Michigan Supreme Court
State Court Administrative Office
Trial Court Services Division
Michigan Hall of Justice
P.O. Box 30048
Lansing, MI 48909

July 20, 2016

TO: Court Reporters and Recorders

FROM: Matthew L. Walker, Forms and Manuals Analyst

RE: Updates to the Manual for Court Reporters and Recorders

The Manual for Court Reporters and Records has been updated, along with web links. Additions and corrections were made for notary publics and depositions. Please see the highlighted pages below for details of the changes.

Questions regarding this manual should be directed to CourtFormsInfo@courts.mi.gov.

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

C. Probate Court

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

D. District Court

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

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

Chapter 3: Qualifications

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

Chapter 4: Term of Office

A. Circuit Court

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recorder shall cease to hold the office of reporter or recorder unless by order of the court his or her suspension is rescinded. If the suspension is not rescinded within 30 days of the order of suspension, the office shall become vacant.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

Chapter 5: Oath of Office

A. Circuit Court

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

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

5. Pending Transcript Report

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

a. name of case,

b. file number,

c. date ordered,

d. date reporter's certificate was filed,

e. due date,

f. estimated length of transcript,

g. "type" of case,

h. estimated completion date, and

i. show-cause date (if applicable).

B. Suppressed Transcripts

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

C. Exhibit Maintenance

Exhibit maintenance is governed by MCR 2.518 and MCR 3.930 and the *Michigan Trial Court Case File Management Standards*, Component 20.

1. Receipt and Return or Disposal of Exhibits

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

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

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

A. Duties and Responsibilities of Court Operator

1. General

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

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

2. Specific

a. Top priority must be given to recording court proceedings. The operator must be in the courtroom early enough to prepare for the recording.

b. The operator is responsible for interruptions or gaps in the recording unless the judge's order to stop the machine can be heard on the recording.

c. The operator must listen through headphones to the recording being produced and must maintain a log of the proceedings. To assure the quality of the audio recording and the completeness of the log materials, the operator may need to ask people to speak into a microphone, to speak louder, or to spell their names or the names of people or places they are talking about. It is mandatory that the operator has the headphones on at all times and **that the operator listens to the recording, not the source**. This ensures that the media is being recorded on.

B. Duties and Responsibilities of Judge

The judge shall at the start of each proceeding:

1. Verify with the operator that the system has been tested and is operating.

2. Advise participants that the court proceeding is being electronically recorded.

3. Advise participants to speak loudly and clearly.

4. State each case by name, number, and type of proceeding each time a case is called.

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

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

Chapter 2: Rules

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

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

1. Only reporters, recorders, or voice writers certified pursuant to MCR 8.108(G) may record or prepare transcripts of proceedings held in Michigan courts or of depositions taken in Michigan pursuant to these rules. This rule applies to the preparation of transcripts of videotaped courtroom proceedings or videotaped or audiotaped depositions, but not to the recording of such proceedings or depositions by means of videotaping. An operator holding a CEO certification under MCR 8.108(G)(7)(b) may not prepare transcripts.

2. Proceedings held pursuant to MCR 6.102 or MCR 6.104 need not be recorded by persons certified pursuant to this rule; however, transcripts of such proceedings must be prepared by court reporters or recorders certified pursuant to this rule.

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

1. At least twice each year the board shall administer an examination testing knowledge and, as to a recorder, an operator, or a voice writer, familiarity with basic logging techniques and transcript production. The board shall determine the passing score.

2. In order to be eligible for registration for an examination, an applicant must

   a. be at least 18 years of age,

   b. be a high school graduate, and

   c. not have been under sentence for a felony for a period of two years.

3. An applicant for the certified shorthand reporter examination must have satisfactorily completed the National Court Reporters Association Registered Professional Reporter skills examination. Applicants possessing preserved scores as of November 1, 2010, are exempt from this requirement if they are fully certified by October 2011.

4. Applicants for the certified stenomask reporter (CSMR) written examination must provide proof they have passed the National Verbatim Reporters Association (NVRA) certified verbatim reporter (CVR) skills examination.

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

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

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

1. certified electronic recorder (CER),

2. certified electronic operator (CEO),

3. certified shorthand reporter (CSR), and

4. certified voice writer/stenomask reporter (CSMR).

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

G. Annual Schedule for Certification Examination and Renewal

1. Deadline for Reviewing Examination Results

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

2. Deadline for Registering for Certification Examination

The deadline for registering for an examination is the first day of the month preceding the month of the scheduled examination. For example, if an examination is scheduled to be conducted in April, the deadline for registering for that examination is March 1. Applicants currently holding a court certification number are encouraged to register online through the Court Reporter and Recorder Certification System (CoRReCS) at

http://courts.mi.gov/correcs. All others may download the registration forms from http://courts.mi.gov/CRRforms.

3. Certification Examination Dates

Examinations are normally conducted in April and October; however, additional examinations have been held in January and July. For the next scheduled examination dates, see http://courts.mi.gov/CRR.

4. Deadline for Certification Renewal

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

5. Challenging the Examination Results

If a challenge of the examination results is filed by an applicant as a result of a review, a written request must be filed with the board two weeks before the next scheduled board meeting. (See page 3 of this section for the board's meeting schedule.)

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

Chapter 3: Board of Review Policies

A. Uncertified Reporter or Recorder Attempting to File Transcripts
(Adopted 6/24/80, Revised 7/83, Revised 6/06) (MCR 8.108[G][1] and [3])

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

B. Requirements for Registering for the Certification Examination
(Adopted 7/09/80, Revised 3/25/94, Revised 6/13/97, Revised 10/10/05, Revised 10/21/10, Revised 12/12) (MCR 8.108[G][3])

Section 4: Reporting/Recording the Proceedings and Depositions

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witness's name, date exhibit marked, and reporter's initials. See the *Michigan Trial Court Case File Management Standards*, Component 20.

Chapter 3: Depositions

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

A. Taking Depositions

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

1. Obtain the complete case caption and name of the court in which the transcript is to be filed.

2. Obtain the name and address of the deponent and all attorneys present.

3. Administer the oath to the deponent.

4. Unlike courtroom proceedings, you may go off the record at any time for any party if all parties agree to go off the record. A reporter or a recorder shall continue to report unless there is agreement among all parties present that they will go off the record.

5. After the deposition is completed, obtain orders for copies of the deposition transcript from the parties.

B. Producing the Transcript

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

1. Furnish the transcript as timely as possible.

2. Prepare title page.

3. Prepare table of contents page (optional in depositions).

4. Prepare transcript page.

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

Section 5: Transcript Format

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4. Suppressed Transcripts

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

B. Form of Transcript

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

1. Assembling the Transcript

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

2. Page Format (MCL 600.2510, MCR 1.109[A])

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

a. A page consists of 25 lines written on paper 8 1/2” by 11” in size, prepared for binding on the left side, with 1 3/8” margin on the left side and 3/8” margin on the right side.

b. Only transcript pages are prepared on paper with numbered lines.

c. Indentations from the margins apply only to the transcript page.

d. Print must be no smaller than 10 characters per inch (nonproportional) or 12-point (proportional). (See MCR 1.109[C])

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

7) the name, certification designation and number (and if applicable, the firm registration number), and telephone number of the reporter, recorder, or operator who has taken and/or transcribed, or caused to be transcribed, the proceedings.

d. For depositions, when a caption is lengthy and appearances will start on a second page, place the deponent's name on the title page.

See Chapter 2 for examples of the content.

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

a. Each transcript on appeal must include a table of contents page (not an index page). The table of contents should be as specific as possible and should include references to all the events that took place. Each table of contents page must list the witnesses and the exhibits. A description of each exhibit is preferred, but not required. Even if there are no witnesses or exhibits, a table of contents page must be included.

b. Each day of proceedings begins a new volume of transcript. Each volume must include its own table of contents.

c. Each exhibit should be identified by page number when offered or identified and admitted into evidence.

d. When a deposition transcript is read into the record in lieu of the personal appearance of a witness, it should be included in the table of contents, including the name of the witness and the page number at which the reading began.

See Chapter 3 for examples of the content.

6. Transcript Page (MCL 600.2510)

a. A transcript page contains 25 typed lines on standard 8 1/2" by 11" paper with numbered lines.

1) The body of the transcript may only include verbatim transcript of the proceeding and parentheticals.

2) Additional headings must be placed in the header or footer and cannot take up any of the 25 lines in the body of the transcript.

courtroom for any reason.

See Chapter 4 for examples of content.

7. Transcript Certificate Page

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

See Chapter 5 for examples of content.

C. Style of Transcript

1. Standard Record

Transcribed material consists of two basic styles or forms.

a. Colloquy

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

b. Question and Answer

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

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

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

A. Civil and Domestic Relations Proceedings

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

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                              STATE OF MICHIGAN

                 THIRD JUDICIAL CIRCUIT COURT (WAYNE COUNTY)

JOHN DOE,

          Plaintiff,

v                                                        File No. 84-01234-NI

MARY JONES,

          Defendant.
_____________________________/

                                   JURY TRIAL

               BEFORE THE HONORABLE JUSTUS STEARN, CIRCUIT JUDGE

                Detroit, Michigan - Wednesday, October 4, 2006

APPEARANCES:

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

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

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

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


                                   (page #)
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H. Appearances

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

STATE OF MICHIGAN

THIRD CIRCUIT COURT (WAYNE COUNTY)

PEOPLE OF THE STATE OF MICHIGAN,

V File No. 14-12345-CF

SAMUEL K. WILLIS,

Defendant.
_____/

SENTENCING HEARING

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

Detroit, Michigan – Friday, March 28, 2014

APPEARANCES:

For the People: NONE

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

Recorded and Transcribed by: Ms. Sally Smith, CER
Certified Recorder
(313)123-4567

MISS ERICKSON: I do.

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

THE WITNESS: Okay.

TAMMY ERICKSON

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

DIRECT EXAMINATION Colon removed.

BY MR. LADD:

Q. Would you state your name, please?

A. Tammy Erickson.

C. Examination by the Court

1. Colloquy

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

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

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

THE COURT: And where did you say that was?

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

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

2. Q and A

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

EXAMINATION

BY THE COURT:

Q. State your name.

A. Mary Smith.

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

A. Yes, that's correct.

F. Deposition Read into Record

1. Direct Examination

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

DIRECT EXAMINATION

BY MS. JONES:

Q. Witness, will you state your name?

A. My name is James Smith.

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

A. Yes, that is correct.

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

2. Portions of Depositions Read to the Witness

BY MR. WHITE:

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

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

Carryover line spacing corrected.

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

Question: Answer yes or no.

Answer: No."

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

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

BY MR. SMITH:

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

MR. WHITE: Would you state the page please.

MR. SMITH: Page 2, line 12.

BY MR. SMITH:

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

A. No.

C. Transcript Certificate Page for Deposition

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

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

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

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

_____ _____
Date Signature

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

_____
Business address

_____
City, state, and zip

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

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

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

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

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

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

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

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

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

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

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

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

B. Number Use

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

1. Amounts of money: always in figures such as $35; 6 cents; $5,300.10.

2. Percents: always in figures such as 6 percent; 500 percent.

3. Measurements: always in figures such as 3 feet; 18 gallons; 4 degrees.

4. Beginning a sentence: always in words such as "Thirty-five men were there."

5. After a noun: always in figures such as Number 3; Room 310; page 4.

Section 9: Selected Michigan Court Rules

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Section 9: Selected Michigan Court Rules

The following **excerpts** from the Michigan Court Rules are the most relevant to the court reporter or recorder. However, it is recommended that the court reporter or recorder have access to **all** the rules. Although this manual is frequently updated, the court reporter, recorder, or operator should check for the most current court rules on the One Court of Justice website.

Chapter 1: Rules on Civil Procedure

A. Subchapter 2.300 Discovery

Rule 2.302(B), (H) General Rules Governing Discovery; Scope; Trial Preparation and Materials

(B) Scope of Discovery.

(3) Trial Preparation; Materials.

(b) Without the showing required by subrule (B)(3)(a), a party or a nonparty may obtain a statement concerning the action or its subject matter previously made by the person making the request. A nonparty whose request is refused may move for a court order. The provisions of MCR 2.313(A)(5) apply to the award of expenses incurred in relation to the motion.

(c) For purposes of subrule (B)(3)(b), a statement previously made is

(i) a written statement signed or otherwise adopted or approved by the person making it; or

(ii) a stenographic, mechanical, electrical, or other recording, or a transcription of it, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(H) Filing and Service of Discovery Materials.

(1) Unless a particular rule requires filing of discovery materials, requests, responses, depositions, and other discovery materials may not be filed with the court except as follows:

(a) If discovery materials are to be used in connection with a motion, they must either be filed separately or be attached to the motion or an accompanying affidavit;

(b) If discovery materials are to be used at trial they must be made an exhibit pursuant to MCR 2.518 or MCR 3.930;

(c) The court may order discovery materials to be filed.

(2) Copies of discovery materials served under these rules must be served on all

(C) Disqualification for Interest. Unless the parties agree otherwise by stipulation in writing or on the record, a deposition may not be taken before a person who is

(1) a relative or employee of or an attorney for a party,

(2) a relative or employee of an attorney for a party, or

(3) financially interested in the action.

NOTE: A notary public cannot perform a notarial act for a spouse, lineal ancestor, lineal descendant, or sibling including in-laws, steps, or half relatives. MCL 55.291(8).

Rule 2.306 Depositions on Oral Examination

(C) Conduct of Deposition; Examination and Cross-Examination; Manner of Recording; Objections; Conferring With Deponent.

(1) Examination of Deponent.

(a) The person before whom the deposition is to be taken must put the witness on oath.

(b) Examination and cross-examination of the witness shall proceed as permitted at a trial under the Michigan Rules of Evidence.

(c) In lieu of participating in the oral examination, a party may send written questions to the person conducting the examination, who shall propound them to the witness and record the witness's answers.

(2) Recording of Deposition. The person before whom the deposition is taken shall personally, or by someone acting under his or her direction and in his or her presence, record the testimony of the witness.

(a) The testimony must be taken stenographically or recorded by other means in accordance with this subrule. The testimony need not be transcribed unless requested by one of the parties.

(b) While the testimony is being taken, a party, as a matter of right, may also make a record of it by nonsecret mechanical or electronic means, except that video recording is governed by MCR 2.315. Any use of the recording in court is within the discretion of the court. A person making such a record must furnish a duplicate of the record to another party at the request and expense of the other party.

(3) Recording by Nonstenographic Means. The court may order, or the parties may stipulate, that the testimony at a deposition be recorded by other than stenographic means.

(a) The order or stipulation must designate the manner of recording and preserving the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. A deposition in

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in the circuit court. No charge shall be made against the state for services rendered for furnishing copies of records, proceedings, or testimony or other papers to the attorney general.

E. Freelance Court Reporters/Recorders and Court Reporting/Recording Firms

MCL 600.1491. Fees and Compensation

(2) A court reporter, court recorder, stenomask reporter, or owner of a court reporting firm shall not do any of the following:

(a) Give, directly or indirectly, any incentive, reward, or anything else of value to attorneys, clients, or their representatives or agents, except for nominal items that do

not exceed $25.00 per transaction or $100.00 in the aggregate per recipient each year.

(b) Charge more than 2/3 of the price of an original transcript for a copy of that transcript.

Chapter 4: Maintaining Files and Records

A. Circuit Court

MCL 600.1428. Record management policies and procedures; establishment and maintenance; record retention and disposal

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony unless a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease shall be destroyed only after the discharge of the person from the hospital or facility.

(4) Notes may not be destroyed until after 10 years after the date of the hearing or as provided in subsection (3), whichever is longer.

General Schedule 16, Record Retention and Disposal Schedule for Michigan Trial Courts, indicates the period of time untranscribed stenographic notes, tapes, and recordings must be retained. Transcribed stenographic notes, tapes, and recordings (does not include videotapes) must be retained 1 year after being transcribed and filed with the court. See the General Records Retention and Disposal Schedule #16 – Michigan Trial Courts.

B. District Court

MCL 600.1428. Record management policies and procedures; establishment and maintenance; record retention and disposal

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony unless a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease shall be destroyed only after the discharge of the person from the hospital or facility.

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C. Probate Court

MCL 600.1428. Record management policies and procedures; establishment and maintenance; record retention and disposal

(3) The court shall keep sufficient index of the testimony and the court shall keep the index and the original notes for at least 10 years. The reporter or recorder need not transcribe the testimony unless a transcript is ordered by the court or a party. Except in those cases in which the testimony is transcribed and filed with the record of the case, notes pertaining to a hearing for the admission of any person to a hospital or other place of detention as a mentally ill or developmentally disabled person or as a person with a contagious disease shall be destroyed only after the discharge of the person from the hospital or facility.

(4) Notes may not be destroyed until after 10 years after the date of the hearing or as provided in subsection (3), whichever is longer.

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D. Circuit Court - Family Division

MCL 712A.17a. Record of hearing, tape recordings, transcription

In any case in which a record of the hearing is kept by a recording device, a transcription of the hearing need not be made in the absence of a request by an interested party. The recording of the hearing shall be maintained as prescribed by rules of the supreme court.

General Schedule 16, Record Retention and Disposal Schedule for Michigan Trial Courts, indicates the period of time untranscribed stenographic notes, tapes, and recordings must be retained. Transcribed stenographic notes, tapes, and recordings (does not include videotapes) must be retained 1 year after being transcribed and filed with the court. See the General Records Retention and Disposal Schedule #16 – Michigan Trial Courts.

Chapter 5: Freelance Court Reporters/Recorders and Court Reporting Firms

A. Definitions

MCL 600.1490. Definitions

(1) As used in this section and sections 1491, 1492, and 1493:

(a) "Blanket contract" means a contract under which a court reporter, court recorder, stenomask reporter, or court reporting firm agrees to perform all court reporting or court recording services for a client for 2 or more cases at a rate of compensation fixed in the contract.

(b) "Court reporting firms" means a business entity that provides the services of court reporters, court recorders, or stenomask reporters.

(c) "Owner" means a person who has any ownership interest in a court reporting firm.

B. Contractual Agreements

MCL 600.1490. Definitions; court reporter, court recorder, stenomask reporter, or owner of firm; familial relationship with party or attorney; disclosure required; financial interest

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

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