U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
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By Deputy

COURT REPORTER MANAGEMENT PLAN

Miscellaneous Order No. 34

UNITED STATES DISTRICT COURT

Northern District of Texas

March 2004

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APPENDIX A

I. INTRODUCTION

To meet the changing needs of the court and Judicial Conference requirements, the United States District Court for the Northern District of Texas hereby amends its "Court Reporter Management Plan" (Plan). The Plan is intended to provide the management framework for effective court reporting services for the entire district.

The Northern District of Texas is comprised of seven (7) administrative divisions located in Abilene, Amarillo, Dallas, Fort Worth, Lubbock, San Angelo, and Wichita Falls. There is a district judge and an official court reporter in residence in each administrative division with the exception of Abilene, San Angelo, and Wichita Falls.

II. TERMS AND CONDITIONS OF EMPLOYMENT

A court reporter appointed to serve this court ("official court reporter") must meet Judicial Conference qualifications as set forth in the Court Reporters' Manual, Volume VI of the *Guide to Judiciary Policies and Procedures*. Each official court reporter serves at the pleasure of the court and may be dismissed at any time if not performing in a satisfactory manner.

Each official court reporter is appointed to serve the court *en banc* and not a particular judge. For ease of administration, each official court reporter is primarily assigned to one district judge.

A new district judge is not entitled to select a court reporter from outside the court when all official court reporter positions are filled. Whenever a position becomes vacant or when a new position is created, the court will solicit applications from all qualified court reporters pursuant to the court's Equal Employment Opportunity and Employment Dispute Resolution

Plan. The judge to whom the official court reporter will be primarily assigned may select any qualified applicant.

An official court reporter is prohibited from private reporting activities. An official court reporter may, in an emergency situation, report for a federal grand jury if there is adequate coverage for all district and magistrate judges at the official court reporter's duty station and the district judge to whom the official court reporter is assigned approves.

Whenever an official court reporter is separated, the reporter must meet with the court reporter supervisor and must execute a certification form certifying that all of the reporter's official notes and tape recordings have been filed with the clerk of court, that the reporter has a continuing responsibility for preparing transcripts that are currently ordered but not yet filed or that may be ordered after separation, and that the reporter will immediately inform the clerk of court of any change in the reporter's address or telephone number (See Appendix A).

III. DUTY STATION

At each statutory location of holding court where a district judge resides, court reporting services must be available. Accordingly, each official court reporter shall have a statutory location of holding court designated as the reporter's official duty station. At this duty station, the official court reporter shall be primarily responsible to the district judge to whom the court reporter is assigned.

IV. SUPERVISION

The clerk of court, under the direction of the district judges, shall exercise overall management and supervision of court reporters and shall ensure adherence to the requirements of

28 U.S.C. §753, Volume VI of the *Guide to Judiciary Policies and Procedures*, and any regulations promulgated by the Fifth Circuit Court of Appeals. If a dispute arises out of this supervision, the chief judge shall act as final arbiter.

The clerk of court may delegate supervisory responsibility to the deputy-in-charge of a divisional office for each official court reporter whose duty station is located at that divisional office. A deputy-in-charge who is delegated court reporter supervisory authority will be responsible for monitoring court reporter time, scheduling and coordinating leave, checking transcript format, and monitoring fees charged in the divisional office. In Dallas, the clerk may delegate these same supervisory responsibilities to a supervisor for official court reporters whose duty station is the Dallas divisional office, and may also delegate to the court reporter supervisor the responsibility for preparing and filing district-wide reports relative to court reporters and for assisting each deputy-in-charge meet court reporter supervisory responsibilities.

Unless an official court reporter is on approved leave pursuant to Section X, below, the court reporter must be at the reporter's duty station or a location where the court reporter supervisor can easily reach the reporter on short notice. Since official court reporters serve the court *en banc*, an official court reporter who is not on approved leave and is not working in court must be available to provide backup for an official court reporter who is sick or otherwise unavailable.

V. POOLING OF REPORTERS

To equitably apportion court reporting tasks at the same duty station, a system of "pooling" shall be established whenever two or more official court reporters share the same duty station. Upon approval of the court, the clerk of court may reassign an official court reporter to

another judge in order to promote efficiency, save money, and, to the extent practicable, equalize the workload among the available official court reporters. A strict mathematical formula need not be applied, and practicalities should be considered, such as allowing a court reporter to remain with an assignment until conclusion or until relief is requested. Each official court reporter in a system of pooling shall submit to the clerk whatever attendance reports and/or reports concerning transcript backlog that the clerk requires to effectively operate the pooling system.

VI. TRAVEL ASSIGNMENT; HIRING A CONTRACT COURT REPORTER

Whenever court reporter services are required in the district, the clerk of court shall meet this need using official court reporters. In determining availability of an official court reporter, the clerk shall take into consideration the geography of the district. No statutory location of holding court with a resident district judge shall be left without an official court reporter as a result of a court reporter travel assignment, unless the resident district judge is out of the district or the resident judge and/or the clerk has authorized such travel. Subject to this limitation, an official court reporter assigned to a duty station in one divisional office may be called upon to substitute at another divisional office. If no official court reporter is reasonably available in a division, the clerk or the clerk's designee may obtain the services of a contract court reporter.

VII. TRANSCRIPT

A court reporter is required to certify on each invoice that the fee charged and the page format used conforms to the regulations of the Judicial Conference.

A. Format Compliance

The clerk or clerk's designee will provide each court reporter the Judicial Conference transcript format requirements (see Volume VI of the *Guide to Judiciary Policies and Procedures*). The clerk of court or the clerk's designee will monitor transcripts to ensure compliance with these requirements.

B. Fee Compliance

Absolute and unyielding adherence to the prescribed transcript rates of the Judicial Conference will be practiced. The clerk of court has established monitoring in the following areas:

1. **Written Request for Transcript**: A person who wants to obtain a transcript ("requestor") must submit a written request to the clerk's office or directly to the court reporter, except that a transcript order relative to a taped proceeding before a magistrate judge must be made to the magistrate judge's secretary or courtroom deputy. The requestor must use the appropriate form designated by the Fifth Circuit Court of Appeals when requesting a transcript for appeal purposes. If the transcript is to be purchased with Criminal Justice Act ("CJA") funds, the requestor must use the appropriate CJA form. A requestor may submit a letter to order a non-appeal transcript that is to be purchased with private funds. Each transcript order must include the case file number and title of the action, the date of the proceeding to be transcribed, the name of the court reporter, if possible, and any additional pertinent information required to identify the material to be transcribed.

2. **Estimate of Cost**: Upon receipt of a transcript order, the court reporter shall furnish the requestor an estimate of the charge. For a privately paid transcript order, the court reporter will not begin preparing the transcript until the requestor has made financial arrangements with the reporter and submitted the necessary deposit. The requestor should make the deposit check payable to the individual court reporter and not the clerk's office.

3. **Transcript Order Cancellation**: A court reporter must stop production immediately upon notification of an order cancellation. A court reporter may not charge a fee if the reporter learns of the cancellation before the reporter has produced any pages. If the reporter has produced some pages, the reporter must title the partially completed transcript, "Excerpt of Proceedings." The requestor is required to pay for all transcript pages that have been produced at the time the order is canceled.

4. **Daily or Hourly Copy Request**: Daily or hourly copy falls within the definition of entrepreneurial activities. Nonetheless, an official court reporter may provide daily or hourly copy, but only if there is adequate coverage for all judges at the official court reporter's duty station. If an official court reporter is not available as a result of working on daily or hourly copy and, as a result, the court must obtain a contract reporter, the official court reporter working on daily or hourly copy will be responsible for employing and paying the contract reporter.

5. **Payment for Transcript in a CJA Case**: In a multi-defendant criminal case involving one or more CJA defendants, a court reporter may not routinely apportion the costs of an accelerated transcript among the parties. The requestor

shall pay for the original accelerated transcript (if the requestor is a non-CJA attorney), and any CJA appointed attorney shall be entitled to a copy at the copy rate. Additionally, in a multi-defendant criminal case involving two or more CJA defendants, the court reporter may not sell more than one (1) transcript that is to be paid from CJA funds. One of the CJA appointed attorneys or the clerk or clerk's designee should arrange for copying the original transcript at commercially competitive rates for each of the other CJA defendants for whom a transcript has been approved. The cost of such duplication will be charged to the CJA appropriation.

6. **Timely Transcript Delivery**: Each court reporter must prepare transcripts in a prompt and timely manner. The first priority of a court reporter is to ensure that each appeal delivery deadline is met. Failure to meet an appeal delivery deadline will result in the imposition of an appropriate monetary sanction by the Circuit, except in those rare instances when the Circuit clerk grants a waiver of discount upon specific request of the court reporter and for good cause shown.

The clerk or the clerk's designee will determine the method of transcript delivery, whether by the court reporter or by the clerk's office. If delivery is to be made by the clerk's office, the court reporter must give all copies of the transcript and the invoice to the clerk of court or the clerk's designee when the transcript and invoice are ready for delivery. If delivery is to be made by the court reporter, the court reporter must give the clerk or the clerk's designee the court's copy of the invoice and transcript for filing immediately before or immediately after the reporter delivers the original transcript and invoice to the requestor.

The clerk of court will monitor the timely delivery of transcripts. Any court reporter who does not comply with the timely production and delivery of a transcript required by the Fifth Circuit Court of Appeals shall be responsible for obtaining assistance from the pool or employing a contract court reporter at the official court reporter's own expense.

7. **Invoicing**: A court reporter must prepare a final invoice for each transcript delivery using AO Form 44 or CJA Form 24, as appropriate, reflecting the exact charge and any adjustment. The reporter must sequentially number all invoices for transcripts, whether originals or copies. The clerk of court or the clerk's designee shall periodically audit charges to ensure compliance with Judicial Conference fee schedules and required discounts.

The reporter must use the AO Form 44 to bill a non-CJA private requestor for a transcript in a civil, criminal, or miscellaneous case and the CJA Form 24 for a transcript that will be paid by CJA funds. The clerk must return to the court reporter for correction any invoice that evidences overcharging or that has not been properly discounted. The court reporter must thereafter report to the clerk of court and to the clerk of the Circuit that the overcharge has been corrected or that a refund has been made to the requestor for the amount of the discount, as appropriate.

8. **Certification**: A court reporter must include the following statement at the end of each transcript:

> *I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees format comply with those prescribed by the court and the Judicial Conference of the United States.*
>
> *Signature* _____ *Date* _____

VIII. FILING OF COURT REPORTER NOTES AND OTHER ORIGINAL RECORDS

Each official and contract court reporter must attach the court reporter's official certificate to the court reporter's original notes or other original records from each proceeding and file the records with the clerk or the clerk's designee within ninety (90) days after the conclusion of the proceeding. For each arraignment, plea, and sentencing, a court reporter must file a transcript within thirty (30) days of the close of the proceeding unless the proceeding was recorded on electronic sound recording equipment, in which case the electronic recording, accompanied by a certification of the court reporter, shall be filed as soon as the recording has been used to capacity.

Any space the clerk of court provides to an official court reporter is designated as an adjunct of the clerk's office for purposes of storing original notes and other original records. Each official court reporter must notify the clerk or the clerk's designee of original records being filed before the reporter takes the records to the designated storage location.

IX. TAPE RECORDED PROCEEDINGS

Each record of a proceeding taken by electronic sound recording equipment shall be stored in the office of the clerk in a standardized manner to ensure easy location and retrieval.

The clerk will retain these records in accordance with the requirements of the records disposition schedule set forth in the *Guide to Judiciary Policies and Procedures*. The clerk or the clerk's designee will ensure transcript quality and timeliness by periodically reviewing records and checking transcripts against the original court tapes. The clerk or the clerk's designee will also monitor the work of transcription services that prepare transcripts from tape recorded proceedings by reviewing the fees charged by such services and checking the transcript format for compliance with Judicial Conference regulations.

X. LEAVE FOR COURT REPORTERS

A. Leave Regulations: Official court reporters in this district are not covered by the Leave Act and, therefore, are not entitled to paid leave. Each official court reporter is responsible for scheduling leave to coincide with leave of the court reporter's assigned judge. Except in an emergency situation, an official court reporter must schedule leave at the convenience of and with approval of the assigned judge. Even if an official court reporter's assigned judge grants approval, the reporter may be required to provide coverage or employ a substitute for any other judge in the division (including a visiting judge or magistrate judge) who needs reporting services while the official court reporter is absent.

B. Substitute Reporter: With the assigned judge's permission, an official court reporter may arrange for a substitute court reporter. The official reporter should first look to the available pool of official court reporters for coverage. If no court reporter is available from the pool, the official court reporter may, with approval of the court reporter supervisor, arrange for a contract court reporter who meets the qualification standards established by the Judicial Conference and who is satisfactory to the assigned

judge. In such a case, the official court reporter is required to employ and pay the contract court reporter. The official court reporter must provide details to the court reporter supervisor of the final coverage arrangements, regardless of whether the substitute court reporter is from the pool or from an outside source.

C. **Jury or Witness Service**: Notwithstanding the provisions of Section X., Subsection A., above, the court will grant an official court reporter paid leave for jury or witness service. An official court reporter who must be absent for such a purpose must submit a request in writing to the court reporter supervisor with a copy of the court summons or other appropriate documentation attached. For absences of three days or more, an official court reporter must submit a certificate of attendance with an itemization of all fees or other compensation received for jury duty or witness service. An official court reporter must deliver to the financial officer of the clerk's office any attendance fee for jury or witness service received for days the reporter is on paid leave. The official court reporter may retain any reimbursements received for transportation or other expense reimbursements, including any so-called juror fee that is actually in the nature of an expense reimbursement (e.g., mileage, parking, or meal reimbursement).

XI. REPORTS TO BE FILED WITH THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

An official court reporter must timely file the reports required by the Administrative Office of the United States Courts as set forth in the Volume VI, Section XXII, Records and Reports, of the *Guide to Judiciary Policies and Procedures*. Each official court reporter must provide such reports to the court reporter supervisor according to the schedule below:

A. **Attendance and Transcripts of United States Court Reporters**: An official court reporter must prepare the "Attendance and Transcripts of United States Court Reporters" report (form AO 40A) quarterly and submit it to the court reporter supervisor for review and signature no later than fifteen (15) days after the end of each quarter. Upon separation, a reporter must submit the form AO 40A no later than twenty (20) days after the date of separation.

B. **Statement of Earnings of United States Court Reporters**: An official court reporter must prepare the "Statement of Earnings of United States Court Reporters" report (form AO 40B) each year. The official court reporter must submit this report to the court reporter supervisor no later than April 15 of each year. Upon separation, a reporter must submit the form AO 40B no later than sixty (60) days after the date of separation.

C. **Certified Realtime Reporter Quarterly Transcript Worksheet**: A realtime court reporter must prepare a "Certified Realtime Reporter Quarterly Transcript Worksheet" and submit it to the court reporter supervisor for review no later than fifteen (15) days after the end of each quarter. Upon separation, a realtime reporter must submit the Certified Realtime Reporter Quarterly Transcript Worksheet no later than twenty (20) days after the date of separation.

XII. ACCESS TO DATA COMMUNICATIONS NETWORK (DCN)

Each official court reporter is authorized to access the judiciary's Data Communication Network ("DCN") for official purposes. Official purposes include, but are not limited to: 1) reading and sending court-related electronic mail; 2) accessing information on the court's intranet web site; 3) performing on-line queries of case management/docketing systems; 4)

accessing on-line calendaring information; 5) using the automated travel voucher system; and 6) obtaining automated forms. An official court reporter may only access the DCN through government-owned equipment. The clerk of court will provide surplus equipment adequate to accomplish these official purposes.

A court reporter is strictly prohibited from using any government-owned computer hardware or any automated systems accessed through the DCN to assist in generating transcript income.

A contract court reporter shall not be allowed access to the DCN at any time.

XIII. TELEPHONE FOR INTERNAL COMMUNICATION

The court may install intra-office telephone equipment to enable a court employee to communicate assignments and other court-related information to an official court reporter. The court reporter may not use such equipment to communicate with parties relative to transcript orders or to conduct other private business. Additionally, a court reporter is not authorized to use the government-leased long distance network facilities for making toll calls.

XIV. SANCTIONS

The chief judge shall determine what action to take against a court reporter who violates this Plan. Sanctions shall include, but shall not be limited to, those set forth in the Volume VI of the *Guide to Judiciary Policies and Procedures*. The Fifth Circuit Court of Appeals may impose additional sanctions.

XV. EFFECTIVE DATE

This Plan supersedes the Plan filed July 21, 1992, and shall be effective upon filing with the clerk of court after approval of the Circuit Council of the Fifth Circuit Court of Appeals.

A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

This amended Plan approved by the Judicial Council of the Fifth Circuit this 9th day of July, 2004.

GREGORY A. NUSSEL
SECRETARY TO THE COUNCIL

Filed this 12th day of July, 2004.

KAREN S. MITCHELL
U.S. DISTRICT CLERK
NORTHERN DISTRICT OF TEXAS

APPENDIX A

CERTIFICATION OF COURT REPORTER UPON SEPARATION

NAME_____ DATE OF SEPARATION_____

ADDRESS _____

CITY_____ STATE_____ TELEPHONE NO._____

The following certification is made to the clerk of court upon my separation:

1. That all of my stenographic/shorthand notes or tape recordings have been filed with the clerk of court.

2. That I am responsible for preparing any transcripts currently ordered but not yet filed and any transcripts ordered after my separation.

3. That I will immediately inform the clerk of court of any change in my address or telephone numbers to facilitate the timely preparation of transcripts.

4. That I will submit a completed form AO 40A no later than twenty (20) days after my separation and a completed form AO 40B no later than sixty (60) days after my separation.

5. That I will submit a completed Certified Realtime Reporter Quarterly Transcript Worksheet, if applicable, no later than twenty (20) days after my separation

_____ _____
Court Reporter Signature Date

_____ _____
Court Reporter Supervisor's Signature Date