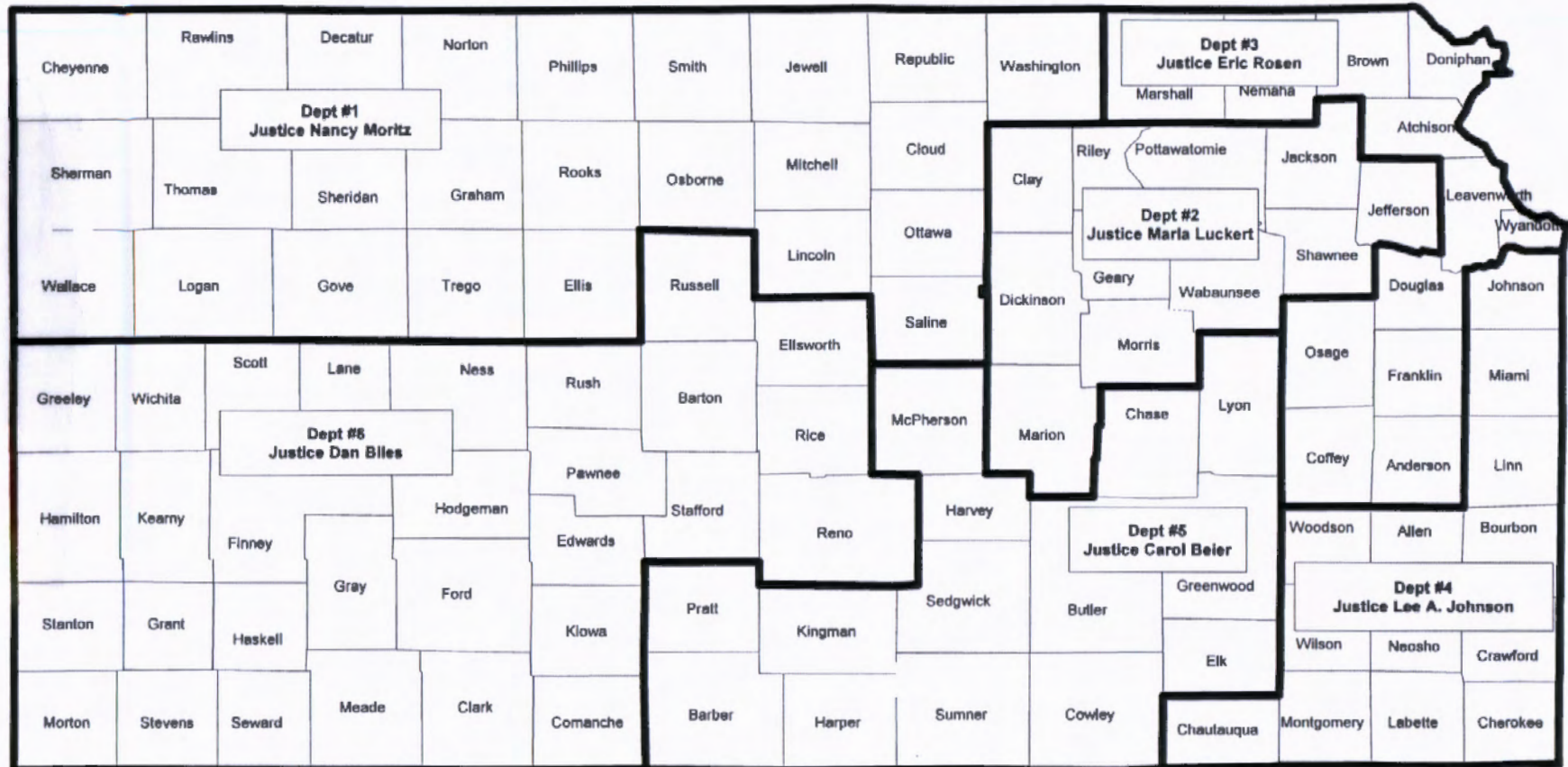
Kansas Judicial Districts (31)



Political Process - 14 districts or 45% (Counties = 53)
 Merit Selection Process - 17 districts or 55% (Counties = 52)

	Elected Judges	Selected Judges	TOTAL
District Judge	75	92	167
District Magistrate Judge	42	37	79
Total	117	129	246

Kansas Judicial Departments



Department/district responsibilities are:

- | | | |
|---------------|-------------------------------|--------------------------------|
| Department 1: | J. Moritz (pro tem J. Biles) | Districts 12, 15, 17, 23, 28 |
| Department 2: | J. Luckert (pro tem J. Rosen) | Districts 2, 3, 8, 21 |
| Department 3: | J. Rosen (pro tem J. Johnson) | Districts 1, 4, 7, 22, 29 |
| Department 4: | J. Johnson (pro tem J. Beier) | Districts 6, 10, 11, 14, 31 |
| Department 5: | J. Beier (pro tem J. Luckert) | Districts 5, 9, 13, 18, 19, 30 |
| Department 6: | J. Biles (pro tem J. Moritz) | Districts 16, 20, 24, 25, 26, |

Section II. Selection and Retention of Official Court Reporters

A. Certificates of Eligibility

An official court reporter must possess a certificate of eligibility issued by the State Board of Examiners of Court Reporters. See K.S.A. 20-912. Kansas recognizes both stenographic transcription and voice writing. Certificates of Eligibility are issued in one of three ways:

- The applicant successfully passes written and skills examinations administered in May and October in Topeka, Kansas, by the State Board of Examiners of Court Reporters.
- The applicant passes a written knowledge examination in Kansas and holds a Registered Professional Reporter (RPR) certificate from the National Court Reporters Association or a Certified Verbatim Reporter (CVR) certificate from the National Verbatim Court Reporters Association.
- The applicant qualifies for admission on motion, based on licensure in another state.

See Supreme Court Rule 309.

B. Annual Certification Renewal

Certificate holders in Kansas register annually on a form provided by the Clerk of the Appellate Courts and pay a certification renewal fee established by Supreme Court Order. See Supreme Court Rule 310.

C. Issuance of Temporary Certificates

An applicant to take the Kansas court reporter examination may qualify for a temporary certificate, pending administration of the next examination, if certain conditions are met. See Supreme Court Rule 312.

D. Recruitment and Selection within Judicial Districts

Within staffing limits prescribed by the Supreme Court and appropriations therefor, official court reporters are recruited and selected within each judicial district. See K.S.A. 20-345. An official court reporter cannot be related by blood or marriage to the judge of the division of court in which the reporter is employed or assigned. See Supreme Court

Rule 353. There are presently 135.5 authorized official court reporter positions statewide. See page 8 of this Handbook for a breakdown by judicial district.

E. Oath of Office

Each official court reporter must take the oath or affirmation prescribed by K.S.A. 54-106 which provides:

“I do solemnly swear [or affirm] that I will support the constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of [official court reporter]. So help me God.”

F. Model Position Description

The Office of Judicial Administration has drafted a model position description, listing the potential job responsibilities of managing court reporters, official court reporters, and transcriptionists. See pages 9 - 11 of this Handbook. An individual reporter's supervisor will determine which specific job responsibilities are applicable to that reporter. Evaluations are then based on the reporter's subsequent performance of the assigned duties.

G. Personnel Rules

All Judicial Branch employees are subject to the Rules Relating to the Kansas Court Personnel System, revised October 2004. Those personnel rules contain a comprehensive statement of an employee's rights and responsibilities and are available from the Chief Judge in each judicial district or from the Personnel Officer in the Office of Judicial Administration. An official court reporter should ask for a copy of the personnel rules at the beginning of employment, if one is not provided.

H. Assignment Outside District; Sale of Transcripts; Administration of Oath; Reimbursement of Expenses

Pursuant to K.S.A. 20-917, the Supreme Court provides by rule for the assignment of an official court reporter to duty in another judicial district and regulates the making of records and the preparation and sale of trial transcripts. The statute further provides that official court reporters have the power to administer oaths in court proceedings and are to be reimbursed for actual and necessary expenses incurred in the performance of their official duties in the same manner and to the same extent district judges are reimbursed.

Authorized official court reporter positions in each judicial district: Some positions may be vacant or may be filled temporarily by transcriptionists. Numbers in the 3rd, 10th, 18th, and 29th districts include a managing reporter.

District No.	Total
1	4
2	2
3	14
4	3
5	2
6	2
7	5
8	2
9	2
10	17
11	5
12	1
13	3
14	3
15	1.5
16	3
17	1
18	25
19	2
20	2
21	3
22	2
23	1
24	1
25	4
26	3
27	3
28	3
29	10
30	3
31	3
TOTAL	135.5

KANSAS JUDICIAL BRANCH
Position Description

Instructions: Complete employee name, district and county, department, and position number. Make statements simple, brief, and complete. Form must be signed by the appointing authority.

Distribution: 1-Employee, 1-Supervisor, 1-Office of Judicial Administration - original

PART I.

Employee Name: _____
 Job Title: **Managing Court Reporter**
 Official Court Reporter
 Transcriptionist
 District/County: /
 Department: _____
 Position Number: _____

PART II. The position supervisor or other designee of the appointing authority shall complete the remaining sections of the description.

SECTION A. POSITION PURPOSE:

SECTION B. DUTIES:

Instructions: Place the letters *n/a* in the column next to the duties which are not a part of the employee's job responsibilities.

<i>Not Applicable</i>	Duties
	Supervision/Lead Worker Duties
_____	Developing and implementing employee training and development
_____	Evaluating employees
_____	Managing employee leave
_____	Providing guidance and information to staff
_____	Developing policies and recommending procedures
_____	Supervising necessary cross-training
_____	Distributing workload evenly among employees
_____	Recruiting and hiring
_____	Managing timesheets
_____	Completing, submitting and maintaining other personnel and payroll documentation
_____	Handling grievances and complaints
_____	Ensuring staff coverage on a daily basis
_____	Serving as a coach or mentor to other employees
_____	Providing regular ongoing feedback to staff
_____	Assisting coworkers
_____	Coordinating office management efforts with the chain of command
_____	Providing management with reports on court reporter activities
	Fiscal and Budget Duties
_____	Purchasing
_____	Completing required reporting forms
_____	Assisting in the preparation of court budgets

Not
Applicable

Duties

Court Duties

- _____ Setting trials and hearings
- _____ Preparing files and indexes
- _____ Informing jury clerk of jury trial schedules
- _____ Setting and removing cases from trial calendar
- _____ Handling caseflow management measures in a timely manner
- _____ Following state and local court policies and procedures
- _____ Working in other offices as assigned
- _____ Serving as bailiff
- _____ Producing neat, accurate and complete transcripts
- _____ Overseeing maintenance of recording equipment
- _____ Filing and distributing completed transcripts
- _____ Maintaining daily tape log record and index system
- _____ Preparing certified copies of court proceedings from tape recordings
- _____ Taking verbatim testimony, manually or through the operation of a stenotype machine
- _____ Certifying transcript accuracy
- _____ Issuing cost statements for transcript preparation
- _____ Maintaining exhibit filing system
- _____ Marking exhibits offered in evidence as directed by the court
- _____ Destroying exhibits pursuant to Supreme Court Rule 108 as necessary
- _____ Reviewing court files, exhibits, police reports, etc. to verify accuracy of transcripts
- _____ Producing correspondence for judge
- _____ Assigning taped transcript requests as needed between all reporters
- _____ Locating notes from past reporters and forwarding them as needed
- _____ Administering oaths or affirmations
- _____ Following procedures for cases on appeal when transcript is ordered
- _____ Maintaining daily diary of cases heard for later reference to court and counsel
- _____ Storing stenograph notes in secure manner
- _____ Defining criteria for contracting with free-lance reporters
- _____ Installing and maintaining technology to prepare, store and retrieve transcripts and other documents

Office Duties

- _____ Reviewing files and/or documents for accuracy and completeness
- _____ Stamping and preparing incoming and outgoing mail (pickup and delivery)
- _____ Screening visitors and callers
- _____ Answering phones in a professional and courteous manner
- _____ Maintaining appointment calendar
- _____ Taking and transcribing dictation accurately
- _____ Operating office equipment: computers, software programs, copiers, phones, recording equipment, etc.
- _____ Composing letters and documents
- _____ Maintaining office supplies
- _____ Inventorying property
- _____ Maintaining various records of office activities

Public Relations Duties

- _____ Working with public in routine and difficult situations
- _____ Serving as information resource to public, court, staff, and OJA
- _____ Providing courteous service to coworkers and public
- _____ Communicating with court staff and outside contacts

SECTION C. SUPERVISORY DUTIES:

List the names, class titles, and position numbers of all persons who are supervised directly by employee on this position.

Name	Class Title	Position Number
------	-------------	-----------------

SECTION D. CERTIFICATION:

I certify that this is an accurate nonfraudulent statement of the major duties and responsibilities of this position and its organizational relationships, and that this position is necessary to carry out the government functions for which I am responsible. This position description supercedes any prior worksheets or position descriptions. (This certification is made with the knowledge that this information is to be used for statutory purposes relating to appointment of employees and payment of public funds, and that false or misleading statements may constitute violations of such statutes or their implementing regulations.) (K.S.A. 20-162)

Employee Signature

Date

Rater Signature

Date

Appointing Authority Signature

Date

III. Disciplinary Actions

A. Under the Personnel Rules

Official court reporters are subject to disciplinary action pursuant to the Rules Relating to the Kansas Court Personnel System for deficiencies in work performance, personal misconduct, or specified serious or grievous offenses. See Personnel Rules 7.1, 7.2, and 7.3. Actions pursuant to the personnel rules are initiated by the reporter's appointing authority or designee and relate to the reporter's employment with the court.

B. Under Rules Relating to the State Board of Examiners of Court Reporters

Under Supreme Court Rules, disciplinary action may also be initiated against a court reporter by the Board of Examiners of Court Reporters pursuant to Board Rule No. 9 for specified ethical violations. See Board Rule No. 9.F. There is some overlap in the nature of the conduct involved in both types of disciplinary proceedings. A reporter may be subject to action under one or the other or both types of proceedings. Actions by the Board bring into question the reporter's continued licensure in the State of Kansas. Both official and freelance reporters are subject to the Board's jurisdiction.

IV. Duties of Official Court Reporters

A. Reporter's Seal

A reporter holding a certificate of eligibility issued by the Kansas Supreme Court must have a seal to authenticate the reporter's official acts. The seal may be of the reporter's own design but shall bear the reporter's name and the words "certified shorthand reporter." See K.S.A. 20-913. For certificates issued on or after July 1, 2006, the words "certified court reporter" should appear. See Supreme Court Rule 310(a).

The impress of the seal shall be recorded in the office of the clerk of the district court for the county in which the reporter resides. K.S.A. 20-913. See suggested form at page 22 of this Handbook. If a certified reporter is not a Kansas resident, the impress of the seal should be filed with the Clerk of the Appellate Courts.

B. Administer Oaths

An official court reporter has the power to administer oaths in any court proceeding in the same manner and to the same extent provided by law for the administration of oaths by district judges. K.S.A. 20-917(c).

Sample oaths include the following. Alternative affirmations are included in brackets for use when an individual declines to take an oath.

1. Examination of Jury on Voir Dire

You, and each of you, do solemnly swear that you will true answers make to all questions propounded to you by Court or counsel, touching upon your qualifications to serve as jurors in this case, so help you, God?

[You, and each of you, do solemnly, sincerely and truly declare and affirm that you will true answers make to all questions propounded to you by Court or counsel, touching upon your qualifications to serve as juror(s) in this case and this you do under pains and penalties of perjury?]

2. For Jury after Accepted by Both Sides

Do you, and each of you, solemnly swear to try the case conscientiously and return a verdict according to the law and the evidence, so help you, God?

[You do solemnly, sincerely and truly declare and affirm that you will try the case conscientiously and return a verdict according to the law and the evidence and this you do under the pains and penalties of perjury?]

3. After Reading Verdict and Polling

Members of the Jury, is this your verdict and each of your verdict, and are you satisfied therewith? If so, please indicate affirmatively by raising your right hand.

4. Less Than Unanimous Verdict

Do you agree that the verdict I read (read by the Clerk, Judge) was the verdict of the jury by agreement of (12) (11) (10) members of the jury? (Obtain number from verdict form.)

5. Oath for Witnesses

You, and each of you, do solemnly swear that the testimony you are about to give in this case now in hearing will be the truth, the whole truth, and nothing but the truth, so help you, God?

[You do solemnly, sincerely and truly declare and affirm that the testimony you are about to give will be the truth, the whole truth and nothing but the truth, and this you do under the pains and penalties of perjury?]

6. Oath for Interpreters

You do solemnly swear that you will truly and correctly translate into (Spanish, etc.) the questions propounded to the witness, and truly and correctly translate into English the answers made by the witness, and faithfully discharge the duties of interpreter in this case, so help you, God?

C. Take Record

Pursuant to Supreme Court Rule 354: "It shall be the duty of the official court reporter to attend upon the sessions of court to which the reporter is assigned when required by the judge thereof or by the chief judge. The official court reporter shall take verbatim notes of the proceedings tried before the court as the judge thereof shall direct. Such notes shall be taken on a machine with readback capability. The judge shall cause to have entered on the appearance/trial docket the name of the court reporter taking verbatim notes of any such proceeding."

1. Preliminary Hearing in a Criminal Matter: A judge may cause a record of a preliminary hearing to be made and should do so when requested by the prosecuting attorney or the defendant or his counsel at least 48 hours prior to the time set for the hearing. The cost of preparation of the record shall be paid by the party requesting it. If neither party requests the record or the request is made by

an indigent defendant, the cost shall be paid from the general fund of the county. See K.S.A. 22-2904.

2. Jury Trial, Generally:

a. Seating Chart. Use a seating chart for jurors according to how juries are impaneled in your court. It is helpful to number jurors as they are seated because it is difficult to remember all of the names.

b. Voir dire examination of jurors. Prospective jurors shall be examined under oath as to their qualifications to sit as jurors. Administer oath before questioning begins. See K.S.A. 60-247(b).

c. Oath of jurors. Administer oath after jury is selected. See K.S.A. 22-3412(b); 60-247(d). Alternate jurors take the same oath as regular jurors. See K.S.A. 22-3412(c); 60-248(h).

When the case is finally submitted to the jury, the jury retires for deliberation under the charge of a bailiff who protects the confidentiality of the deliberations. See K.S.A. 22-3420(i); 60-248.

d. Juror request for information. Jurors may request information after retiring for deliberation. Any such request is made through the bailiff to the court in the manner directed by the court. After notice to counsel, the court will determine what response is made to the jury. See K.S.A. 22-3420(3); 60-248.

On occasion, that response will require a readback of testimony by the court reporter. Supreme Court Rule 354 requires that verbatim notes of court proceedings be taken on a machine with readback capability.

e. Instructions. The court reporter shall record all objections to the instructions given or refused by the court, together with modifications made, and the rulings of the court. K.S.A. 22-3414.

When instructions are read to the jury, the reporter may follow along with written text, noting any deviations from the wording in the written text. These deviations should be made part of the record because instructions may be challenged on appeal, creating significant issues for which a record must be available.

3. Civil Jury Trial

a. Readback. When the jury requests testimony on a certain subject, objection cannot be sustained on ground that all of the testimony of the witness was not read in the absence of the jury's request to have the entire testimony read. *Jacks v. Cloughley*, 203 Kan. 699, Syl. ¶ 3, 457 P.2d 175 (1969).

b. Verdict Form and Polling of Jury. If agreement of the required number of jurors is expressed after the verdict is read to the jury and no party requires the jurors to be polled individually, the verdict is complete and the jury discharged. See K.S.A. 60-248(g).

If a party required the jurors to be polled individually, the clerk or judge should call each juror's name and ask the juror to answer the following question "yes" or "no:" "Do you agree that the verdict read by the (clerk/judge) was the verdict of (12) (11) (10) members of the jury?"

4. Criminal Jury Trial

a. Readback. The defendant must be present, unless voluntarily absent. K.S.A. 22-3420(3).

"It has long been established by this court that if the jury requests the trial court to have the testimony of any witness read to them, it is proper for the court to require the official court reporter to do so in the presence of the parties to the action. [Citations omitted.] We cannot assign as error the failure of the trial court to cause defendant's testimony to be read when not requested by the jury." *State v. Andrews*, 218 Kan. 156, 161-162, 542 P.2d 325 (1975).

"[A] readback of particular testimony of a witness requested by a jury in either a civil or a criminal case does not require that in addition there must be readback of all other testimony of that witness." *State v. Gilley*, 5 Kan. App. 2d 321, 323, 615 P.2d 827 (1980).

"An accused has a right to be present at every stage of his or her trial and when a jury requests information as to any part of the law or evidence arising in the case, it is to be given in open court in the presence of the accused unless the accused is voluntarily absent." *State v. Antwine*, 4 Kan. App. 2d 389, Syl. ¶9, 607 P.2d 519 (1980). The trial judge erred "when in the absence of the defendants, but with the permission of counsel for both

defendants, he permitted the court reporter to enter the jury room and read to the jury....” 4 Kan. App. 2d at 401.

“It is error for the court to permit the reporter to read back the testimony of a witness to the jury in the absence of court, counsel, and the defendant. It is within the court’s discretion to grant the read-back of certain testimony, but it must be done in the presence of the court as well as in the presence of the parties and their counsel.” *State v. Gammill*, 2 Kan. App. 2d 627, Syl. ¶2, 585 P.2d 1074 (1978).

b. Verdict Form and Polling of Jury. After a criminal verdict is read by the clerk to the jury, inquiry is made whether it is the jury’s verdict. If any juror disagrees, the jury must be sent out again. If no disagreement is expressed, and neither party requires the jury to be polled, the verdict is complete and the jury discharged. See K.S.A. 22-3421.

If a party requires the jurors to be polled individually, the clerk or judge should call each juror’s name and ask the juror to answer the following question “yes” or “no:” “Do you agree that the verdict read by the (clerk/judge) was your verdict?”

5. Suggested Procedures for Problem Areas: Different judges and reporters may have other procedures. These are suggestions only.

a. In-court playing of recorded statements or videos: Do not report. Have recording marked as exhibit.

b. In-court reading of depositions and/or playing of video depositions. The objections and rulings have to be reported. If this is handled beforehand, deposition does not have to be reported. If not done beforehand, reporter needs to get these rulings. Reporter can report whole deposition (try to mark rulings on machine). Or ask that attorney indicate page number and line on objections, and then report just that portion and rulings.

c. Depositions. Under present rule, original depositions are no longer filed with the clerk.

1. At first day of trial or before, either the reporter or the judge should ask that all original depositions be furnished to the court for use in trial.

2. Upon completion of trial, reporter should keep depositions for use in preparing appeal transcript before returning to attorney or filing with the clerk, if so instructed.

d. Interpreter.

1. Be prepared to give oath to interpreter.
2. When reporting, witness may answer through interpreter or may, at times, answer directly in English. Be prepared to handle this situation both in reporting and in preparation of transcript.

D. Reporter's Notes

1. **Supreme Court Rule 355** provides: "The official court reporter or anyone acting in that capacity must file all original verbatim notes and any electronic representation of those notes, including audio or .wav files, if applicable, in the office of the clerk of the court, along with all exhibits admitted into evidence and retained by the reporter. Notes backed up and stored electronically on a judicial district's network computer server – in a format readable by non-reporter software – may be substituted for the original. The notes and exhibits must remain a part of the files in the office of the clerk until further order of the court."

Because of storage problems, the court may direct that notes and exhibits be stored other than in the clerk's office. That is permitted, but they must be available for appeal purposes. Regardless of where they are stored, the reporter's notes should be under the control of the court.

2. **Notes and diskettes** should be marked and filed in an orderly manner for speedy retrieval, if necessary, and safekeeping. The district court case number should be on each set of notes for identification.
3. **A daily log** or record of proceedings reported should be kept.
4. **Destruction of Notes.** Supreme Court Rule 108 (e)(6) sets out the retention schedules for reporters' notes.

Civil – Chapter 38 (except Article 23 [formerly Article 16], Juvenile Offenders); Chapter 59, Article 21 (Adoptions); Chapter 23 (Divorce and Maintenance) – 25 years after the record is taken.

Other Civil – the later of 5 years after the case is closed or 20 years after the record is taken.

Criminal and Juvenile Offender – 100 years after the record is taken.

E. Exhibits.

1. Mark during trial. Keep an exhibit list. See page 23 of this Handbook. Place case number on each exhibit, which will not be in exhibit envelope, for later identification.

2. Supreme Court Rule 355 provides that verbatim notes and exhibits admitted in evidence be filed with the clerk of the district court. See IV. D. 1. above.

There may be security issues with regard to some exhibits in judicial districts where court reporters maintain custody of exhibits rather than file them with the clerk. In such districts, it may be advisable to have the court issue an order at the end of the trial, after the verdict is rendered, to return all firearms, money, drugs, or evidence of this nature back to the counsel who introduced the exhibits. Include in the order a directive that counsel withdrawing the exhibit must have it available for trial or appeal. These types of items, however, are not often requested to be sent to the appellate courts for appeal purposes.

3. On Appeal

Supreme Court Rule 3.02 PREPARATION OF RECORD ON APPEAL FOR FILING allows any party to request adding to the record on appeal any part of the entire record. Subsection (d)(1)(A) provides that, “if the requested addition is an exhibit that was offered or admitted into evidence and is in a court reporter’s custody,” the court reporter must be served. The reporter delivers the exhibit to the clerk.

In jurisdictions where the clerk has custody of exhibits, the clerk’s office will include exhibits to be sent up on appeal, based on information received from attorneys.

4. Withdrawal and Disposition of Depositions and Exhibits

Supreme Court Rule 108 REPRODUCTION AND DISPOSITION OF COURT RECORDS provides in subsections (e)(7) and (8):

(7) **Depositions.** The chief judge may authorize the withdrawal, disposition, or destruction of a deposition in the court’s custody as follows:

(A) Counsel of record may withdraw a deposition when the case is closed upon giving a receipt to the court.

(B) A deposition may be destroyed by written order of the chief judge under subsection (c)(4) — 60 days after the case is closed and notification to counsel of record.

(C) In a closed case, a deposition filed prior to July 1, 1987, may be destroyed by written order of the chief judge under subsection (c)(4) — after notification under subsection (c)(2).

(D) A deposition filed with the court:

(i) must remain sealed and confidential unless opened as allowed by the court; and

(ii) must, if opened, be considered an open record associated with the case unless otherwise prohibited by statute or court rule.

(E) In this subparagraph, “deposition” includes depositions taken by video, teleconference, videotape, or other electronic means pursuant to statute or court rule.

(8) **Exhibits.** An exhibit in the court’s custody may be withdrawn, disposed of, or destroyed as follows:

(A) The court — on its own or on motion of a party, counsel, or other interested entity — may order that an exhibit introduced in a case may be withdrawn. An exhibit withdrawn must be made available for trial or appeal.

(i) **Civil Exhibits.** An exhibit not withdrawn within 60 days after the judgment becomes final, if no appeal is taken, or within 60 days after all appeals of the judgment terminate, is considered unclaimed and subject to disposition or destruction.

(ii) **Criminal Exhibits.** An exhibit not withdrawn within 60 days after completion of a sentence — including probation, parole, and post-release supervision — and full discharge of the defendant is considered unclaimed and subject to disposition or destruction. An exhibit may be disposed of or destroyed prior to sentence completion and discharge of the defendant only by order of the chief judge with 30 days prior notice to all interested parties. If no interested party responds 30 days after the notice, the court may proceed with disposition or destruction of the exhibit.

(B) When the chief judge determines an unclaimed exhibit has value, it may be retained and used as county property, or be sold at public auction with the net proceeds paid to the state treasurer under K.S.A. 20-2801, 21-6307, 22-2512, or other applicable statute.

(C) When the chief judge determines an unclaimed exhibit has no value, it may be disposed of or destroyed in the manner the chief judge orders.

F. Preparation of Transcripts (See Sections V and VI following.)

G. Preparation of Travel Vouchers

1. Official court reporters are reimbursed actual and necessary expenses incurred in the performance of their official duties, in the same manner and to the same extent district judges are reimbursed. K.S.A. 20-917.

2. Use the appropriate travel voucher form. See page 24 of this handbook. Mileage rates for the use of a privately-owned automobile fluctuate and should be reviewed from time to time.

3. Mail all travel vouchers and correspondence relating to vouchers to:

Fiscal Officer
Office of Judicial Administration
Kansas Judicial Center
301 SW 10th Avenue, Room 337
Topeka, KS 66612-1507

Providing your social security number on the travel voucher assists OJA staff in processing vouchers.

4. Original receipts must be provided for lodging and conference registration. It is not necessary to provide receipts for meals or turnpike tolls; however, it is necessary to indicate whether you paid cash or used a personal K-TAG on the turnpike. The rates differ.

5. The State's fiscal year closes on June 30 of each year. Vouchers for the month of June should be submitted by July 5 in order to close the books for the fiscal year.

[Form for filing impress of seal]

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

**IMPRESS OF SEAL OF CERTIFIED COURT REPORTER
FILED IN COMPLIANCE WITH K.S.A. 20-913**

Pursuant to the provision of K.S.A. 20-913, the impress of my seal of Certified Court Reporter of Kansas is impressed hereon and filed with the Clerk of the District Court of _____ County, Kansas, which is the county in which I reside.

(Impress of Seal)

Certified Court Reporter

Note: Under the provisions of K.S.A. 20-913, the impress of a seal of a Certified Court Reporter is to be filed in the county in which such reporter resides. (If the reporter is not a Kansas resident, the impress of the seal should be filed with the Clerk of the Appellate Courts, 301 SW Tenth Avenue, Topeka, Kansas 66612. Along with the impress, advise the appellate clerk of your name and registration number so the impress can be included in your file.)

EXHIBITS

Division _____ Date _____ Type of Case _____

APPEARANCES:

For Plf. _____

vs.

For Def _____

PLAINTIFF'S EXHIBITS

DEFENDANT'S EXHIBITS

WITNESSES:

#	M	O	R	Description
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PLF - STATE
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DEFENDANT
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TRAVEL PAYMENT VOUCHER

Agency No.	Div. No.	Current Doc. No.
		V

Document Date: <u>8/1/2012</u>	Effective Date: _____	Due Date: _____
Vendor Information		Additional Information
No/Sfx: <u>SS #</u>	Payment Indicator: _____	Job Title: <u>Court Reporter</u>
Name: <u>Jane Smith</u>	_____	Official Station: <u>(Where you work)</u>
Street: <u>100 Outer Drive</u>	_____	Regular Domicile: <u>(Where you live)</u>
City, State & Zip: <u>Topeka, Kansas 66612</u>	_____	Travel Period: <u>07/02/2012 to 07/27/2012</u>
		Travel Order No.: _____

Sfx	T/C	Reference	Dod	Sfx	M	Fund	BFY	Index	PCA	Sub-Obj	Det	Amount	Agency Use
Document Total													

Date	Departure Time	Arrival Time	Private Vehicle Miles	Destination	Meals	Lodging		Other Expense	
						Name	Amount	Amount	Description of Expense and Purpose of Travel
<u>07/02/12</u>			<u>62</u>	<u>Lawrence and return</u>	<u>5.00</u>				<u>Court Business</u>
<u>07/27/12</u>			<u>68</u>	<u>Holton and return</u>	<u>5.25</u>				<u>Court Business</u>
								<u>2.75</u>	<u>Turnpike</u>
									[Indicate personal K-TAG or cash]

State Vehicle No. _____	Total Miles	<u>130</u>
	x Rate per Mile	<u>0.550</u>
Totals	Mileage Exp.	<u>71.50</u>
	Meal Exp.	<u>10.25</u>
	Lodging Exp.	
	Other Exp.	<u>2.75</u>
	Document Total	<u>84.50</u>

Comments
 Mileage includes vicinity mileage.

Claimant Certification: I certify that the above claim is correct, due and unpaid, and that the amount claimed herein is actually due according to law.

_____ / *Signature* / _____ / *Date* / _____
 Claimant Signature Date

Agency Payment Certification: I certify that the within was contracted for the State under authority of law, and that the amount herein is unpaid and correct according to such contract.

Signature

Claimant Copy

V. Transcript Procedures

Pursuant to Supreme Court Rule 356, an official court reporter shall receive from any person requesting a transcript from official notes a reasonable fee based on rates fixed by the State Board of Examiners of Court Reporters. Those fees are set out in Board Rule No. 10 and apply to transcripts requested on or after the effective date of the fee.

A. Preparation of transcripts when case is not on appeal.

1. Order

- a. The order can be written or oral, but written is preferred.
- b. The court reporter may request advance fees.
- c. If the defendant is indigent, his or her attorney should secure an order of the judge for the transcript. A state or county agency cannot be prebilled.

2. Prepare transcript. See suggested format in Section VI. There is no time limitation imposed by rule or statute when the case is not on appeal. Do not file motions for extension of time with the appellate clerk's office.

3. Upon completion, the transcript should be delivered to the ordering party unless there are special provisions for filing with the clerk of the district court such as a preliminary hearing. See *State v. Hornbeak*, 221 Kan. 397, 402, 559 P.2d 385 (1977).

4. Payment for preparation of indigent preliminary hearing transcripts upon order of a judge will be made by the county, not BIDS. Prepare a county voucher.

B. Preparation of transcripts when case is on appeal.

Supreme Court Rule 3.03 governs preparation of transcripts when a case is on appeal.

1. Request for Transcript

- a. The request must be in writing and clearly designated "for appeal purposes" to alert the court reporter that appellate deadlines are in place. Time begins to run from service of the request even though the case may not yet be docketed in the appellate courts.

- b. The original of the request is filed in the district court with service on the court reporter and all parties.
- c. Counsel for indigent felony defendants must request transcripts on a form approved by the Board of Indigents' Defense Services (BIDS). See form at page 29 of this Handbook.
- d. Requests for transcripts on appeal must be for a complete transcript of the hearing, except for jury voir dire, opening statements and closing arguments, unless specifically requested. All parties can stipulate to specific portions of the transcript which are not required for the appeal, although this rarely occurs.
- e. Supreme Court Rule 3.03 sets out time frames within which appellate transcripts should be requested, but additional transcript requests may be filed during the pendency of the appeal.
- f. The transcript shall be completed within forty days after service of the request unless the court reporter files and is granted a motion for extension of time. If service of the request is by mail, the appellate court will add three days for mail time. See K.S.A. 60-206(d); Supreme Court Rule 1.05(d).
- g. Exceptions to forty day transcript preparation time: abortion waivers pursuant to K.S.A. 65-6705(g) (pursuant to Supreme Court Rule 10.01, appellant has 7 days from docketing to file a brief); habeas corpus proceedings involving extradition to another state (pursuant to K.S.A. 60-1505[e][1], 20 days after notice of appeal is filed); direct appeals in death penalty cases (pursuant to Supreme Court Rule 10.02[d], 120 days with no extensions absent exceptional circumstances).
- h. No district court order is required for preparation of indigent criminal transcripts.

2. Demand for Advance Payment

- a. The reporter has fourteen days from receipt of the transcript request to demand advance payment by written estimate. See the suggested form at page 30 of this Handbook. The appellate courts strictly enforce the fourteen day limitation to file the demand for advance payment.
- b. File the original of the demand with the clerk of the district court and serve the party requesting the transcript as well as other parties to the appeal and the clerk of the appellate courts.

- c. Advance payment is not required if the transcript is to be paid for by the state or any agency or subdivision thereof.
- d. The reporter's demand for payment stops the transcript due date until payment is received.
- e. If advance payment is not made within fourteen days after service of the demand, the reporter must notify the appellate clerk's office. The appellate court will issue a show cause order for nonpayment which may result in dismissal of the appeal.
- f. When payment is received, file an acknowledgment of receipt of estimated cost of transcript with the clerk of the district court. Serve all parties to the appeal as well as the clerk of the appellate courts. See suggested form at page 31 of this Handbook. The reporter's time starts running from the date of receipt of payment.

3. Prepare Transcript/Seek Extensions of Time, if Necessary

- a. Follow suggested format in Section VI.
- b. The reporter has forty days after service of the request to complete the transcript unless the reporter applies for and receives an extension of time under Supreme Court Rule 5.02. See form at page 32 of this Handbook. The appellate courts require use of this form which includes a statement as to the length of the proceedings, estimate of pages, and percentage completed.

Supreme Court Rule 5.02 requires the motion to be filed with the clerk of the appellate courts and state grounds indicating the necessity for the extension of time. Copies of all motions must be served on the parties who have the right to object to the extension of time.

A motion for extension of time should be mailed or faxed to the appellate court so that it may be filed before the due date. A motion for extension of time filed after the due date must be ruled on by a judge even if the clerk would ordinarily have authority to grant it. Motions which are opposed by a party and motions in expedited cases are always ruled on by a judge.

Twice monthly, the appellate clerk's office prepares reports of pending appellate transcripts to assist court reporters in tracking their appellate

transcript requests. Review that report carefully, and advise the appellate clerk if there are discrepancies on the report.

4. Upon Completion of Transcript

- a.** Prepare certificate of completion of transcript. See suggested form at page 33 of this Handbook. The certificate of completion must identify the date of hearing and the type of hearing transcribed. A certificate of completion should not be filed until an entire request is completed. Do not file partial certificates of completion.
- b.** File original transcript and original of certificate of completion with the clerk of the district court. The court reporter's certified court reporter registration number assigned by the Supreme Court must appear on both.
- c.** Serve a copy of the certificate of completion on all parties to the appeal and on the clerk of the appellate courts. The clerk may be served by mail or by fax: Clerk of the Appellate Courts, Kansas Judicial Center, 301 SW 10th Avenue, Topeka, KS 66612 [Fax 785-296-1028]

The appellate clerk will set briefing schedules based on the date the transcript was filed with the clerk of the district court. Do not ever serve a certificate of completion when the transcript has not actually been filed.

- d.** Along with the copy of the certificate of completion mailed to the requesting attorney, include an invoice for the transcript. If advance payment has been made, include a refund for overpayment or bill for the additional fee owing. If the requesting attorney ordered a copy of the transcript, send it along with appropriate billing.

- e.** For indigent felony defendants:

Complete the indigent voucher form [Expert Service Claim Form] and mail to: Board of Indigents' Defense Services, 714 SW Jackson Street, Suite 200, Topeka, KS 66603-3714. Phone: 785-296-4505. Fax: 785-296-5269. See form at page 34 of this Handbook.

Court reporters shall receive compensation for one original transcript in a single-defendant case appealed to the appellate courts. In multi-defendant cases appealed to the appellate courts, court reporters shall be compensated for one original transcript and one transcript copy for each additional co-defendant. See K.A.R. 105-8-3.

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

VS

District Court Case No. _____
(District Court Case for which info is requested)

District Court Case from which info is requested (if different)

TRANSCRIPT REQUEST FOR APPELLATE COURTS
FELONY - INDIGENT CASES ONLY

Pursuant to Supreme Court Rule 3.03, counsel for the above-named indigent defendant hereby determines that a transcript of the following proceedings is necessary to appeal to the Appellate Courts of Kansas or to pursue a post-conviction remedy. It is requested that a transcript of the following proceedings be supplied to the said indigent defendant for the trial level purpose of _____

- | | |
|------------------------------------|--|
| 1) ___ Criminal Trial | 9) ___ Sentencing |
| 2) ___ Opening Statements | 10) ___ Guilty Plea Hearing |
| 3) ___ Closing Arguments | 11) ___ Motion in Limine |
| 4) ___ Instructions Conference | 12) ___ Motion to Suppress |
| 5) ___ Reading of the Instructions | 13) ___ Probation Revocation |
| 6) ___ Verdicts | 14) ___ Motion for Judgment of Acquittal |
| 7) ___ Voir Dire | 15) ___ Other _____ |
| 8) ___ Motion for New Trial | 16) ___ Other _____ |

Respectfully submitted on this _____ day of _____, 20____.

APPELLATE COUNSEL (Type in name or Appellate Defender Office.)

Name of Court Reporter(s) _____

CERTIFICATE OF COMPLETION SHOULD BE MAILED TO THE APPELLATE DEFENDER OFFICE

Defendant has been determined to be indigent pursuant to the Order Appointing Counsel, currently on file in the district court.

Payment is guaranteed by the Board of Indigents' Defense Services pursuant to agency rules and regulations. Approval of the district court is not a prerequisite for payment.

NOTE: Transcripts of Preliminary Proceedings are to be paid out of county funds. See K.S.A. 22-2904.
Duplicate copies of transcripts will only be paid for in multiple defendant cases only per K.A.R. 105-B-3(a).

ORIGINAL -TO COURT FILE
1ST COPY-TO COURT REPORTER/COPY FOR CLAIM ACCEPTABLE
2ND COPY -TO CLERK OF APPELLATE COURTS IMMEDIATELY
3RD COPY-FILE COPY FOR APPELLANT COUNSEL
DO NOT MAIL A COPY TO ADMINISTRATIVE OFFICE
Rev 8/11/11

Appellate Defender
Administrative Office
714 SW Jackson STE 200
Topeka, KS 66603-3722
785-296-6631 FAX 785-291-3082

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

_____,)
Plaintiff/Appellee,)
vs.) Case No. _____
_____,)
Defendant/Appellant.)

DEMAND FOR ESTIMATED COST OF STENOGRAPHIC TRANSCRIPT

Comes now _____, CCR/CSR, and, pursuant to Rule No. 3.03 of the Kansas Supreme Court, makes demand that (appellant or ordering party) _____, advance the payment of the estimated costs of the transcript which was ordered in Case No. _____, on the _____ day of _____, 20____. The reporter estimates the cost to complete the original transcript is the sum of \$_____.

Any adjustment necessary upon completion will be refunded or billed upon filing of the transcript.

_____, CCR/CSR
Official Court Reporter
Supreme Court Certification No. _____
Address

CERTIFICATE OF SERVICE

I, _____, CCR/CSR, hereby certify that I filed the original of the above and foregoing DEMAND FOR ESTIMATED COST OF STENOGRAPHIC TRANSCRIPT with the Clerk of the District Court and that I served a true and correct copy of the above and foregoing Demand by (hand delivering or depositing same in the United States Mail, first class postage prepaid) on this _____ day of _____, 20__, to:

Clerk of the Appellate Courts
Kansas Judicial Center
301 SW 10th Avenue
Topeka, KS 66612

Attorney name
Attorney for Appellant
Address

Attorney name
Attorney for Appellee
Address

_____, CCR/CSR
Official Court Reporter

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

_____,)
Plaintiff/Appellee,)
vs.)
_____,)
Defendant/Appellant.)

Case No. _____

**ACKNOWLEDGMENT OF RECEIPT OF
ESTIMATED COST OF TRANSCRIPT**

Deposit covering the estimated cost of preparation of transcript in the above-captioned matter has been received by me on this _____ day of _____, 20__.

_____, CCR/CSR
Official Court Reporter
Supreme Court Certification No. _____
Address _____

CERTIFICATE OF SERVICE

I, _____, CCR/CSR, hereby certify that I filed the original of the above and foregoing ACKNOWLEDGMENT OF RECEIPT OF ESTIMATED COST OF TRANSCRIPT with the Clerk of the District Court and that I served a true and correct copy of the above and foregoing Acknowledgment by (hand delivering or depositing same in the United States Mail, first class postage prepaid) on this _____ day of _____, 20__, to:

Clerk of the Appellate Courts
Kansas Judicial Center
301 SW 10th Avenue
Topeka, KS 66612

Attorney name
Attorney for Appellant
Address

Attorney name
Attorney for Appellee
Address

_____, CCR/CSR
Official Court Reporter

**IN THE COURT OF APPEALS [SUPREME COURT]
OF THE STATE OF KANSAS**

_____,)
Plaintiff/Appellee,)
vs.) Appellate Case No. _____
_____,)
Defendant/Appellant.)

MOTION FOR ADDITIONAL TIME

Comes now _____, Official Court Reporter for the _____ Judicial District of Kansas, and respectfully requests an extension of time in which to prepare and file the transcript of the proceedings in the above-captioned matter. The length of the proceedings was _____ day(s), and I estimate the transcript to be approximately _____ pages in length. The transcript is now _____% completed. This is my _____ request for extension of time in this matter.

Give detailed reasons which support this request for extension of time (e.g., number of transcripts pending or other extenuating circumstances):

_____, CCR/CSR
Official Court Reporter
Supreme Court Certification No. _____
Address _____

CERTIFICATE OF SERVICE

I, _____, CCR/CSR, hereby certify that I mailed (or faxed) the original of the above and foregoing MOTION FOR ADDITIONAL TIME to the Clerk of the Appellate Courts, Kansas Judicial Center, 301 SW 10th Avenue, Topeka, Kansas 66612, and that I served a true and correct copy of the above and foregoing Motion by (hand delivering or depositing same in the United States Mail, first class postage prepaid) on this _____ day of _____, 20____, to:

Attorney name
Attorney for Appellant
Address

Attorney name
Attorney for Appellee
Address

_____, CCR/CSR
Official Court Reporter

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

_____,)
 Plaintiff/Appellee,) District Court Case No. _____
 vs.)
 _____)
 Defendant/Appellant.) Appellate Case No. _____

CERTIFICATE OF COMPLETION OF TRANSCRIPT

I, _____, Official Court Reporter for the ___ Judicial District of Kansas, certify that pursuant to the request for transcript of _____, attorney for the (plaintiff/defendant), dated _____, I have completed the transcript and filed same this date with the clerk of the district court as follows:

Proceedings	Hearing Date	Number of Pages	Date filed with the clerk of the district court
Jury Trial	01/07/09	457	04/03/09
Sentencing	02/17/09	95	04/03/09

_____, CCR/CSR
 Official Court Reporter
 Supreme Court Certification No. _____
 Address _____

CERTIFICATE OF SERVICE

I, _____, CCR/CSR, hereby certify that I filed the original of the above and foregoing CERTIFICATE OF COMPLETION OF TRANSCRIPT with the Clerk of the District Court and that I served a true and correct copy of the above and foregoing Certificate by (hand delivering or depositing same in the United States Mail, first class postage prepaid) on this _____ day of _____, 20__, to:

Clerk of the Appellate Courts
 Kansas Judicial Center
 301 SW 10th Avenue
 Topeka, KS 66612

Attorney name
 Attorney for Appellant
 Address _____

Attorney name
 Attorney for Appellee
 Address _____

_____, CCR/CSR
 Official Court Reporter

COURT REPORTER CLAIM FORM

FEIN/SSN _____ <input type="checkbox"/> Elec Deposit	
DBA/Business _____	
Name _____	
Mailing Address _____	
City _____	State _____ Zip _____
E-Mail _____	
Phone _____	Fax _____
<input type="checkbox"/> Check this box if there have been any changes to the information above since your last claim was submitted.	
District Court Case No. _____	Appellate Case No. _____
Name of Indigent Person _____	
AKA _____	
County _____	

Mail original claim form WITH invoice and order to:

Board of Indigents' Defense Services
714 SW Jackson St, Ste 200
Topeka, KS 66603-3722
Phone: (785) 296-6631 Fax: (785) 291-3082

Payee No. _____

BIDS use only _____

Service Code _____ Loc Code _____

BIDS Use Only	Current Case Information
	<input type="checkbox"/> Civil 1507 / Habeas Corpus <input type="checkbox"/> Criminal / Traffic Felony <input type="checkbox"/> PV / Probation Violaton <input type="checkbox"/> Direct Appeal

Name of Attorney Requesting Services _____

A. COURT REPORTERS: COPY OF THE ORDER FOR TRANSCRIPT MUST BE STAPLED BEHIND ALL OTHER DOCUMENTS.

Originals _____ pages @ \$3.50 / page = \$0.00 (Effective 1/12/12)

Originals _____ pages @ \$3.25 / page = \$0.00 (Through 12/31/11)

ONLY MULTIPLE DEFENDANT CASES:

Duplicates _____ pages @ \$0.50 / page = \$0.00

Please list no. (1-14 as specified on revised order) of requested hearings that have been completed for this claim:

GRAND TOTAL AMOUNT OF CLAIM

Grand Total \$0.00

I hereby certify the above charges to be just, correct, unpaid, and due by law. _____ Original Signature of CSR Date	Reviewed and Approved. _____ Original Signature of District Court Judge Date	BIDS Use Only
		Audited/Approved

RETAIN 1 COPY FOR YOUR RECORDS - NO COPY WILL BE RETURNED.
Revised 12/28/11

VI. Transcript Format

A sample title page, index, body, and certificate appear at the end of this section.

A. Sample forms to indicate calling of witnesses

1. Where a witness is recalled for further testimony in the case in chief:

JACK D. GOOD

A witness for [party designation], having been previously duly sworn, testified further as follows:

2. Where a witness is recalled for further testimony in rebuttal or surrebuttal: Use the same form as above.

3. Where a witness is examined by or recalled for examination by the Court: Use the same form as above.

B. Sample Parenthetical Notations

1. When jurors are sworn for voir dire examination:
(The jurors were duly sworn for voir dire examination.)

2. When jurors are sworn to try the case:
(The jurors were duly sworn to try the case.)

3. To indicate recesses or adjournments:
(A recess was taken, after which the following proceedings were had.)
(A recess was taken for the noon hour, after which the following proceedings were had.)
(Thereupon, the proceedings were adjourned to the following day, January 10, 2010, at 9:00 A.M.)
(The jury left the courtroom, after which the following proceedings were had.)
(The jury returned to the courtroom, after which the following proceedings were had.)
(The following proceedings were had in chambers.)

4. In criminal cases, there should be included a statement, where appropriate, such as after recesses or hearings in chambers that “the defendant was present” or “the defendant was not present.” It may be an important point on appeal if the defendant was or was not present at all pertinent stages of the trial. For example:

(The following proceedings were had in chambers with the defendant present.)

5. When exhibits are handed to the jury:

(Plaintiff's Exhibit 1 was handed to the jury.)

(The exhibits were handed to the jury.)

6. When a witness is requested to "mark an X" on a map, or some similar request:

(The witness complied with the request.)

(The witness indicated on the map.)

7. When a witness is asked to step down from the witness stand to illustrate some point on a map or chart or at the blackboard or some other similar purpose:

(The witness left the stand and went to the blackboard.)

8. After the witness completes the matter at the blackboard:

(The witness returned to the stand.)

9. When visuals are exhibited in the course of the trial and equipment is used:

(A [laptop computer and screen] [projector and screen] were set up in the courtroom and Exhibit No. ___ was projected for the court and jury.)

10. When a witness completes testimony, a statement similar to the following can be used:

(Witness excused.)

(The witness left the stand.)

11. When there is no jury and the Court announces that a discussion is off the record:

(An off-the-record discussion was had by Court and counsel.)

12. Sometimes, an off-the-record discussion is at the bench:

(An off-the record discussion was had by Court and counsel at the bench.)

13. When there is a jury, the Court may sometimes call counsel to the bench, or counsel may request permission to approach the bench, and the Court may conduct a discussion at the bench without calling the reporter to the bench:

(An off-the-record discussion was had by court and counsel at the bench out of the hearing of the jury and the reporter.)

14. When there is a discussion at the bench and a record is required:

(The following proceedings were had at the bench by Court and counsel out of the hearing of the jury:)

THE COURT: State your motion.

MR. JONES: I move to strike the testimony.

THE COURT: Overruled.

(Thereupon, the following proceedings continued in the hearing of the jury.)

15. When the reporter reads back a question, answer, or other part of the proceedings and the material which is read is contained on the same page of the transcript as the place in the proceedings where the reporter makes a parenthetical note:

(The last question [answer][objection] was read by the reporter.)

16. When the read back occurs on prior pages or it would be more clear to repeat the material:

(The question was read by the reporter, as follows: "Did you see the defendant?")

17. When the jury retires to deliberate the verdict:

(Thereupon, the jury retired to the jury room to consider their verdict.

Thereafter, and [on the same day][on the ___ day of _____, 20__] the jury returned into court and the following proceedings were had.)

SAMPLE TITLE PAGE

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS
DIVISION _____

_____,)
Plaintiff,)
vs.) Case No. _____
) Appellate No. _____
_____,)
Defendant.)

TRANSCRIPT OF (PROCEEDINGS) (PRETRIAL)
(COURT TRIAL) (JURY TRIAL) (TESTIMONY OF WITNESS)
(DECISION OF THE COURT) (A PORTION OF PROCEEDINGS)
(SPECIFY OTHER)

PROCEEDINGS had before the Honorable _____, Judge of
(Division ____ of) the District Court of _____ County, Kansas, (and a jury of
____), at _____, Kansas, on the ____ day of _____, 20__.

APPEARANCES

The Plaintiff, _____, appeared (in person and) by
(name) _____, Attorney at Law, _____ (address) _____.

The Defendant, _____, appeared (in person and) by
(name) _____, Attorney at Law, _____ (address) _____.

SAMPLE CERTIFICATE

CERTIFICATE

STATE OF KANSAS,)
) ss:
COUNTY OF _____)

I, _____, a Certified Court Reporter for the State of Kansas and
the regularly appointed, qualified and acting official reporter for the _____ Judicial District of the
State of Kansas, do hereby certify that, as such official reporter, I was present at and reported the
above and foregoing proceedings in Case No. _____, _____, Plaintiff,
vs. _____, Defendant, heard on _____, 20____,
before the Honorable _____, Judge of Division No. _____ of said Court.

I further certify that at the request of _____, (court-
appointed) attorney for the (Plaintiff/Defendant), a transcript of my (shorthand/voicewritten)
notes was typed (under my supervision) and that the foregoing transcript (consisting of _____
typewritten pages) is a true and correct transcript of my notes, all to the best of my knowledge
and ability.

SIGNED, OFFICIALLY SEALED, AND (DELIVERED) (FILED WITH THE CLERK
OF THE DISTRICT COURT OF _____ COUNTY, KANSAS), this _____ day
of _____, 20____.

(SEAL)

(signature)
Certified Court Reporter

Kansas Supreme Court Certification No. _____

SAMPLE BODY

1 (Witness excused.)
2

3 ALFRED MEANS

4 recalled as a witness on behalf of the (Plaintiff, State, Defendant), having been
5 previously duly sworn, testified further as follows:

6 CROSS-EXAMINATION

7 BY MR. SMITH:

8 Q Now, Mr. Means, you say you examined this report early this morning. Who was
9 present, if anyone, when you made this examination?

10 A You mean who was with me? Myself and Mr. Brown.

11 Q Give us the conversation had between you and Mr. Brown.

12 MR. JONES: Wait a minute. Was Mr. Green present?

13 THE WITNESS: Yes.

14 Q I will ask you if these questions were not asked:

15 "Q Where were you at the time of the fire?"

16 "A I was on the turnpike on my way to Kansas City." Was that question asked
17 and was that your answer?

18 A Yes.

19 Q "Q And when did you learn about the fire?"

20 And did you make this answer?

21 "A I was called in the early morning hours by a relative."

22 A That is right.
23
24
25

SAMPLE BODY

1 THE COURT: We have set for trial today the case of _____.

2 Are both sides ready?

3 MR. JONES: Yes.

4 MR. SMITH: Yes.

5 THE COURT: Plaintiff will make his opening statement.

6 (Opening statements not requested to be transcribed.)

7 THE COURT: Call your first witness.

8 JACK D. GOOD

9 called as a witness on behalf of (Plaintiff, State, Defendant), having been first duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. JONES:

13 Q What is your full name, sir?

14 A Jack D. Good.

15 (A document was marked Plaintiff's Exhibit 1 by the reporter.)

16 Q Mr. Good, I hand you Plaintiff's Exhibit 1. What is it?

17 A This is a report of the steering committee.

18 MR JONES: I offer Plaintiff's Exhibit 1 in evidence to show the
19 authority of the Board.

20 MR. SMITH: I object to the exhibit, Your Honor.

21 THE COURT: Overruled.

22 MR. JONES: That is all.

23 MR. SMITH: No questions.

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A - (Description of Exhibit)	66	66	Rejected

VII. Selected Supreme Court Rules

Rule 3.03
TRANSCRIPT IN RECORD ON PPEAL

(a) **Requesting Transcript; Appellant's Duty; Stipulation.** When the appellant considers a hearing transcript necessary to properly present the appeal, the appellant must request the transcript not later than 21 days after filing the notice of appeal in the district court. The request must be clearly designated "for appeal purposes." Unless all affected parties stipulate that specific portions are not required for purposes of the appeal, the request must be for a complete transcript of the hearing. Counsel for the parties must make a good faith effort to stipulate to avoid unnecessary expenses. The appellate court may consider an unreasonable refusal to stipulate when apportioning the cost of the transcript under Rule 7.07(d). Jury voir dire, opening statements, and closing arguments of counsel will not be transcribed unless specifically requested.

(b) **No Court Order Required for Transcript Request.** Notwithstanding K.S.A. 22-4505(b), 22-4506(b), and 22-4509, a district court order is not required to request a transcript from a court reporter.

(c) **Transcript Requested by Appellee.** Not later than 14 days after service of appellant's request under subsection (a), the appellee may request a transcript of the jury voir dire, opening statements, closing arguments, or any other hearing not requested by appellant, but the appellee is responsible for payment for the additional transcript, including advance payment, in the same manner as the appellant is responsible for the main transcript.

(d) **Filing and Service.** The original of a transcript request must be filed in the district court and served on the reporter and all parties. At the time the appeal is docketed under Rule 2.04, the appellant must file with the clerk of the appellate courts a copy of the initial transcript request and any stipulation for less than a complete transcript of a hearing. An additional transcript request must be served and filed in the same manner.

(e) **Time Schedule for Transcripts; Certificate of Completion.** A transcript must be completed not later than 40 days after service of a request unless the court reporter applies for and receives an extension of time under Rule 5.02. The court reporter must file the completed transcript with the clerk of the district court and must serve on the clerk of the appellate courts and each party a certificate of completion. A certificate of completion must identify the hearing date, the type of hearing transcribed, and the date the transcript was filed. The transcript and the certificate of completion must include the court reporter's Supreme Court certified court reporter registration number.

(f) **Advance Payment.** An appellant, other than the state or a state agency or subdivision, must advance the payment of the estimated cost of a requested transcript if the court reporter serves on the appellant — not later than 14 days after receipt of a request for a transcript — the estimated cost and demand for advance payment. A reporter who properly serves a demand for advance payment under this subsection is not required to begin the transcript until the reporter receives payment of the estimated cost. Failure to make advance payment not later than 14 days after service of a demand under this subsection is ground for dismissal of the appeal by the appellate court.

Rule 5.01 APPELLATE COURT MOTION

(a) **Generally.** Unless made during a hearing, an application to an appellate court must be by written motion and must state with particularity the ground for the motion and the relief or order sought. Each motion may contain only a single subject.

(b) **Filing Requirements.** A motion must be:

- (1) filed with the clerk of the appellate courts; and
- (2) accompanied by 8 copies if filed in the Supreme Court or 3 copies if filed in the Court of Appeals.

(c) **Response to a Motion.** A party may serve and file a response — accompanied by the number of copies specified in subsection (b)(2) — not later than 7 days after being served with a motion.

(d) **Extension of Time.** The clerk of the appellate courts or the court may grant an extension of time not exceeding 20 days without waiting for a response.

(e) **Oral Argument.** Oral argument on a motion will be permitted only by court order.

(f) **Motion by Represented Party.** A party represented by counsel may file a motion on the party's own behalf only to remove counsel or to file a supplemental brief. A motion filed under this subsection must be served on the party's counsel and all other parties to the appeal. This subsection does not apply to a party appearing *pro se*.

Rule 5.02
EXTENSION OF TIME

(a) **Motion for Extension of Time.** A party that may or must perform an act required under these rules within a specified time may file with the clerk of the appellate courts a motion for an extension of time. The motion must be served on all parties and must state:

- (1) the present due date;
- (2) the number of extensions previously requested;
- (3) the amount of additional time needed; and
- (4) the reason for the request.

(b) **Adverse Party's Consent.** An adverse party's consent to an extension of time will be considered, but is not controlling.

(c) **Motion Filed After Time Expired.** A motion for an extension of time filed after the time to act has expired must state the reasons constituting excusable neglect.

RULE 10.02
DIRECT APPEAL IN DEATH PENALTY CASE

(a) **Generally.** When a notice of appeal is filed in a criminal case in which a sentence of death has been imposed, the rules relating to appellate practice will govern unless otherwise provided by this rule.

(b) **Automatic Stay.** When a notice of appeal is filed, the execution of a death sentence is stayed until the appellate proceedings are concluded.

(c) **Preparation of Record on Appeal.** The clerk of the district court must compile the record on appeal not later than 30 days after notice from the clerk of the appellate courts that the appeal has been docketed.

(d) **Transcript.** A transcript must be prepared of all proceedings that have been reported by a court reporter or otherwise recorded. A transcript must be completed not later than 120 days after service of a request for transcript.

(e) **Time Schedule for Briefs.** An appellant's brief must be filed not later than 120 days after service of the certificate of filing of the transcript under Rule 3.03. An appellee's brief must be filed not later than 120 days after

service of the appellant's brief. A reply brief, if any, must be filed not later than 60 days after service of the brief to which the reply is made.

(f) **Page Limitations.** The length of briefs — excluding the cover, table of contents, appendix, and certificate of service — may not exceed the following:

- (1) Brief of Appellant — 100 pages;
- (2) Brief of Appellee — 100 pages; and
- (3) Reply Brief — 30 pages.

(g) **Oral Argument.** Oral argument is limited to 60 minutes each for the appellant and the appellee.

(h) **Stay of Mandate.** Issuance of a mandate in a capital case that affirms a death sentence is automatically stayed until the time for filing a petition for writ of certiorari in the United States Supreme Court has expired or, in a case in which a petition for writ of certiorari has been filed, until the clerk of the appellate courts is notified by the United States Supreme Court that the petition has been denied or, if the petition is granted, until the conclusion of proceedings in the United States Supreme Court.

RULES RELATING TO THE STATE BOARD OF EXAMINERS OF COURT REPORTERS

Rule 301

STATE BOARD OF EXAMINERS OF COURT REPORTERS

There is hereby created a board to be known as the State Board of Examiners of Court Reporters which, subject to direction and approval of the Supreme Court, shall have general supervision over the granting of certificates of eligibility for certified court reporters and over the conduct of all court reporters holding such certificates.

[**History:** Am. effective September 5, 1991; Am. effective January 3, 2006.]

Rule 302

MEMBERSHIP--APPOINTMENT

The members of the board shall be appointed by the Supreme Court for regular terms or to fill vacancies. The board shall consist of not more than nine members, the number to be determined by the Supreme Court. The board shall consist of not less than two judges of the district court, two attorneys engaged in the active practice of law, and one official reporter of the district court. Each appointment shall be for a term of three

years. The Supreme Court will appoint a new member to fill a vacancy on the board occurring during a term. A new member appointed to fill a vacancy serves the unexpired term of the previous member. No member may serve more than three consecutive three-year terms, except that a member initially appointed to serve an unexpired term may serve three consecutive three-year terms thereafter. If any reporter or judge shall cease to hold office that person's membership on the board shall terminate.

[History: Am. effective September 5, 1991; Am. effective July 28, 1995; Am. effective July 1, 2012.]

Rule 303
ORGANIZATION--QUORUM

A chairperson shall be elected from the membership of the board at the October meeting. The clerk of the appellate courts shall serve as secretary but shall not be a member of the board. Five members shall constitute a quorum for the transaction of business.

[History: Am. effective September 5, 1991; Am. effective July 1, 2012.]

Rule 304
DUTIES AND POWERS; IMMUNITY

(a) The board shall conduct such preliminary investigations as may be necessary to determine the qualifications of the applicants to be examined; shall conduct examinations of applicants for certificates; and shall investigate complaints and conduct hearings as outlined in Board Rule No. 9.

(b) Complaints, reports, or testimony in the course of proceedings under these rules shall be deemed to be made in the course of judicial proceedings. Members of the Board and Board staff shall be absolutely immune from suit for all conduct in the course of their official duties. All other participants shall be entitled to all rights, privileges, and immunities afforded to participants in actions filed in the courts of this state.

[History: Am. effective January 3, 2006.]

Rule 305
MEETINGS

The board shall hold regular meetings to conduct examinations of applicants for certificates at a place designated by the board in October of each year, on a date or dates to be selected by the board, and may hold special meetings at such times and places as it may deem necessary.

[History: Am. effective May 18, 1977; Am. effective July 12, 1994.]

Rule 306
RULES

Subject to the approval of the Court, the board may make rules relating to the examination of applicants, as well as rules governing the conduct of any reporter who holds a certificate. When approved by the Court, they shall be published as a part of the Rules of the Court.

[**History:** Am. effective January 3, 2006.]

Rule 307
APPLICATION--EXAMINATION FEE

All applicants for examination shall make written application upon a form approved by the board and furnished by its secretary or the Clerk of the Appellate Courts. All applicants must be at least eighteen years of age and must be a graduate of a high school or possess an equivalent education. Such application shall be filed in duplicate with the Clerk of the Appellate Courts at least thirty days prior to any regular or special examination and shall be accompanied by a nonrefundable fee of \$125, payable to the Clerk of the Appellate Courts, and accompanied by not less than 3 affidavits or certificates, on forms to be supplied by the Clerk of the Appellate Courts, from responsible persons unrelated to the applicant by marriage or blood attesting that the applicant is a person of good moral character. If the applicant does not take the examination for which application is made or if the applicant fails to pass the required examination, the original application shall remain valid for the next ensuing examination; however, the applicant must notify the Clerk of the Appellate Courts in writing by the filing deadline that he or she intends to take the examination and file an updated application or a letter verifying that the application on file remains current. Payment of a nonrefundable fee of \$125 must accompany the notification.

[**History:** Am. effective March 15, 1986; Am. effective November 14, 1988; Am. effective September 5, 1991; Am. effective February 8, 1994; Am. effective December 3, 1996; Am. effective October 20, 1999; Am. effective November 30, 2000; Am. effective January 3, 2006.]

Rule 308
EXAMINATION

(a) Notes may be taken by stenographic or voice writing machine. Each applicant shall state the system the applicant uses in taking notes and shall demonstrate that the applicant follows the principles of such system with sufficient accuracy that other persons who use the same system can read the notes readily. Applicants shall be required to write from dictation at speeds of 180 words per minute (medical testimony, two voices), 200 words per minute (solid matter, one voice), and 225 words per minute (ordinary testimony, two voices), and to transcribe therefrom as may be determined by the board.

Each dictation segment shall be transcribed at 95% accuracy or better with no more than 45 errors at 180 words per minute, 50 errors at 200 words per minute, and 57 errors at 225 words per minute. Each dictation segment shall be of five minutes' duration. Applicants shall furnish their own equipment and materials.

(b) Applicants shall be examined by written examination with respect to their knowledge of the duties of a court reporter and of general court procedure and legal terminology at 70% accuracy or better.

(c) Speed and accuracy in taking, transcribing and reading notes will be the chief basis of the test, but punctuation, spelling and style of transcribing and general education shall be given due consideration.

(d) Any certificate holder who desires certification in a system of verbatim reporting different than that system in which the reporter has already been certified by the board shall, prior to employing that system in the courts of this state, file with the Clerk of the Appellate Courts an application on a form prescribed by the board, stating the system to which the applicant desires to change and asking permission to take the system to which the applicant desires to change and asking permission to take an examination for certification in that system. The application shall be accompanied by a nonrefundable fee of \$125. No certificate shall be valid for any system of verbatim reporting other than that for which it is issued.

[History: Am. effective September 5, 1991; Am. effective January 3, 2006.]

Rule 309

ISSUANCE OF CERTIFICATES

(a) Any person who desires to obtain a certificate shall make the application and take the examination provided for by Rules Nos. 307 and 308. Unless some reason appears why it should not be done, the Supreme Court shall issue a certificate to each person who takes the examination and is favorably recommended by the Board of Examiners.

(b) If any person who has passed the examination previously but not received certification for reasons of residency desires to receive certification, such person shall, without payment of additional fees, file a current application for certification before his or her certificate is considered by the board.

(c) Individuals who hold a Registered Professional Reporter (RPR) certificate from the National Court Reporters Association or a Certified Verbatim Reporter (CVR) certificate from the National Verbatim Court Reporters Association and are in good standing with such association may, on application to the Board of Examiners (per Supreme Court Rule 307) become a Kansas Certified Court Reporter upon successfully passing a written examination with respect to their knowledge of the duties of a court reporter, of court procedure and general legal terminology.

(d) Individuals who hold a valid and unrevoked certified court reporter or certified shorthand reporter certificate or license issued by a state other than Kansas where an exam is given which is equivalent to or more stringent than the current Kansas exam

may, on application to the Board of Examiners (per Supreme Court Rule 307) become a Kansas Certified Court Reporter on the following conditions:

(1) proof of passage of another state's examination equivalent to or more stringent than the Kansas exam,

(2) proof of passage of the other state's examination within three years prior to application in Kansas or proof acceptable to the Board of Examiners of five years' practice experience as a court reporter, and

(3) successful completion of this state's written examination with respect to the applicant's knowledge of the duties of a court reporter, of court procedure and general legal terminology.

[**History:** Am. effective September 5, 1991; Am. effective January 3, 2006.]

Rule 310

TITLE AND RIGHT TO ITS USE

(a) Any person to whom a certificate is issued shall have the right to use the title "Certified Court Reporter," or the abbreviation therefor, "C.C.R." Individuals to whom certificates were issued prior to July 1, 2006, may continue to use the title "Certified Shorthand Reporter," or the abbreviation therefor, "C.S.R." The use of such title or abbreviation by a person who does not hold such a certificate shall be regarded as contempt of court and may be punished accordingly.

(b) Effective July 1, 2006, certificate holders in Kansas shall register annually on a form provided by the Clerk of the Appellate Courts and shall pay a certification renewal fee established by the Supreme Court Order.

On or before May 1 of each year the Clerk of the Appellate Courts shall mail to each certificate holder, at his or her last known address, a statement of the amount of the renewal fee to be paid for the next year. The registration form and renewal fee must be received in the Clerk's Office on or before June 30. Failure of any certificate holder to receive a statement from the Clerk shall not excuse payment of the renewal fee. Every certificate holder shall within thirty days after any change of address notify the Clerk of such change.

On July 1 of each year, all certificates which have not been renewed by payment of the annual renewal fee shall expire. An expired certificate may be reinstated up to and including June 30 of the following year upon payment of the delinquent renewal fee and a reinstatement fee equal in amount to the renewal fee. After that time an expired certificate shall not be subject to reinstatement without examination.

(c) A court reporter who is no longer certified may produce certified transcripts of those proceedings which took place while the reporter's certificate was valid.

[**History:** Am. effective January 3, 2006.]

Rule 311
SUSPENSION OR REVOCATION

Upon reasonable notice to the holder, and after a hearing and for good cause shown, any certificate previously issued may be suspended or revoked by order of the Supreme Court.

RULE 312
TEMPORARY CERTIFICATE

(a) Any applicant to take the court reporter examination whose application to sit has been approved by the State Board of Examiners of Court Reporters may file with the Clerk of the Appellate Courts a request for a temporary certificate, accompanied by a nonrefundable \$50. filing fee.

(b) A temporary certificate may be issued to an official court reporter only if recruitment efforts in a particular county have been unsuccessful and the personnel officer requests the Supreme Court to issue a temporary certificate to a person the personnel officer deems qualified and who has an application on file with the Clerk of the Appellate Courts. No filing fee shall be required.

(c) The temporary certificate shall be valid until the next regular or special examination held by the Board of Examiners, but if such examination is given within forty days after issuance of a temporary certificate, the candidate may continue to serve under the temporary certificate until the next regular or special examination. No more than one temporary certificate shall be issued to the same person except upon the written recommendation of the State Board of Examiners of Court Reporters.

(d) Any reporter working under a temporary certificate shall have in place a tape back-up for any proceedings taken.

(e) A transcript certified by a reporter working under a temporary certificate shall have the same effect as one certified by a regularly licensed court reporter.

[History: Am. effective July 1, 1982; Am. effective December 3, 1996; Am. effective May 29, 2003; Am. (b) effective January 3, 2006.]

Rule 313
FUND—EXPENSES

The examination fees referred to in Rule No. 307 and the renewal fees referred to in Rule 310 shall constitute a fund to be known as the "Court Reporters Fund," and shall be held and accounted for by the Clerk of the Appellate Courts as provided by law. From this fund the Clerk shall pay all expenses of the Board of Examiners incident to the consideration of applications, conduct of examinations, issuance of certificates, consideration of complaints, conduct of hearings, and to each member of the board the actual and necessary expenses incurred in the performance of board duties. The Clerk shall make such payments upon approval by the Chief Justice of the Supreme Court.
[History: Am. effective September 5, 1991; Am. effective January 3, 2006.]

Rule 314
REPORTING SYSTEMS

[History: Repealed effective July 1, 1991.]

Rule 315

[History: Repealed effective July 1, 1982.]

OFFICIAL COURT REPORTERS
Rule 350

Appointment of official court reporters shall be in accordance with the provisions of the Rules Relating to the Kansas Court Personnel System.
[History: Am. effective July 1, 1982; Am. effective January 3, 2006.]

Rule 351

[History: Repealed effective July 1, 1982.]

Rule 352

All such court reporters shall be officers of the court and shall be known as official court reporters of the judicial district. Each official court reporter shall take the oath or affirmation prescribed by K.S.A. 54-106.

Rule 353

No official court reporter shall be related by blood or marriage to the judge of the division of court in which the reporter is employed or assigned.

Rule 354

It shall be the duty of the official court reporter to attend upon the sessions of court to which the reporter is assigned when required by the judge thereof or by the chief judge. The official court reporter shall take verbatim notes of the proceedings tried before the court as the judge thereof shall direct. Such notes shall be taken on a machine with read-back capability. The judge shall cause to have entered on the appearance/trial docket the name of the court reporter taking verbatim notes of any such proceedings.

[**History:** Am. effective May 11, 1995; Am. effective January 3, 2006.]

Case Annotations

1. Failure to make a record is not automatically reversible error. *State v. Daniels*, 2 Kan. App. 2d 603, 608-09, 586 P.2d 50 (1978).

2. Guidelines for furnishing of transcripts of preliminary examinations stated. *State v. Hornbeak*, 221 Kan. 397, 402, 559 P.2d 385 (1977).

Rule 355

The official court reporter or anyone acting in that capacity must file all original verbatim notes and any electronic representation of those notes, including audio or .wav files, if applicable, in the office of the clerk of the court, along with all exhibits admitted into evidence and retained by the reporter. Notes backed up and stored electronically on a judicial district's network computer server--in a format readable by non-reporter software--may be substituted for the original. The notes and exhibits must remain a part of the files in the office of the clerk until further order of the court.

[**History:** Am. effective January 10, 1995; Am. effective January 3, 2006; Am. effective October 24, 2011.]

Rule 356

Each official court reporter shall receive from any person ordering a transcript from his or her official notes a reasonable fee based on rates fixed by the State Board of Examiners of Court Reporters with the approval of the Supreme Court. Upon payment or tender of the fees therefor, the official court reporter shall furnish the transcript requested. Preparation of transcripts for use in an appeal shall be governed by Rule 3.03.

Rule 357

Official court reporters shall be subject to assignment to any court or division within a judicial district by the chief judge of such judicial district. They shall also be subject to assignment on a temporary basis to serve any court or judge outside the district by departmental justices. Official court reporters, when assigned, shall not receive additional compensation for such services but shall be entitled to reimbursement by the state for travel and subsistence expenses incurred while in the performance of their official duties away from their official stations and within the State of Kansas.

[**History:** Am. effective July 1, 1982; Am. effective January 3, 2006.]

Rule 358

The district court may employ a certified court reporter in general practice on a temporary or relief basis who shall be compensated for such services at a sum approved by the chief judge which shall not exceed \$200 per full day, plus necessary travel and subsistence expenses, the same to be paid from the court's county operating fund.

[**History:** Am. effective July 1, 1982; Am. effective December 3, 1996; Am. effective January 3, 2006.]

Rule 359

[**History:** Repealed effective July 1, 1982.]

ELECTRONIC RECORDINGS--TRANSCRIPTS

Rule 360

A district court may provide for the electronic sound recording of court proceedings by use of equipment which meets specifications approved by the Supreme Court.

Case Annotations

1. Guidelines for furnishing of transcripts of preliminary examinations stated. *State v. Hornbeak*, 221 Kan. 397, 402, 559 P.2d 385 (1977).

Rule 361

Each electronic recording shall be distinctively marked. The clerk of the district court shall maintain an index to the electronic recordings which identifies the proceedings contained on such electronic recordings. The clerk shall maintain general control and provide for the safekeeping of all electronic recordings

[**History:** Am. effective January 3, 2006.]

Rule 362

Written transcripts of electronic recordings shall be prepared by court personnel under the direction of the clerk of the district court. The person making the transcript shall certify under seal of the court that the transcript is a correct transcript of the specified proceedings as recorded. Upon request of counsel, the clerk of the district court shall make arrangements for counsel to review the electronic recordings of the case involved. The clerk may correct a transcript of recorded proceedings upon stipulation by counsel or upon order of the court.

[**History:** Am. effective January 3, 2006.]

Rule 363

A certified transcript produced from approved electronic recordings shall have the same legal effect as one produced by an official court reporter.

Rule 364

Supreme Court rules relating to the ordering, preparation, and delivery of official transcripts prepared by official court reporters shall also apply to transcripts to be prepared from electronic recordings under direction of the clerk of the district court.

[**History:** Am. effective January 3, 2006.]

Rule 365

Orders for transcripts from electronic recordings shall be made to the clerk of the district court. The rates charged by the clerk for such transcripts shall be the same as authorized for transcripts prepared by official court reporters.

[**History:** Am. effective July 1, 1982; Am. effective January 3, 2006.]

Rule 366

[**History:** Repealed effective July 1, 1982.]

RULES ADOPTED BY THE STATE BOARD OF EXAMINERS OF COURT REPORTERS

No. 1. The word "Board," as used in these Rules, means the State Board of Examiners of Court Reporters.

No. 2. The terms "verbatim notes" and "verbatim reporting," as used in these Rules include stenographic and voice methods of preserving the record.

No. 3. An applicant to become a certified court reporter shall not be examined until the applicant has satisfied the board as follows:

- A. That the applicant is a person of good moral character.
- B. That the applicant's educational and special training includes at least one of the following:
 - 1. Graduation from and completion of a court reporting course in a business college or other school licensed or accredited by the State of Kansas or the state where such school is located. For good cause shown the Board may waive the formal educational requirement.
 - 2. That the applicant is certified as a Registered Professional Reporter (RPR) by the National Court Reporters Association or certified as a Certified Verbatim Reporter (CVR) by the National Verbatim Court Reporters Association.
 - 3. That the applicant has had at least two years of experience in making verbatim records of judicial or related proceedings in the system of verbatim reporting which the applicant seeks certification.
 - 4. That the applicant holds a valid and unrevoked certificate as a certified shorthand reporter or certified court reporter issued under the laws of any other state or territory of the United States.

No. 4. One desiring to obtain a certificate as a certified court reporter shall prepare in duplicate an application on the form prepared by the Board and file the same with the Clerk of the Appellate Courts at least thirty days prior to any regular or special examination by the Board. The Clerk shall keep one copy for the permanent file and transmit the other to the secretary of the Board.

No. 5. Upon receiving an application, the Board shall make such preliminary inquiries as it deems proper and determine whether the applicant appears to have the requisite learning and other qualifications suitable to take an examination for certification as a certified court reporter and inform the Clerk of the Appellate Courts of the result of their investigation.

No. 6. *Examination.*

- A. Applicants shall be required to take verbatim notes from dictation of regular court proceedings, or such other matter as may be selected by the Board. An applicant who passes one or more portions of the dictated examination may carry over those passing scores for three consecutive examinations.
- B. Any generally recognized system of reporting may be used in taking the examination.
- C. Applicants shall be examined with respect to their knowledge of the duties of a court reporter, of court procedure and general legal terminology.
- D. Applicants shall be required to transcribe or read aloud such portions of the dictation as the Board may indicate.
- E. Applicants shall be required to furnish their own equipment and materials and shall print their own transcripts for submission to the Board.
- F. Speed and accuracy in taking, transcribing and reading of notes will be the chief basis of the tests, but punctuation, spelling and style of transcript and general education shall be given due consideration.
- G. Upon completion of the examination, all verbatim notes, transcripts and other papers in connection with an examination shall be returned to and remain in the custody of the Board.

No. 7. Examinations will be held in the city of Topeka in October of each year, on a date or dates selected by the Board or at such other times or places designated by the Board. Advance notice of the time and place of the examination shall be given by the Board in such manner and form as it deems proper.

No. 8. Any person who has successfully passed the examinations provided for by these Rules shall be by the Board recommended to the Supreme Court for the issuance of a certificate as a Certified Court Reporter.

No. 9. The Board may, upon its own motion or upon complaint of a third party, initiate an investigation and, if necessary, commence disciplinary proceedings against any certificate holder the Board determines has committed any of the prohibited conduct set forth in subsection F below.

- A. Complaints against a certificate holder brought by a third party must be in writing, signed by the complainant, filed with the Board, and contain substantiating evidence to support the complainant's allegations. The complaint shall include the complainant's address and telephone number.
- B. Any complaint, which will be held in confidence by the staff in the Appellate Clerk's Office and the Board, shall be reviewed by the Board. If the Board determines that the complaint has no merit, the Board shall order it dismissed. If the Board determines the complaint has merit, the Board shall, in writing, advise the certificate holder of the complaint. The certificate holder shall have twenty days from receipt of the Board's notice to answer the complaint in writing. Once an answer has been received, the Board shall then review again the complaint being made. If the Board determines the complaint has no merit, the Board shall order the complaint dismissed. The Board may, in its discretion, issue to the certificate holder an accompanying letter of caution or of informal advice with copies to the complaining party or other interested persons as deemed appropriate. If the Board determines that the complaint and answer provide probable cause to believe that a conduct rule of this Board has been violated by a certificate holder, the Board shall order that the proceedings continue as provided in subsection D below.
- C. Investigation. Subject to the availability of funds, the Board may appoint a third party to investigate and prosecute a complaint before the Board.
- D. Formal disciplinary proceedings.
 - 1. Notice of hearing shall be in writing and shall be served either by personal service or certified mail, return receipt requested. Notice shall include:
 - a. A statement of the nature of the hearing;
 - b. A reference to the particular sections of the rules allegedly involved; and
 - c. A concise statement of the matters asserted, or if the Board is unable to state the matters in detail at the time the notice is served,

the initial notice may be limited to a statement of the issues involved.

2. Within twenty days after service of the notice of hearing, the certificate holder may file an answer.

3. The time and place for hearing shall be set upon the filing of the certificate holder's answer or upon the expiration of the time for its filing on not less than twenty days' notice to all parties.

4. If the Board deems it necessary or if the certificate holder requests, subpoenas may be issued, subject to the rules of civil procedure, to ensure the attendance of any party or other person. Each board member is empowered to administer oaths and affirmations, subpoena witnesses, require the production of records relevant to the hearing, and take evidence at any place within the state concerning any matter within the jurisdiction of the Board. A judge of the district court of any judicial district in which the attendance or production is required shall, upon proper application, enforce the attendance and testimony of any witness and the production of documents subpoenaed.

5. If a certificate holder fails to appear after proper notice, the Board may, if no adjournment is granted, proceed with the hearing and make a decision in the absence of the certificate holder.

6. Opportunity shall be afforded all parties to present evidence and cross-examine witnesses, present argument on all issues involved, and be represented by counsel at their expense. The proceedings at the hearing shall be recorded verbatim.

7. At the conclusion of the hearing, the Board may take any of the actions set forth in subsection E of this rule. If action is taken pursuant to E.1., 2., or 3., the court reporter shall be notified in writing and the complainant may be notified in the Board's discretion. If a recommendation of discipline is made to the Kansas Supreme Court pursuant to E.4., a copy of the Board's recommendation, findings of fact, and conclusions of law shall be served upon all parties and the Kansas Supreme Court. Any determination or report of the Board need only be concurred in by a majority of the Board members sitting, and any member has the right to file a dissent from the majority determination or report.

8. Nothing in these rules shall prevent the Board from informally stipulating and settling any matter relating to the certificate holder's discipline.

E. Disciplinary sanctions. The Board may, based upon clear and convincing evidence presented, take one or more of the following actions:

1. Dismiss the charges.
2. Admonish the certificate holder.
3. Issue a private order of cease and desist.
4. Recommend discipline to the Kansas Supreme Court. "Discipline" means public reprimand, imposition of a period of probation with special conditions which may include additional professional education or re-education, suspension of the certificate, or revocation of the certificate. In addition to any discipline imposed pursuant to these rules, if the certificate holder is a state employee, the reporter may be disciplined under the Rules Relating to the Kansas Court Personnel System.

F. Prohibited Conduct. The Board may investigate complaints lodged for the following reasons:

1. Fraud or misrepresentation in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations as a court reporter. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Commission of any felony or of a misdemeanor if the misdemeanor is substantially related to the functions and duties of a court reporter or if the misdemeanor erodes public confidence in the integrity of the court system. A certified copy of the record of conviction or plea of guilty is conclusive evidence of the commission of such crime.
6. Fraud in representations relating to skill or ability as a court reporter.
7. Use of untruthful or misleading statements in advertisements.

8. A finding of contempt by any court of record, arising out of the reporter's conduct in performing or attempting to perform any act as a court reporter.
9. Failure to maintain impartiality toward each participant in all aspects of reported proceedings or other court-related matters.
10. Violation of a District Court Rule, Supreme Court Rule, or Board Rule.
11. Refusal to cooperate in an investigation conducted by the Board or obstructing such investigation.

No. 10. *Rates for Official District Court Transcripts.*

A. The rate for official district court transcripts shall be \$2.75 for each 25-line page of the original transcript and \$0.50 for each 25-line page of a copy of the original transcript if copies are ordered. Effective January 1, 2008, the rate for official district court transcripts shall be \$3.00 for each 25-line page of the original transcript. Effective January 1, 2010, the rate for official district court transcripts shall be \$3.25 for each 25-line page of the original transcript. Effective January 1, 2012, the rate for official district court transcripts shall be \$3.50 for each 25-line page of the original transcript. No one shall be required to purchase a copy when requesting production of an original transcript, and access to the record shall be permitted by the district court under the Kansas Open Records Act and Supreme Court Rule 3.06. The "official district court transcript" shall be a transcript produced by any Kansas Certified Court Reporter or person authorized by these rules to produce official transcripts.

B. The rate for "expedited" production of official district court transcripts shall be no more than twice the rate provided in (A) above for each 25-line page of the original transcript and one-fourth of this "expedited" rate for each 25-line page of a copy of the original transcript. Expedited production of official district court transcripts shall mean delivery of the transcript on or before the third business day after the request is made for expedited production.

C. The rate for "daily copy" production of official district court transcripts shall be no more than four times the rate provided in (A) above for each 25-line page of the original transcript and one-fourth of this "daily copy" rate for each 25-line page of a copy of the original transcript. Requested "daily copy" production of official district court transcripts shall mean delivery of the transcript at or before 9:00 a.m. the next day.

D. A Kansas Certified Court Reporter may provide unedited text of proceedings. The rate for an unedited ASCII disk or unedited printed copy shall be no more than \$1.50 for each 25-line page. The unedited disk or printed copy shall not be certified and may not be used to contradict the official district court transcript.

E. A Kansas Certified Court Reporter who holds the designation of Certified Realtime Reporter (CRR) from the National Court Reporters Association or Realtime Verbatim Reporter (RVR) from the National Verbatim Reporters Association may provide realtime reporting services. The rate for view only of unedited text, with no later retention in printed or electronic format, shall be no more than \$1.50 for each 25-line page. The rate for receiving unedited realtime text for viewing and retention in printed or electronic format shall be no more than \$2.50 for each 25-line page. Realtime reporting services shall not be certified and may not be used to contradict the official district court transcript.

F. A 25-line page of transcript, other than the title, index or final pages of a transcript, shall consist of any 25 or more consecutive typewritten lines, double-spaced on copyable paper not less than 8 ½ inches in width, with a margin of not more than 1½ inches on the left and 5/8 of an inch on the right, exclusive of lines disclosing page and numbering. Type shall be a conventional style typeface with no more than 12 and no fewer than 9 characters per inch. Questions and answers shall each begin a new line, and indentations for questions and answers shall not be more than four spaces from the left margin line, including the designations for "Q" and "A." Indentations for speakers or paragraphs shall not be more than 15 spaces from the left margin line, and such paragraphed material shall not be more than four spaces from the left margin line. Indentations for parenthetical notations shall not be more than 20 spaces from the left margin.

[**History:** No. 3 Am. effective May 18, 1977; Nos. 3(B)(1) and 12 Am. effective April 18, 1980; No. 7 Am. effective December 10, 1982; No. 12 Am. effective July 1, 1988; Nos. 3 and 12 Am. effective July 1, 1996; No. 8 Am. effective December 9, 1996; No. 12 Am. effective February 26, 1999; No. 12 Am. effective July 1, 2002; No. 6 Am. A. effective January 28, 2005; Am. effective January 3, 2006; No. 10 (A.)Am. effective June 25, 2007.]