



STUDY GUIDE & RESOURCES FOR OKLAHOMA CERTIFIED SHORTHAND REPORTERS

PROVIDED BY THE OKLAHOMA STATE BOARD OF
EXAMINERS OF CERTIFIED SHORTHAND REPORTERS

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OKLAHOMA STATE BOARD OF EXAMINERS
OF CERTIFIED SHORTHAND REPORTERS

**STUDY GUIDE & RESOURCES FOR
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Disclaimer: *These materials are provided for general informational and educational purposes only and not for the purpose of providing legal advice. These materials are intended to serve as a resource for CSR test candidates and Certified Shorthand Reporters in Oklahoma, both privately employed and those employed as official reporters of the Oklahoma District Courts, and are not intended as a comprehensive guide to each professional obligation, licensing/certificate matter, or employment issue that may arise. This is not intended to be a book of mandatory or required forms. Transmission of the information is not intended to create, and the receipt does not constitute, an attorney-client relationship between sender and receiver. These materials are intended, but not promised or guaranteed to be current, complete, or up-to-date and should in no way be taken as an indication of future results. The court reporter must also be aware that these rules and statutes are amended from time to time, and must stay informed about changes in the law and local court procedures.*

Questions should be directed to Oklahoma Board of Examiners of Certified Shorthand Reporters by contacting the Administrative Office of the Courts at 405-556-9300.

TABLE OF CONTENTS

COURT REPORTERS AND THE LAW	7
COURT REPORTING IN OKLAHOMA	8
<i>Title 20, Chapter 20, Section 1501 - State Board of Examiners of Official Shorthand Reporters</i>	<i>8</i>
<i>Title 20, Chapter 20, Section 1502 – Duties of Board.....</i>	<i>8</i>
<i>Title 20, Chapter 20, Section 1503 – Examination for Enrollment as Certified or Licensed Shorthand Reporter</i>	<i>10</i>
<i>Title 20, Chapter 20, Section 1503.1 – Continuing Education Requirements for Certified Shorthand Reporters.....</i>	<i>11</i>
<i>Title 20, Chapter 20, Section 1505 – Licensees from other states.....</i>	<i>11</i>
<i>Title 20, Chapter 20, Section 1506 - Fees</i>	<i>12</i>
<i>Title 20, Chapter 20 Section 1507 – Deposit of fees - withdrawals</i>	<i>12</i>
<i>Title 20, Chapter 20 Section 1508 - Metal Seals – Use of abbreviations – Powers of Certified Reporters</i>	<i>12</i>
<i>Title 20, Chapter 20, Section 1512 – Transcripts by Videotape</i>	<i>13</i>
<i>Title 20, Chapter 20, Section 1513 - Court Reporter Contracts.....</i>	<i>13</i>
RULES OF THE STATE BOARD OF EXAMINERS OF CERTIFIED SHORTHAND REPORTERS	14
RULES 1 THROUGH 19 - GENERAL RULES FOR ADMINISTRATION AND EXAMINATION OF COURT REPORTERS	14
<i>Rule 1. Administration.</i>	<i>14</i>
<i>Rule 2. Time and Place of Holding Examinations.....</i>	<i>14</i>
<i>Rule 3. Eligibility.....</i>	<i>14</i>
<i>Rule 4. Test Requirements.</i>	<i>16</i>
<i>Rule 5. Transcripts – Supplies.....</i>	<i>16</i>
<i>Rule 6. Required Accuracy.</i>	<i>17</i>
<i>Rule 7. Time.</i>	<i>17</i>
<i>Rule 8. Identity of Candidates.....</i>	<i>17</i>
<i>Rule 9. Examination Materials - Custody of Transcription and Notes.....</i>	<i>17</i>
<i>Rule 10. Examination Materials – Property of the Board.....</i>	<i>18</i>
<i>Rule 11. Standards for Scoring Transcripts.....</i>	<i>18</i>
<i>Rule 12. Notification of Results of Examination.</i>	<i>19</i>
<i>Rule 13. Destruction of Papers.</i>	<i>19</i>
<i>Rule 14. Enrollment.....</i>	<i>19</i>
<i>Rule 15 - Certificates - Abbreviations - Seal.....</i>	<i>20</i>
<i>Rule 16 – Duplicate Certificates.....</i>	<i>20</i>
<i>Rule 17 – Change of Name or Address</i>	<i>20</i>
<i>Rule 18 - Roll</i>	<i>21</i>
<i>Rule 19 - Reciprocity.....</i>	<i>21</i>
RULES 20 - 24. MAINTAINING CERTIFICATION – ANNUAL REQUIREMENTS AND RETIREMENT	22
<i>Rule 20 - Renewal Fees.....</i>	<i>22</i>
<i>Rule 21 - Continuing Education.....</i>	<i>23</i>
<i>Rule 22 - Standards Governing Approval of Continuing Education Programs.</i>	<i>24</i>
<i>Rule 23 - Annual Continuing Education Report.....</i>	<i>27</i>
<i>Rule 24 - Voluntary Retired Certificate Status.</i>	<i>28</i>
<i>Rule 25 - Temporary Permits</i>	<i>29</i>
DISCIPLINARY MATTERS BEFORE THE BOARD OF EXAMINERS OF CERTIFIED SHORTHAND REPORTERS	31
<i>Rule 1 - Persons to Whom Rules Apply.</i>	<i>31</i>
<i>Rule 2. Grounds for Discipline.....</i>	<i>31</i>
<i>Rule 3. Administrative Suspension and Revocation for Nonpayment of Certificate Renewal Fee.</i>	<i>32</i>
<i>Rule 4. Administrative Suspension and Revocation for Failure to Obtain the Required Hours of Continuing Education.</i>	<i>32</i>

<i>Rule 5. Complaints</i>	33
<i>Rule 6. Formal Proceedings, How Commenced</i>	33
<i>Rule 7. Disciplinary Hearings</i>	35
<i>Rule 8. Transmittal of Recommendation and Review by Supreme Court</i>	36
<i>Rule 9. Reinstatement After Formal Disciplinary Proceedings</i>	37
<i>Rule 10. Reinstatement After Administrative Revocation</i>	39
RECOMMENDATIONS FOR ETHICAL CONDUCT	41
GENERAL ORGANIZATION OF TRANSCRIPTS	43
OFFICIAL REPORTERS	48
20 O.S. §106.1 - Court Reporters - Determination of Number Needed.....	48
20 O.S. §106.2 - Appointment of Reporters – Oath.....	48
20 O.S. §106.3B – Official court reporter - eligibility.....	48
20 O.S. §106.4 – Methods and Duties of Court Reporter.....	49
Court Rule – Title 20, Chapter 20, Appendix I, Rule 25 - Temporary Permits.....	51
SALARY AND ADDITIONAL COMPENSATION	52
20 O.S. §106.9 - Salaries of Court Reporters.....	52
20 O.S. §104 - Reimbursement for Expenses of District Court Judges, Special Justices, Special Judges and Court Reporters.....	53
20 O.S. §105.1 – Expenses of Judge and Court Reporters Within or Without Their District.....	55
20 O.S. §106.6 – Assignment of Reporters – Expenses.....	55
CUSTODY OF NOTES AND EXHIBITS	56
20 O.S. §1011 - Court Reporter - Removal of Materials.....	56
20 O.S. §1006 – Destruction of Certain Records and Court Reporter’s Notes - Limitations.....	57
20 O.S. §1010 - Court Reporter's Notes May be Destroyed.....	57
TRANSCRIPTS	58
<i>Transcripts Not On Appeal</i>	58
20 O.S. §106.4 Methods and Duties of Court Reporter.....	58
20 O.S. §106.4a - Access of Transcripts to Indigent Defendants or District Attorney - Cost.....	59
20 O.S. §106.5 - Admissibility of Transcripts as Evidence.....	60
Title 12, Chapter 2, Appendix, Rule 26 - Transcripts in Criminal Cases.....	60
Title 10, Chapter 75, Article 3, Article Part 2, Section 7503-2.3 - Permanent Relinquishment – Form.....	60
Title 10, Chapter 75, Article 3, Article Part 2, Section 7503-2.4 - Consent to and Relinquishment for Adoption.....	64
Title 58, Chapter 2, Section 44 - Probate of Wills - Recording of Testimony - Admissibility.....	68
APPEAL TIME SUMMARY	69
CIVIL APPEAL TIME LIMITS.....	69
APPEALS TO THE COURT OF CRIMINAL APPEAL TIME LIMITS.....	70
CIVIL APPEALS	72
OKLAHOMA SUPREME COURT RULES. PART II. APPEALS FROM JUDGMENT OR FINAL ORDER OF THE DISTRICT COURT	74
Title 12, Chapter 15, Appendix 1, RULE 1.28 - RECORD.....	74
Title 12, Chapter 15, Appendix 1, Rule 1.33 - FORM AND CONTENTS OF RECORD.....	78
Title 12, Chapter 15, Appendix 1, Rule 1.34 TIME FOR COMPLETION OF RECORD.....	80
Title 12, Chapter 15, Appendix 1, Rule 1.35 FEES FOR ASSEMBLING RECORD AND TRANSCRIBING PROCEEDINGS.....	82

OKLAHOMA SUPREME COURT RULES. PART III(A). REVIEW OF CERTIFIED INTERLOCUTORY ORDERS PURSUANT TO 12 O.S.1991 952, SUBDIV. (B)3	83
<i>Title 12, Chapter 15, Appendix 1, Rule 1.54 Record</i>	<i>83</i>
OKLAHOMA SUPREME COURT RULES, PART III(B). APPEALS FROM ORDERS GRANTING A NEW TRIAL OR VACATING A JUDGMENT AND FROM ORDERS DEALING WITH ATTACHMENTS, TEMPORARY INJUNCTIONS, RECEIVERS, AND OTHER PROVISIONAL REMEDIES	84
<i>Title 12, Appendix 1, Rule 1.64 - Record.....</i>	<i>84</i>
OKLAHOMA SUPREME COURT RULES. PART IV(C). PROCEEDINGS TO REVIEW A DECISION OF THE WORKERS' COMPENSATION COURT	84
<i>Title 12, Appendix 1, Rule 1.104 – Record.....</i>	<i>84</i>
FILING THE TRANSCRIPT - CIVIL APPEALS	86
CIVIL EXHIBITS.....	88
EXTENSION OF CIVIL APPEAL TIME	89
OKLAHOMA SUPREME COURT RULES. ARTICLE PART II. APPEALS FROM JUDGMENT OR FINAL ORDER OF THE DISTRICT COURT.....	89
<i>RULE 1.34 - TIME FOR COMPLETION OF RECORD</i>	<i>89</i>
CRIMINAL APPEALS	90
RULES OF THE COURT OF CRIMINAL APPEALS	92
SECTION I. GENERAL RULES OF THE COURT AND DEFINITIONS	92
<i>Title 22, Chapter 18, Appendix, Rule 1.0 Scope of Rules</i>	<i>92</i>
<i>Title 22, Chapter 18, Appendix, Rule 1.2 Methods for Bringing Appeals and Original Actions.</i>	<i>92</i>
<i>Title 22, Chapter 18, Appendix, Rule 1.4 - Computation of Time for Appeal.....</i>	<i>95</i>
<i>Title 22, Chapter 18, Appendix, Rule 1.13 Definitions.....</i>	<i>96</i>
<i>Title 22, Chapter 18, Appendix, Rule 1.15 - Use of Court Reporter's Transcripts and Recordings by Appellate Indigent Defender</i>	<i>98</i>
SECTION II. INITIATING AN APPEAL FROM THE TRIAL COURT	99
<i>Title 22, Chapter 18, Appendix, Rule 2.1 - Initiating an Appeal (Motion for New Trial, Commencement of Appeal, Filing of Appeal Records, Appeals by the State, Appeals Out of Time)</i>	<i>99</i>
<i>Title 22, Chapter 18, Appendix, Rule 2.2 - Form and Contents of Record.....</i>	<i>102</i>
<i>Title 22, Chapter 18, Appendix, Rule 2.5 - Notice of Intent to Appeal; Designation of Record</i>	<i>105</i>
SECTION III. PERFECTING AN APPEAL IN THE COURT OF CRIMINAL APPEALS.....	106
<i>Title 22, Chapter 18, Appendix, Rule 3.2 Instruments to be Filed to Complete the Appeal.</i>	<i>106</i>
SECTION IV. PROCEDURES FOR APPEAL BY CERTIORARI FROM PLEA OF GUILTY OR NOLO CONTENDERE.....	109
<i>Title 22, Chapter 18, Appendix, Rule 4.3 - Time for Lodging Appeal; Record of Proceedings; Contents of Petition in Error; Briefs.</i>	<i>109</i>
SECTION V. PROCEDURES FOR APPEALING FINAL JUDGMENT UNDER POST-CONVICTION PROCEDURE ACT	110
<i>Title 22, Chapter 18, Appendix, Rule 5.3 Duties of Court Clerks and Court Reporters</i>	<i>110</i>
SECTION VII. PROCEDURE FOR APPEALING FROM AN ORDER ADJUDICATING A JUVENILE TO BE DELINQUENT; FROM A FINAL ORDER CERTIFYING OR DENYING CERTIFICATION OF A JUVENILE TO STAND TRIAL AS AN ADULT; OR FROM A FINAL ORDER GRANTING OR DENYING REVERSE CERTIFICATION; OR SENTENCING UNDER THE YOUTHFUL OFFENDER ACT	112
<i>Title 22, Chapter 18, Appendix, Rule 7.1 Courts from Which Appeals are Lodged</i>	<i>112</i>
<i>Title 22, Chapter 18, Appendix, Rule 7.3 Time for Perfecting Appeal; Extension Request; Record of Proceedings.....</i>	<i>112</i>
SECTION IX. APPEALS IN CAPITAL CASES	113

Title 22, Chapter 18, Appendix, Rule 9.1 - Applicable Provisions	113
Title 22, Chapter 18, Appendix, Rule 9.2 - Notice of Intent to Appeal; Petition in Error; Stenographic Record; Trial Judge's Report; Duties of Trial Court Clerk.....	113
Title 21, Section 701.13 - Review of Death Penalty Sentence	114
SECTION X. EXTRAORDINARY WRITS	117
Title 22, Chapter 18, Appendix, Rule 10.1 Types of Extraordinary Writs; Jurisdiction; Duties of District Court Clerk.....	117
SECTION XIII. FORMS.....	118
Rule 13.0 Mandatory Forms to be Utilized in Criminal Cases in the State of Oklahoma.....	118
FILING THE TRANSCRIPT – CRIMINAL APPEALS	119
Title 22, Chapter 18, Appendix, Rule 2.2 - Form and Contents of Record (states in part:)	119
FREELANCE REPORTERS, DEPOSITIONS, ETC.	120
Title 12. Civil Procedure, Chapter 41 - Discovery Code, Section 3227 – Depositions before action or pending appeal.....	120
Title 12. Civil Procedure Chapter 41 - Discovery Code Section 3228 - Persons Before Whom Depositions May Be Taken.....	122
Title 12. Civil Procedure Chapter 41 - Discovery Code Title 12, Section 3229 - Stipulations Regarding Discovery Procedure.....	123
Title 12. Civil Procedure Chapter 41 - Discovery Code Title 12, Section 3230 - Depositions Upon Oral Examination.....	124
Title 12. Civil Procedure Chapter 41 - Discovery Code Section 3232 – Use of depositions.....	129
Title 20, Section 1513 - Court Reporter Contracts	132
PRACTICAL SUGGESTIONS FOR DEPOSITIONS.....	132
GRAND JURY	133
Title 22, Section 311 - Definition of Grand Jury	133
Title 22, Section 340 - Grand Jury - Advice of Court or District Attorney - Who May be Present - Interpreter - Investigation of District Attorney's Office.....	133
FORMS AND EXAMPLES	136
EXAMPLE OF Q AND A:	138
EXAMPLE OF COLLOQUY FORMAT:	139
EXAMPLE FOR TESTIMONY BY DEPOSITION	139
EXAMPLE FOR QUOTING TESTIMONY	140
EXAMPLE OF VOIR DIRE OF JURY	142
PARENTHETICALS	143
Introduction.....	143
Jury Sworn	144
In-Camera Proceedings	144
Bench Conferences.....	144
Recesses	145
Off-The-Record	146
Deliberations, Argument.....	146
Multiple Volumes.....	147
Reading Back.....	148
Explanatory.....	148
Miscellaneous.....	149
EXHIBITS	166
APPEARANCES	168
INDEX.....	170
TABLE OF CONTENTS	178

CERTIFIED QUESTIONS FOR THE COURT	179
ERRATA SHEET	180
JURAT	181
EXAMPLE OF STIPULATIONS	183
VOCABULARY	184

COURT REPORTERS AND THE LAW

Each reporter should be aware of his/her individual responsibility to be familiar with the statutes governing Oklahoma court reporting. The majority of the statutes can be found in Title 12 and Title 20 of the Oklahoma Statutes. The remainder may be found by referring to the general index of the Oklahoma Statutes. The Oklahoma Statutes are also available on the Supreme Court website, www.OSCN.net, under Legal Research.

Forms and information pertaining to court reporters are available in the Certified Shorthand Reporters section of the Oklahoma Supreme Court's website, www.OSCN.net, under Programs.

www.oscn.net/static/forms/aoc_forms/csr.asp.

In some counties of the state of Oklahoma, local court rules have been adopted in addition to the Supreme Court Rules and the District Court Rules. All reporters should familiarize themselves with these local rules, if applicable. A publication requirement for local court rules is codified at 20 O.S. § 91.8, which became effective on Nov 1, 2009. Local rules and administrative orders of a district court shall not conflict with any statutes of this state or any rules of a superior court. Local rules shall be in writing and published on the Oklahoma Supreme Court Network to be valid and enforceable.

COURT REPORTING IN OKLAHOMA

The credentialing of court reporters in Oklahoma is accomplished by the Oklahoma Board of Examiners of Certified Shorthand Reporting. The Board's actions are subject to the supervision and approval of the Oklahoma Supreme Court, and administrative support and guidance for the Board is provided by the Administrative Office of the Courts. The statutes which create and govern the Board, and address various aspects of the court reporting profession, are located in Title 20, Chapter 20.

Title 20, Chapter 20, Section 1501 - State Board of Examiners of Official Shorthand Reporters

There is hereby re-created, to continue until July 1, 2020, in accordance with the provisions of the Oklahoma Sunset Law, Section 3901 of Title 74 of the Oklahoma Statutes, the State Board of Examiners of Certified Shorthand Reporters which shall consist of five (5) members, all of whom shall be certified shorthand reporters. The members shall be persons who have been, for at least five (5) years prior to their appointment to the Board, residents of this state and certified shorthand reporters. All members shall be appointed by the Chief Justice of the Supreme Court and shall serve in staggered terms, each for a period of five (5) years except for the initial appointees. No member may serve more than one term in succession. The Board shall elect from its membership a chair and a secretary. Three members shall constitute a quorum. The Board may adopt a seal for its official use. All actions of the Board shall be supervised by the Supreme Court and be subject to approval by the Court.

Title 20, Chapter 20, Section 1502 – Duties of Board

A. The State Board of Examiners of Certified Shorthand Reporters shall:

1. Conduct preliminary investigations to determine the qualifications of applicants seeking to attain the status of certified shorthand reporters;
2. Conduct at least once a year, at a place and time to be published by ample notice as directed by the Supreme Court, an examination of those persons who seek to attain the status of certified shorthand reporter. The Board may also give examinations for a certificate of proficiency and for a certificate of merit;
3. Recommend to the Supreme Court for official enrollment as certified shorthand reporters those persons who, on their examination, have established the requisite proficiency as set forth in Section [1503](#) of this title;

4. Conduct proceedings, on reasonable notice, the object of which is to recommend to the Supreme Court the suspension, cancellation, revocation or reinstatement of the enrollment of a certified or licensed shorthand reporter or of the status of any acting shorthand reporter, regular or temporary, on the following grounds:

a. a final conviction of a criminal offense which indicates a clear and rational likelihood that the reporter will not properly discharge the responsibilities of persons licensed under this act or Section [106.3B](#) of this title,

b. misrepresentation in obtaining licensure,

c. any violation of or noncompliance with any rule or directive of the Supreme Court,

d. fraud, gross incompetence, or gross or habitual neglect of duty,

e. engaging in the practice of shorthand reporting using a method for which the reporter is not certified,

f. engaging in the practice of shorthand reporting while certification is suspended,

g. nonpayment of renewal dues,

h. failure to annually complete at least four (4) hours of continuing education approved by the State Board of Examiners of Certified Shorthand Reporters, or

i. a violation of Section 1 of this act;

5. Adopt, with the approval of the Supreme Court, examination standards and rules governing enrollment, discipline, suspension, cancellation and revocation proceedings and any other matter within the Board's cognizance; and

6. Keep a current roll of certified shorthand reporters and a file on all disciplined certified shorthand reporters, official or unofficial, regular or temporary.

B. In all hearings or investigations on revocation, cancellation or suspension of enrollment, each Board member shall be empowered to administer oaths and affirmations, subpoena witnesses, and take evidence anywhere in the state, after giving reasonable notice to the party whose status is sought to be affected.

Title 20, Chapter 20, Section 1503 – Examination for Enrollment as Certified or Licensed Shorthand Reporter

A. Every applicant who seeks to be examined for enrollment as a certified shorthand reporter shall prove to the satisfaction of the State Board of Examiners of Certified Shorthand Reporters that he or she:

1. Is of legal age;
2. Meets the requisite standards of ethical fitness;
3. Has at least a high school education or its equivalent; and
4. Possesses a minimum level of court reporting proficiency which would allow the applicant to meet the examination requirements established in paragraph 1 of subsection B of this section. An applicant may satisfy such requirements by obtaining verification through a court reporting school official of the applicant's level of proficiency, as outlined by the test application; by passing a preliminary proficiency examination, which has been approved by the Board; or by proving that the applicant has previously held any state or national shorthand reporting certificate or license.

B. The examination for certification in one or more authorized methods of shorthand reporting consists of two parts, designated Part 1 and Part 2 as follows:

1. Part 1 consists of the test as authorized by the Supreme Court consisting of the following requirements: demonstrated proficiency in reporting testimony and proceedings at a speed of not more than two hundred (200) words per minute in taking a question-and-answer type dictation and at a speed of not more than one hundred eighty (180) words per minute in taking literary materials which shall be designed to test the ability of an applicant to accurately prepare a transcript of testimony and proceedings that is reasonably free from spelling errors. The Board may not increase or decrease such minimum speed requirement, by rule or otherwise; and

2. Part 2 is the Oklahoma Written Knowledge test which consists of not less than twenty-five multiple choice questions relating to Oklahoma law and court rules, duties of certified shorthand reporters, and general court procedure. The examination shall be approved by the Supreme Court. A person who has tested with the Board and successfully completed the written knowledge portion of the examination shall be allowed to retain the credit for that portion for two (2) years from the date passed, and shall not be required to retake that portion during the two-year period.

C. An applicant who is academically dishonest when taking any authorized examination is disqualified and may not take the examination again until two (2) years have elapsed from the date of the examination at which the applicant was disqualified.

D. A certification issued under this section must be for one or more of the following methods of shorthand reporting:

1. Written shorthand;

2. Machine shorthand; or
3. Any other method of shorthand reporting authorized by the Supreme Court.

E. No person may engage in shorthand reporting in this state unless the person is a licensed or certified shorthand reporter or otherwise authorized by law or the Supreme Court.

Title 20, Chapter 20, Section 1503.1 – Continuing Education Requirements for Certified Shorthand Reporters

A. Every certified shorthand reporter and every court reporter temporarily employed by the district court, Workers' Compensation Court, or Corporation Commission shall annually complete at least four (4) hours of continuing education approved by the State Board of Examiners of Certified Shorthand Reporters. Included in the four-hour minimum requirement for every official shorthand reporter and every court reporter temporarily employed by the district court, Workers' Compensation Court, or Corporation Commission at least one (1) hour shall relate to Oklahoma court rules and procedures. All four (4) hours of continuing education shall be approved by the State Board of Examiners of Certified Shorthand Reporters.

B. A certified shorthand reporter or court reporter is exempt from the requirements of subsection A of this section if the reporter verifies under oath to the State Board of Examiners of Certified Shorthand Reporters that he or she:

1. Has attained the age of sixty-five (65) before or during the calendar year for which the reporter seeks an exemption;
2. Is a member of the armed forces on full-time active duty during the entire calendar year for which the reporter seeks an exemption; or
3. Has provided written verification by a licensed physician that a medical condition has prevented the court reporter from working in such capacity and completing continuing education for the calendar year for which the reporter seeks an exemption.

Title 20, Chapter 20, Section 1505 – Licensees from other states

A person holding a license from another state which is deemed by the State Board of Examiners of Certified Shorthand Reporters to be equivalent to that of an Oklahoma certified shorthand reporter, or holding current national certification as a shorthand reporter, or holding both an equivalent license from another state and national certification, may be enrolled without examination as an Oklahoma certified shorthand reporter upon satisfying the Board that the credentials of the applicant are in proper order.

Title 20, Chapter 20, Section 1506 - Fees

The State Board of Examiners of Certified Shorthand Reporters shall annually set and publish a fee schedule with approval of the Supreme Court.

Title 20, Chapter 20 Section 1507 – Deposit of fees - withdrawals

All fees authorized to be charged shall be paid to the Clerk of the Supreme Court who shall deposit them in the State Judicial Revolving Fund. The Chief Justice shall be authorized to draw against the Supreme Court Revolving Fund such amounts as are lawfully claimed by the Board for its necessary supplies and expenses. When performing essential duties each Board member shall be entitled to his actual expenses and shall receive, in addition thereto, the sum of Fifty Dollars (\$50.00) for each full day of service or a fraction thereof for less than a day's service.

Title 20, Chapter 20 Section 1508 - Metal Seals – Use of abbreviations – Powers of Certified Reporters

Every person enrolled as a certified shorthand reporter shall be entitled to use the abbreviation C.S.R. after his name and shall receive from the Board, without additional charge, a metal seal with his name and the words "Oklahoma Certified Shorthand Reporter". Every person enrolled as a licensed shorthand reporter shall be entitled to use the abbreviation L.S.R. after his name and shall receive from the Board, without additional charge, a metal seal with his name and the words "Oklahoma Licensed Shorthand Reporter". Court reporters holding a temporary certificate shall not be allowed the use of a seal. The determination of the format and construction of the seal shall rest with the Supreme Court of the State of Oklahoma. The Oklahoma Supreme Court shall determine the procedures to be used in the distribution of all shorthand reporter seals. Certified shorthand reporters shall be authorized to issue affidavits in respect to their regular duties, to subpoena witnesses for depositions, administer oaths and affirmations with authority equal to that of a notary public, and to take depositions or other sworn statements. Licensed shorthand reporters shall have the same authority while employed as official court reporters.

TIP - In the past, Oklahoma court reporters were provided with a metal seal instead of a stamp. If you have a metal seal, do not dispose of it. Oklahoma court reporters are now provided with a stamp. A court reporter's stamp should be placed (imprinted) on each certification page completed by the court reporter.

Title 20, Chapter 20, Section 1512 – Transcripts by Videotape

The Supreme Court is authorized to establish a pilot project for use of videotape equipment in courtrooms for production of videotape records for transcripts where court reporters are not available, if the Supreme Court has funds available that can be used for this purpose. The Administrative Office of the Courts shall promulgate rules for the use of video equipment in courtrooms. Rules for use of video equipment in courtrooms must have the approval of the Supreme Court.

Title 20, Chapter 20, Section 1513 - Court Reporter Contracts

A. A court reporter or owner of a court reporting firm shall not:

1. Enter into any contract or relationship that compromises the impartiality of court reporters or that may result in the appearance that the impartiality of a court reporter has been compromised;
2. Enter into a blanket contract, other than with a court or governmental agency, under which the court reporter or owner of a court reporting firm agrees to perform all court reporting services in two or more cases at a rate of compensation fixed in the contract;
3. Enter into a contract that requires a court reporter to provide any service that is not available to all parties to an action; or
4. Enter into a contract that gives or appears to give an exclusive advantage to any party to an action.

A violation of this section shall be grounds for the State Board of Examiners of Certified Shorthand Reporters to refuse to renew the enrollment of a certified or licensed court reporter. A willful violation of this section shall be grounds for the Board to suspend, cancel, or revoke the enrollment of a certified or licensed court reporter.

RULES OF THE STATE BOARD OF EXAMINERS OF CERTIFIED SHORTHAND REPORTERS

The Rules applicable to the Board of Examiners and the examination and certification of Court Reporters are located in the Oklahoma Statutes at Title 20, Chapter 20, Appendix 1.

Rules 1 through 19 - General Rules for Administration and Examination of Court Reporters

Rule 1. Administration.

The examination of a candidate who seeks enrollment as a certified shorthand reporter, and the general administration and renewal of such certificates, shall be under the direction and control of the Oklahoma State Board of Examiners of Certified Shorthand Reporters (hereinafter "the Board"). Pursuant to Section 1502 of Title 20 of the Oklahoma Statutes, the Board adopts the following rules. These rules shall apply to all persons who are enrolled as certified shorthand reporters, all persons otherwise certified or licensed as court reporters, or as acting court reporters, by the Oklahoma Supreme Court, and all persons appointed by the Chief Justice of the Oklahoma Supreme Court as temporary court reporters pursuant to Section 106.3B(d) of Title 20 of the Oklahoma Statutes. All of the foregoing persons are collectively referred to in these rules as "court reporters" and use herein of the terms "certificate" or "enrollment" shall also refer collectively to a court reporter's "license" or other official authorization to practice court reporting in Oklahoma.

The Board designates and authorizes the Director of the Administrative Office of the Courts to receive and accept on behalf of the Board any notice, submission or other correspondence referenced in these rules.

Rule 2. Time and Place of Holding Examinations.

- a. An examination for the qualification of candidates for certificates shall be conducted at least once a year at a specific time and location selected by the Board.
- b. Candidates who have been found to be qualified, pursuant to the statute(s) governing the practice of court reporting and these rules, to sit for examination, shall be notified in writing of the time and place of such examination not later than thirty (30) days prior to the examination date.

Rule 3. Eligibility.

- a) Every candidate who seeks to be examined for enrollment as a certified shorthand reporter shall:

1) Prove to the satisfaction of the Board that he/she is:

i) of legal age;

ii) meets the requisite standards of ethical fitness; and

iii) has at least a high school education, or the equivalent thereof.

This information shall be furnished to the Board by a sworn, notarized affidavit;

2) Prove to the satisfaction of the Board that he/she possesses a minimum level of court reporting proficiency which would allow the applicant to meet the examination requirements established in Section 1503(B)(1) of Title 20. An applicant may satisfy such requirements by obtaining verification through a court reporting school official of the applicant's level of proficiency, as outlined by the test application; by passing a preliminary proficiency examination, which has been approved by the Board; or by proving that the applicant has previously held any state or national shorthand reporting certificate or license;

3) Submit to the Secretary of the Board, or a designee, a properly completed application form provided by the Board, accompanied by such evidence, statements or documents as required by the Board, including an examination fee receipt from the Clerk of the Supreme Court showing payment of the fees required by the Board and approved by the Supreme Court;

4) Declare that he/she is a writer of shorthand by one of the accepted methods set forth Section 1503 of Title 20 of the Oklahoma Statutes; and

5) Provide such additional proof as may be required by the Board to establish that the candidate meets the requirements set forth in Section 1503 of Title 20 of the Oklahoma Statutes.

b) Academic dishonesty during the examination process will result in the applicant's disqualification, and the applicant may not take the examination again for two (2) years from the date of the examination at which the applicant was disqualified.

c) A candidate who has previously failed an examination may be re-examined at any subsequent regular examination upon giving the Board notice via the standard application, and payment in full of the examination fee as set by the Board and approved by the Supreme Court. The examination fee must be paid for each examination taken by a candidate, regardless of the candidate's failure to pass a prior examination or any portion thereof. The examination fee will be forfeited if the candidate fails to appear for the examination, or fails to complete the examination, unless an exception is granted by the Board.

Rule 4. Test Requirements.

a) The examination for enrollment as a certified shorthand reporter shall consist of the following:

1) Testimony and Proceedings Skills Examination -- A two-voice question-and-answer dictation of testimony at two hundred (200) words per minute for five (5) minutes. Speaker designations such as "Q" and "A" will not be read nor counted as words, but must be appropriately indicated in the transcript. One (1) hour will be given for the transcription of the question-and-answer dictation.

2) Literary Materials Skills Examination -- A five-minute dictation of literary material at one hundred eighty (180) words per minute. One (1) hour will be given for the transcription of the literary dictation.

3) The Oklahoma Written Knowledge Test -- A written knowledge test of not less than twenty-five (25) multiple choice questions relating to the Oklahoma law and court rules, duties of certified shorthand reporters, and general court procedure. This section of the examination will be administered in forty-five (45) minutes. Applicants will be provided with the study aids from which the test questions will be taken.

b) Candidates may take one or both of the skills examinations at any regularly scheduled examination. A candidate who has successfully completed either of the skills examinations may retain the credit for that portion of the examination for two (2) years from the date passed, and will not be required to retake that portion of the examination during the two (2) year period. There will be no reduction in examination fee for any applicant retaining credit for either skills portion of the examination.

c) A candidate who has successfully completed the Oklahoma Written Knowledge portion of the examination may retain the credit for that portion of the examination for two (2) years from the date passed, and will not be required to retake that portion of the examination during the two (2) year period. There will be no reduction in examination fee for any applicant retaining credit for the written knowledge portion of the examination.

d) A candidate who provides proof of passing the Registered Professional Reporter Examination of the National Court Reporters Association, or an equivalent test as authorized by the Supreme Court, is eligible for enrollment without taking the skills examinations described in paragraphs a(1) and a(2) of this Rule. The applicant must, prior to certification, pass the Oklahoma Written Knowledge portion of the examination, and meet all other applicable eligibility requirements.

Rule 5. Transcripts – Supplies.

a. Each candidate shall furnish all supplies and equipment necessary to take and transcribe the test, with the exception of transcription paper. Prior to each examination the Board will advise

applicants of the permitted computer and/or word processing equipment that may be used to transcribe the examination.

b. A dictionary/electronic spell checker is permitted to be used in transcribing the test but must be furnished by the applicant.

Rule 6. Required Accuracy.

In order to pass the examination, applicants will be required to attain ninety-five (95) percent accuracy, defined as a maximum of fifty (50) errors on the testimony question-and-answer skills examination and a maximum of forty-five (45) errors on the literary skills examination. A passing score on the Oklahoma Written Knowledge portion of the examination is seventy (70) percent or better.

Rule 7. Time.

One (1) hour will be given for the transcription of the testimony question-and-answer dictation, and one (1) hour will be given for the transcription of the literary dictation. The time for the Oklahoma Written Knowledge portion of the examination will be forty-five (45) minutes.

Rule 8. Identity of Candidates.

The identity of each applicant shall be and shall remain unknown to the Board until after the final results are announced. Before the commencement of the examination, an identifying number shall be assigned to each applicant. The applicant shall enter such number and date on each group of papers used in the examination and shall not enter his/her name at any place on the examination. Failure to follow these procedures will result in automatic failure of the examination.

Rule 9. Examination Materials - Custody of Transcription and Notes.

At the examination, each applicant, upon completion of transcription of his/her notes, shall hand over the transcript, the diskette record, if any, and the notes to the Board member in attendance before leaving the examination room. Each applicant who commences but does not finish the assigned examination shall hand over the notes, the diskette record, if any, and the portion of the transcript that has been completed before leaving the examination room. An applicant who does not transcribe his/her notes shall hand over the notes and the diskette record, if any, before leaving the examination room. Computerized records not found on diskette shall be erased by the applicant prior to leaving the examination room.

Rule 10. Examination Materials – Property of the Board.

All examination materials, including notes, examination papers, computer diskettes and transcripts, shall become the property of the Board.

Rule 11. Standards for Scoring Transcripts.

The following guidelines will be used by the Board in scoring examination transcripts:

a) Each of the following will be scored as one (1) error will be counted for:

- 1) Each wrong word or wrong form of a word,
- 2) Each omitted, added or misplaced word,
- 3) Each misspelled word or commonly used proper name,
- 4) Each omitted capital letter clearly needed,
- 5) Each number differing from the number that was spoken,
- 6) Each improper designation of either the "Q" or "A,"
- 7) Each contraction error, unless the difference in sound is not easily discernible, and
- 8) Each transposition of one or more words.

b) In the event that a transcript contains an aggregate of punctuation errors which, in the Board's discretion, reflects an absence of knowledge on the part of the candidate regarding the basic rules of punctuation, five (5) errors will be counted against that candidate's score.

c) One (1) error will be counted for each incorrect segment of a hyphenated word.

d) Each error will be indicated by a checkmark (☐) right above it, and in the case of omitted or added words, the number of omissions or additions will precede the check mark.

e) When five (5) errors are assessed for an aggregate of punctuation errors, that fact shall be indicated by the Board at the top of the first page of the examination.

f) The following will not be counted as errors:

1) X-ing out one or more complete words, if done by typewriter.;

2) Hyphenation errors, including wrong end-of-line word division.;

3) Spacing errors.;

4) Using an optional spelling of a word, as indicated in a standard dictionary.;

5) Misspelling or phonetic spelling of unusual proper names, unless the correct spelling has been given prior to the examination; and

6) Punctuation errors not falling into the classification of 11(b) above, as determined by the Board.

Rule 12. Notification of Results of Examination.

a) Within thirty (30) days from the date of the examination, each candidate who completes the test shall be notified in writing by the Secretary of the Board whether he/she has passed or failed.

b) A candidate who completes the examination, but fails to pass, may inspect his/her examination papers by furnishing a written request to the Secretary of the Board within thirty (30) days of the date appearing on the notification of the examination results.

c) The Oklahoma Written Knowledge portion of the examination will not be provided to the applicant for review.

Rule 13. Destruction of Papers.

The examination papers of all candidates shall be destroyed ninety (90) days following the date written notice of the result of the examination has been mailed to the examinees.

Rule 14. Enrollment.

a. All examinees who successfully pass the CSR examination and have otherwise been found and approved by the Board to be fit and proper persons in accordance with the statutes and these rules,

shall be recommended by the Board to the Supreme Court for official enrollment as certified shorthand reporters.

b. All persons who successfully pass all four elements (three (3) skills elements and one (1) written knowledge element) of the RPR (Registered Professional Reporter) or RMR (Registered Merit Reporter) examinations given by the Board or recognized by the Board and who are certified shorthand reporters employed by the State of Oklahoma shall be recommended by the Board to the Supreme Court for official enrollment as Registered Professional Reporters or Registered Merit Reporters. All persons who pass the one (1) element of the CRR (Certified Realtime Reporter) examination or the written knowledge element of the RDR (Registered Diplomat Reporter) examinations given by the Board or recognized by the Board and who are certified shorthand reporters employed by the State of Oklahoma shall be recommended by the Board to the Supreme Court for official enrollment as Certified Realtime Reporters or Registered Diplomat Reporters.

Rule 15 - Certificates - Abbreviations - Seal

Each person enrolled by the Supreme Court as a certified shorthand reporter shall thereupon receive an appropriate certificate signed by the Chief Justice of the Supreme Court and attested by the Clerk. In addition thereto, each person enrolled as a certified shorthand reporter shall be entitled to use the abbreviation C.S.R. after his/her name, and shall receive from the Board, without additional charge, a stamp/seal with his/her name and the words "Oklahoma Certified Shorthand Reporter" embossed thereon.

Rule 16 – Duplicate Certificates

Upon the written request of a certificate holder, accompanied by an affidavit providing sufficient proof of the loss, mutilation or destruction of his/her original certificate, the Board may authorize the issuance of a duplicate certificate.

Rule 17 – Change of Name or Address

Whenever the certificate holder legally changes his/her name and presents sufficient evidence of the name change to the Board, upon surrender of the original certificate, the Board shall authorize the issuance of a duplicate certificate setting forth the name of the certificate holder as changed. It is the responsibility of each certified shorthand reporter to notify the Board or Administrative Office of the Courts of any change of name or address.

Rule 18 - Roll

The Secretary of the Board or the Administrative Office of the Courts shall keep a current roll of all certified, licensed, acting, or temporary shorthand reporters. All mailings by the Board or the Administrative Office of the Courts concerning certificate renewal fees, continuing education, or disciplinary matters shall be made to the most recent address that the certificate holder has provided to the Board or the Administrative Office of the Courts.

Rule 19 - Reciprocity

A person holding a license or certificate from another state which is deemed by the State Board of Examiners of Certified Shorthand Reporters to be equivalent to that of an Oklahoma certified shorthand reporter, or holding current national certification as a shorthand reporter, or holding both an equivalent license from another state and a national certification, may be enrolled without taking the skills examinations required by Section 1503 of Title 20 of the Oklahoma Statutes, upon satisfying the Board that the requirements set forth in Section 1505 of Title 20 of the Oklahoma Statutes are met. The applicant must, prior to certification, pass the Oklahoma Written Knowledge portion of the examination. All reciprocity applicants must submit to the Secretary of the Board, or a designee, a properly completed application form provided by the Board, accompanied by such evidence, statements or documents as required by the Board, including a reciprocity application fee required by the Board and approved by the Supreme Court.

Rules 20 - 24. Maintaining Certification – Annual Requirements and Retirement

Important! It is the responsibility of the CSR to keep his or her certificate current and to comply with all renewal and continuing education requirements each year.

Rule 20 - Renewal Fees.

a) Annual Certificate Renewal Fee: Effective January 1, 2011, all persons enrolled as certified shorthand reporters shall annually renew their certificate on a form to be provided by the Board, through the office of the Administrative Director of the Courts, and shall pay an annual certificate renewal fee. The amount of the renewal fee shall be set by the Board, with the approval of the Supreme Court, and shall be paid to the office of the Administrative Director of the Courts.

b) Due Date: The annual renewal form and annual renewal fee must be submitted to the office of the Administrative Director of the Courts on or before February 15 of each year. No fewer than fourteen (14) days before February 15, the Board shall send notification to those court reporters who have not submitted the annual renewal form and/or annual renewal fee. Such notification shall be sent by certified mail to the last known address of the reporter as provided to the Secretary of the Board or the Administrative Office of the Courts. Every certificate which has not been renewed on or before February 15 shall be administratively suspended on that date by the Board.

c) Suspension: Failure to renew a certificate and pay the annual renewal fee on or before February 15 shall result in administrative suspension on that date. In such case, the Board shall provide a list to the Supreme Court of those court reporters and shall recommend the suspension of each court reporter's certificate. The order of the Supreme Court approving the recommendation of the Board shall operate to suspend the certificate of the court reporter without necessity of a hearing. Such suspension shall be effective on February 15 of that year. The court reporter shall be notified of the suspension by certified mail to the last known address of the reporter as provided to the Secretary of the Board or the Administrative Office of the Courts.

d) Delinquent Payment Fee: Every certificate which has not been renewed on or before February 15 shall be subject to a delinquent payment fee. The amount of the delinquent payment fee shall be set by the Board, with the approval of the Supreme Court.

e) Revocation: Within two months of the administrative suspension, but not later than April 15 of that year, a suspended certificate may be administratively reinstated, without need for application or hearing, by submission of the renewal form, payment of the annual certificate renewal fee, and payment of the delinquent payment fee. A suspended certificate which has not been reinstated on or before April 15 shall be administratively revoked on that date. In such case, the Board shall

provide a list to the Supreme Court of those court reporters and shall recommend the revocation of each court reporter's certificate. The order of the Supreme Court approving the recommendation of the Board shall operate to revoke the certificate of the court reporter without necessity of a hearing. Such revocation shall be effective on April 15 of that year. The court reporter shall be notified of the revocation by certified mail to the last known address of the reporter as provided to the Secretary of the Board or the Administrative Office of the Courts.

f) Date of Submission: For purposes of this Rule, the renewal form and any required fees shall be considered submitted to the office of the Administrative Director of the Courts on the date the materials are received in the Administrative Office of the Courts. In all instances where the date of submission is at issue, the court reporter shall have the burden of proving the date the materials were received in the Administrative Office of the Courts. Though it may consider other proof, the Board will accept the following as conclusive proof of the date of receipt: a return receipt of delivery for registered or certified mail from the United States Postal Service; a completed certificate of delivery from a private delivery or courier service other than the United States Postal Service; or the date the materials are stamped received in the office of the Administrative Director.

g) Administrative Procedure: Administrative suspension and revocation of a court reporter's certificate for nonrenewal shall be accomplished as set forth in this Rule. Bona fide hardship exceptions may be considered on a case-by-case basis by the Board, in its sole discretion. The formal disciplinary procedures provided for by the Rules Governing Disciplinary Proceedings of the State Board of Examiners of Certified Shorthand Reporters, including the notice and hearing requirements, have no application to administrative suspensions and revocations based solely on failure to renew a certificate.

h) Reinstatement after Revocation: Any court reporter who has had his or her certificate revoked pursuant to this Rule may seek reinstatement only as set forth in Rule 10 of the Rules Governing Disciplinary Proceedings of the State Board of Examiners of Certified Shorthand Reporters.

Rule 21 - Continuing Education.

a) All certified shorthand court reporters and every court reporter temporarily employed by the District Courts of Oklahoma, Workers' Compensation Court, or Corporation Commission must complete a total of four (4) hours of continuing education per calendar year.

All official court reporters and all court reporters temporarily employed by the District Courts of Oklahoma, the Workers' Compensation Court and the Corporation Commission must complete one (1) hour of continuing education per calendar year relating to Oklahoma Court Rules and Procedures. This shall be included in the required four (4) hours of continuing education.

Certified shorthand reporters must meet these continuing education requirements beginning the first year after the court reporter is enrolled or admitted by reciprocity. Temporary court reporters must meet these requirements during any year in which they are employed by the District Courts

of Oklahoma, Workers' Compensation Court, or Corporation Commission if they do not successfully pass the Oklahoma certified shorthand reporter examination during that same year.

b) A court reporter may seek an exemption from the continuing education requirement by filing with the Board a written statement, verified under oath, setting forth one of the following grounds for exemption:

1) The reporter has attained the age of sixty-five (65) before or during the calendar year for which the reporter seeks an exemption;

2) The reporter was a member of the armed forces on full-time active duty during the entire calendar year for which the reporter seeks an exemption;

3) A medical condition has prevented the court reporter from working as a court reporter and completing continuing education for the calendar year for which the reporter seeks an exemption. Written verification by a licensed physician must accompany such an exemption request.

All exemption requests must be approved by the Board.

Rule 22 - Standards Governing Approval of Continuing Education Programs.

The following standards will govern the approval of continuing education programs by the Board.

a) The program must have significant intellectual or practical content and its primary objective must be to increase the court reporter's professional competence as a reporter.

b) The program must be offered by a sponsor having substantial, recent experience in offering continuing court reporter education of demonstrated ability to organize and present effectively continuing court reporter education. Demonstrated ability arises partly from the extent to which individuals with court reporter and/or legal training or educational experience are involved in the planning, instruction and supervision of the program.

c) The program itself must be conducted by an individual or group qualified by practical or academic experience. The program including the named advertised participants must be conducted substantially as planned, subject to emergency withdrawals and alterations.

d) Thorough, high quality, readable, and carefully prepared written materials must be made available to all participants at or before the time the course is presented, unless the absence of such materials is recognized as reasonable and approved by the Board. A mere outline without citations or explanatory notations will not be sufficient.

e) The program must be conducted in a comfortable physical setting, conducive to learning and equipped with suitable writing surfaces.

Approval for credit may be given for programs where audiovisual recorded or reproduced material is used. Television video programs and motion picture programs with sound shall qualify for continuing education credit in the same manner as a live continuing education program provided: (a) the original program was approved for continuing education credit as provided in these rules, or the visual recorded program has been approved by the Board under these rules, and (b) each person attending the video presentation is furnished written materials which meet the requirements set forth above.

f) Approval for credit may be granted for computer-based or other technology-based continuing education programs which otherwise meet the criteria established in these rules, subject to standard course approval procedures and appropriate certification of course completion.

g) Programs that cross academic lines may be considered for approval except for that portion of the education which must relate to Oklahoma Court Rules and Procedures.

h) Continuing education programs sponsored by the following organizations are presumptively approved for credit, provided that the standards set out in these rules are met:

1) The National Court Reporters Association. This presumption shall include programs approved by the National Court Reporters Association for credit and not conducted by the Association.

2) The Oklahoma Court Reporters Association.

i) Approved seminars may be advertised in informational brochures and program materials provided by the sponsoring body. The organizations whose programs are presumptively approved shall give adequate notice that a program or seminar it conducts is not approved for continuing education credit in the event the program or seminar does not meet the standards set forth above. The Board may at any time re-evaluate and grant or revoke presumptive approval of a provider.

j) Any organization not included paragraph j above, desiring approval of a course or program shall apply to the Board by submitting an application in letter form with supporting documentation at least ninety (90) days prior to the date for which the course or program is scheduled. The Secretary of the Board will advise the applicant in writing by mail whether the program is approved or disapproved.

k) The application required by paragraph j, above, must contain the following information, in written form:

1) The location of the training;

2) The date of the training;

- 3) A complete agenda of the training, to include the faculty; and
 - 4) The number of hours of training to be dedicated to Oklahoma Court Rules and Procedures.
- l) A court reporter desiring approval of a course or program which has not otherwise been approved shall apply to the Board by submitting an application in letter form with supporting documentation as follows:
- 1) If approval is requested before the course or program is presented, the application and supporting documentation shall be submitted at least sixty (60) days prior to the date for which the course or program is scheduled.
 - 2) If approval is requested after the applicant has attended a course or program, the application and supporting documentation shall be submitted within ninety (90) days after the date the course or program was presented or prior to the end of the calendar year in which the course or program was presented, whichever is earlier.

The Secretary of the Board shall advise the court reporter by mail whether the program is approved or disapproved. If the course is approved, the court reporter(s) attending the course for credit must arrange with the provider to provide directly to the Board a list of attendees as provided in paragraph q below. No verification of attendance will be accepted directly from the court reporter.

- m) The provider of an approved continuing education program may announce or indicate as follows:

This course has been approved by the State Board of Examiners of Certified Shorthand Reporters for _____ hours of CE credit.

- n) The Board or the Administrative Office of the Courts, upon approval of a continuing education program or the announcement of a continuing education program by an approved sponsor, may submit to the program provider a list of name and address information of certified, court reporters or mailing labels for those reporters. It is the responsibility of the sponsor to notify court reporters of the training and to request the mailing labels.
- o) Within thirty days (30) days following an approved continuing education program, the sponsor or accrediting entity shall furnish to the Board and/or the Administrative Office of the Courts an alphabetized list of attendees. No other verification of attendance at any continuing education program will be accepted, unless such verification is recognized as reasonable and approved by the Board.
- p) Sponsors of the seminars or courses qualifying for continuing education credits shall keep records of attendance for a period of two (2) years following the date of the course or seminar.

Rule 23 - Annual Continuing Education Report.

a) Hours Must be Earned During Calendar Year: Unless an exemption request, as provided for in Section 1503.1 of Title 20 of the Oklahoma Statutes, has been approved by the Board, the required number of continuing education hours must be earned during the calendar year, defined as January 1 through December 31. Failure to obtain the requisite number of continuing education hours on or before December 31 of the year in which they are required shall result in a continuing education penalty fee. The amount of the continuing education penalty fee shall be set by the Board, with the approval of the Supreme Court.

b) Annual Continuing Education Compliance Report: On or before February 15 of each year, all court reporters required to earn continuing education hours shall file a compliance report documenting the previous year's continuing education, on a form to be provided by the Board, through the office of the Administrative Director of the Courts. If the compliance report includes any continuing education hours which were earned after December 31 of the previous year, the report shall be accompanied by payment of the continuing education penalty fee. In no case may continuing education hours be used for more than one calendar year's compliance report.

c) Due Date: The continuing education compliance report, and any applicable continuing education penalty fee, must be submitted to the office of the Administrative Director of the Courts on or before February 15 of each year. No fewer than fourteen (14) days before February 15, the Board shall send notification to those court reporters who have not fulfilled the continuing education requirement for the previous year and/or submitted the continuing education compliance report. Such notification shall be sent by certified mail to the last known address of the reporter as provided to the Secretary of the Board or the Administrative Office of the Courts.

d) Suspension: Failure to earn the required continuing education hours, to submit a completed compliance report, and/or to pay any applicable continuing education penalty fee on or before February 15 shall result in administrative suspension on that date. In such case, the Board shall provide a list to the Supreme Court of those court reporters and shall recommend the suspension of each court reporter's certificate. The order of the Supreme Court approving the recommendation of the Board shall operate to suspend the certificate of the court reporter without necessity of a hearing. Such suspension shall be effective on February 15 of that year. The court reporter shall be notified of the suspension by certified mail to the last known address of the reporter as provided to the Secretary of the Board or the Administrative Office of the Courts.

e) Continuing Education Suspension Fee: Any court reporter whose certificate has been suspended for failure to earn the required number of continuing education hours, to submit a completed compliance report, and/or to pay any applicable penalty fee on or before February 15 shall be subject to a continuing education suspension fee. The amount of the continuing education suspension fee shall be set by the Board, with the approval of the Supreme Court.

f) Revocation: Within two (2) months of the administrative suspension, but not later than April 15 of that year, a suspended certificate may be administratively reinstated, without need for

application or hearing, by submission of a completed compliance report indicating fulfillment of all continuing education requirements for the previous calendar year, payment of any applicable penalty fee, and payment of the continuing education suspension fee. A suspended certificate which has not been reinstated on or before April 15 shall be administratively revoked on that date. In such case, the Board shall provide a list to the Supreme Court of those court reporters and shall recommend the revocation of each court reporter's certificate. The order of the Supreme Court approving the recommendation of the Board shall operate to revoke the certificate of the court reporter without necessity of a hearing. Such revocation shall be effective on April 15 of that year. The court reporter shall be notified of the revocation by certified mail to the last known address of the reporter as provided to the Secretary of the Board or the Administrative Office of the Courts.

g) Date of Submission: For purposes of this Rule, the continuing education compliance report and any required penalty fee or suspension fee shall be considered submitted to the office of the Administrative Director of the Courts on the date the materials are received in the Administrative Office of the Courts. In all instances where the date of submission is at issue, the court reporter shall have the burden of proving the date the materials were received in the Administrative Office of the Courts. Though it may consider other proof, the Board will accept the following as conclusive proof of the date of receipt: a return receipt of delivery for registered or certified mail from the United States Postal Service; a completed certificate of delivery from a private delivery or courier service other than the United States Postal Service; or the date the materials are stamped received in the office of the Administrative Director.

h) Administrative Procedure: Administrative suspension and revocation of a court reporter's certificate for noncompliance with continuing education requirements shall be accomplished as set forth in this Rule. Bona fide hardship exceptions may be considered on a case-by-case basis by the Board. The formal procedures provided for by the Rules Governing Disciplinary Proceedings of the State Board of Examiners of Certified Shorthand Reporters, including the notice and hearing requirements, have no application to administrative suspensions and revocations based solely on failure to meet continuing education requirements.

i) Reinstatement after Revocation: Any court reporter who has had his or her certificate revoked pursuant to this Rule may seek reinstatement only as set forth in Rule 10 of the Rules Governing Disciplinary Proceedings of the State Board of Examiners of Certified Shorthand Reporters.

Note: In order to be reinstated, a court reporter who has had his/her enrollment administratively revoked must satisfy several requirements which include RETESTING!

Rule 24 - Voluntary Retired Certificate Status.

a) A person enrolled in good standing as a certified shorthand reporter may apply to the Board to have his/her certificate placed in voluntary retired status. Such application must be in writing, in letter form, and submitted to the office of the Administrative Director of the Courts.

b) To qualify for retired status, a court reporter's certificate must be current. A payment of any accrued certificate renewal fee, delinquent payment fee, continuing education penalty fee, or continuing education suspension fee must be submitted with the application for retired status. If the court reporter's certificate is current and in good standing, no fee is required to apply for retired status.

c) Qualifying applications for voluntary retired status may be granted without formal action by the Board.

d) The Board shall deny a request to place a court reporter on retired status if there are any current or pending complaints or formal disciplinary actions against the court reporter, or if the court reporter's certificate is revoked or suspended pursuant to formal disciplinary action.

e) A court reporter who holds a retired certificate will be exempt from payment of the certificate renewal fees and the continuing education requirements. However, the holder of a retired certificate may not engage in the practice of court reporting in Oklahoma.

f) A court reporter who holds a retired certificate may apply to the Board to have his certificate reinstated to active status within twelve (12) months from the date on which the retired status became effective. Such reinstatement application must be in writing, in letter form, and submitted to the office of the Administrative Director of the Courts, and shall be accompanied by the following:

1) Payment of an amount equal to the annual certificate renewal fee;

2) Payment of a reinstatement fee, in an amount to be determined by the Board and approved by the Supreme Court; and

3) Proof of completion of four (4) hours of continuing education within the twelve (12) months immediately preceding the date of reinstatement request.

g) A court reporter whose certificate has been in retired status for more than twelve (12) months is not eligible for reinstatement, and must pass the Oklahoma certified shorthand reporter examination and meet the other eligibility requirements provided in the statutes and rules applicable to certified shorthand reporters.

Rule 25 - Temporary Permits

A. Temporary permits to practice certified shorthand reporting until the conclusion of the next succeeding certified shorthand reporter (CSR) examination and report of the results thereof may be granted upon the recommendation of the Board after a showing of public convenience and

necessity provided the applicant has not previously failed to complete satisfactorily the CSR examination. All applicants for temporary permit shall file with the Board an application for temporary permit in addition to the regular application for the CSR examination. The Board shall, as soon as practicable, report its recommendation on such application for temporary permit to the Supreme Court, together with a copy of such application.

B. The temporary permit of any person who takes the CSR examination shall expire on the date that the successful applicants at that examination are enrolled provided that the temporary permit of any person who fails the examination shall be revoked immediately upon the announcement of the results of such examination by the Board.

DISCIPLINARY MATTERS BEFORE THE BOARD OF EXAMINERS OF CERTIFIED SHORTHAND REPORTERS

The Rules governing the disciplinary activities of the Board of Examiners are located in the Oklahoma Statutes at Title 20, Chapter 20, Appendix 2.

Rule 1 - Persons to Whom Rules Apply.

These rules shall apply to all persons who are enrolled as certified shorthand court reporters under the rules of the Board of Examiners of Certified Shorthand Reporters (hereinafter "the Board") (20 O.S. Ch. 20, App. 1), all persons otherwise certified or licensed as court reporters, or as acting court reporters, by the Oklahoma Supreme Court, and all persons appointed by the Chief Justice of the Oklahoma Supreme Court as temporary court reporters pursuant to Section 106.3B(d) of Title 20 of the Oklahoma Statutes. All of the foregoing persons are collectively referred to in these rules as "court reporters" and use herein of the terms "certificate" or "enrollment" shall also collectively refer to a court reporter's "license" or other official authorization to practice court reporting in Oklahoma.

The Board designates and authorizes the Director of the Administrative Office of the Courts to receive and accept on behalf of the Board any notice, submission or other correspondence referenced in these Rules.

Rule 2. Grounds for Discipline.

Upon receiving a complaint, or as otherwise hereafter provided, the Board shall conduct proceedings, on reasonable notice, the object of which is to recommend to the Supreme Court discipline of any court reporter, where it shall be determined there exists any of the following grounds:

a) Final conviction of a criminal offense which indicates a clear and rational likelihood that the reporter will not properly discharge the responsibilities of a certified shorthand reporter or a person serving as a court reporter pursuant to Section 106.3B of Title 20;

1) As used in this Rule, "criminal offense" shall include, but is not limited to i) any felony, ii) any lesser crime that reflects adversely on the court reporter's honesty, trustworthiness or fitness to practice court reporting, and/or iii) any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a such an offense.

2) As used in this Rule, a final conviction includes a plea of guilty or nolo contendere pursuant to a deferred sentence plea agreement, a verdict or finding of guilt, or pronouncement of sentence by a trial court even though that conviction may not be final or sentence may not be actually imposed until all appeals are exhausted.

b) The misrepresentation of any fact in obtaining licensure;

c) Any violation of, or noncompliance with any rule or directive of the Supreme Court;

d) Fraud, gross incompetence, gross or habitual neglect of duty;

e) Engaging in the practice of shorthand reporting using a method for which the reporter is not certified;

f) Engaging in the practice of shorthand reporting without an active certification;

g) A violation of Section 1513 of Title 20 of the Oklahoma Statutes pertaining to prohibited contracts.

Rule 3. Administrative Suspension and Revocation for Nonpayment of Certificate Renewal Fee.

Administrative suspension and revocation of a court reporter for nonpayment of certificate renewal fees shall be as provided in the Rules of the State Board of Examiners of Certified Shorthand Reporters. The formal disciplinary procedures provided for by these rules have no application to suspensions and revocations based solely on nonpayment of renewal fees.

Rule 4. Administrative Suspension and Revocation for Failure to Obtain the Required Hours of Continuing Education.

Administrative suspension and revocation of a court reporter for failure to obtain the required hours of continuing education and/or properly file the continuing education compliance report in any calendar year, shall be as provided in the Rules of the State Board of Examiners of Certified Shorthand Reporters. The formal disciplinary procedures provided for by these rules have no application to suspensions and revocations based solely on failure to obtain or report the required hours of continuing education.

Rule 5. Complaints.

The procedure for filing a complaint against a court reporter and the investigation of such complaint shall be as follows:

a) The Board shall furnish forms for a request for investigation to each person who alleges misconduct of a court reporter. Each complaint shall be in writing, although not necessarily in the prescribed form, and signed by the complainant. A complaint may be filed by any person, including another court reporter, who has knowledge or information of misconduct of a court reporter. The Board may initiate a complaint upon its own motion.

b) A complaint shall be filed with the Secretary of the Board, who shall transmit copies to all members of the Board. The Board shall conduct preliminary investigation to determine whether there are facts sufficient to warrant formal disciplinary proceedings.

1) The Board may solicit additional information from the complainant.

2) The Board may interview or subpoena potential witnesses.

3) The Board shall inform the court reporter involved of the nature of the complaint and afford the court reporter an opportunity to respond thereto in writing.

c) Should the Board determine that formal disciplinary proceedings are not warranted, the complainant and the court reporter involved shall be promptly notified of such determination by the Secretary of the Board. Such determination may be appealed by the complainant by filing a Petition for Review with the Clerk of the Supreme Court not more than thirty (30) days from the date of the Board's decision. Such petition shall be processed by the Court as in other appeals from recommendations of the Board as hereinafter provided.

d) Should the Board determine that formal disciplinary proceedings are warranted, the Secretary of the Board shall prepare a formal complaint, as set forth in Rule 6.

Rule 6. Formal Proceedings, How Commenced.

(a) Upon an affirmative vote of the Board to commence formal disciplinary proceedings, the Secretary of the Board shall prepare a formal complaint. The formal complaint shall be styled:

BEFORE THE STATE BOARD OF EXAMINERS OF CERTIFIED SHORTHAND REPORTERS

The State of Oklahoma ex rel. State Board
of Examiners of Certified Shorthand Reporters,

Complainant,

No.

v.

(Name of Accused),
Respondent,

COMPLAINT

The Complaint shall state the specific facts constituting the alleged misconduct, whether prior misconduct has resulted in discipline, and whether prior investigations of misconduct are to be relied upon to enhance discipline. Any prior acts or conduct relied upon to enhance discipline shall be so stated and set forth by specific allegation of fact. The complaint shall be attested by the Chairman of the Board.

b) Should the complaint allege as grounds for discipline the final conviction of a court reporter, in any jurisdiction, of a criminal offense which indicates a clear and rational likelihood that the court reporter will not properly discharge his or her duties and responsibilities as a certified shorthand reporter, there shall be attached thereto a certified copy of the indictment or information, and a certified copy of the judgment and sentence on a plea of guilty, order deferring judgment and sentence, or judgment and sentence of conviction. Such documents, regardless of the pendency of an appeal, shall constitute the charge and be conclusive evidence of the commission of the crime upon which the judgment is based and shall suffice as the basis for discipline in accordance with these rules. Thereafter, the issues in a formal proceeding shall be limited to whether the conviction demonstrates a clear and rational likelihood that the court reporter will not properly discharge his or her duties and responsibilities, and the nature and extent of discipline to be imposed.

1) If an appeal is perfected from the judgment of conviction and such judgment is reversed, the disciplinary proceedings based on such conviction shall be dismissed immediately and the court reporter involved restored to his/her former status.

2) Conviction in a criminal proceeding is not a condition precedent to the imposition of discipline. Nothing contained herein shall prevent the Board from initiating and conducting formal disciplinary proceedings upon charges identical to those set forth in a criminal complaint, indictment, or information, notwithstanding the pendency or final disposition of the criminal action.

c) The Secretary of the Board shall cause the complaint together with notice of a hearing before the Board thereon to be sent to the court reporter involved. The hearing before the Board shall be

set no earlier than thirty (30) days from the date of mailing of the complaint and notice. The Chairman of the Board may, in his or her discretion, grant continuances for good cause known.¹

c) Upon receipt of sufficient evidence that a court reporter has engaged in conduct indicating that he or she is unfit to practice court reporting, and where such conduct poses an immediate threat of public harm, the Board may, in its discretion, request the Supreme Court to order the immediate interim suspension of that court reporter. In its order of interim suspension, the Court shall direct the court reporter to appear before the Board at a time certain, to show cause why the order of interim suspension should be set aside. Upon good cause shown, the Board may request the Court to set aside its order of interim suspension when it appears to be in the interest of justice to do so, with due regard being given to maintaining the integrity of and confidence in the court reporting profession.

d) Upon written request made not less than fifteen (15) days prior to the hearing date, the court reporter respondent shall be provided with a list of all witnesses the Board reasonably anticipates may be called to testify at the hearing and copies of all documentary evidence supporting the allegations of the complaint. (These will be provided by the Attorney General or an Assistant Attorney General, not less than ten (10) days prior to the hearing date.) The court reporter respondent, not less than five (5) days prior to the hearing, shall submit a list of all witnesses the respondent anticipates may be called to testify at the hearing and all documentary evidence the court reporter intends to introduce as evidence in defense of the charges in the complaint or as to mitigation of discipline. The Board may in its discretion and for good cause shown modify the time limits herein imposed.

Rule 7. Disciplinary Hearings.

a) The Board, under signature of the Chairman on behalf of the Board, shall have power to issue subpoenas to compel the attendance of witnesses on behalf of the State or the court reporter involved.

b) The Chairman shall preside over formal disciplinary hearings and, if necessary, rule on questions of procedure. Disciplinary hearings shall be conducted in an orderly manner, generally following the order of proceedings in civil matters. However, the formal rules of evidence and civil procedure shall not apply to disciplinary hearings before the Board. Any evidence offered on behalf of the complainant or the court reporter respondent shall be received and considered unless clearly irrelevant to the proceedings. The court reporter shall have the right to appear personally or through counsel, cross examine witnesses and present evidence on his/her own behalf. A complete stenographic record of formal disciplinary hearings before the Board shall be kept. The complainant shall have the burden of persuasion on the material elements of the complaint. Hearings may be adjourned or continued to a date certain as the Board in its discretion shall decide.

c) All proceedings before the Board shall be open and conducted in full compliance with the Oklahoma Open Meeting Act [25 O.S. § 301, et. seq.], except that the Board, when acting in its capacity as a quasi-judicial body, may adjourn to an executive session for purposes of deliberations only. All votes of the Board regarding disciplinary matters shall be publicly cast and recorded.

d) Decisions of the Board shall be in writing with findings of fact and conclusions of law as applicable, including a recommendation as to discipline, if such is found to be indicated. The written decision of the Board shall reflect the votes of the members for or against the Board's recommendation. The written decision of the Board shall constitute its recommendation to the Supreme Court for or against discipline. If the recommendation is for discipline, the Board may recommend:

1) Suspension for a period of time up to one (1) year; or

2) Revocation of the enrollment of a certified court reporter, or revocation of the status of a person appointed as a temporary court reporter pursuant to Section 106.3B(d) of Title 20 of the Oklahoma Statutes.

The written decision of the Board shall be immediately transmitted to the court reporter respondent, by hand-delivery or by mailing it or sending it by third-party commercial carrier for delivery within three (3) calendar days. Proof of service shall be documented, and may be made by a certificate of mailing endorsed on the written decision.

Rule 8. Transmittal of Recommendation and Review by Supreme Court.

a) Within forty-five (45) days after the date of the Board's decision, the Board shall file with the Clerk of the Supreme Court the complete record of the proceedings, which shall consist of the following:

1) The complaint;

2) The Board's written decision, which constitutes its recommendation, and proof of service thereof;

3) All other pleadings, if any;

4) A transcript of the formal disciplinary hearing; and

5) All exhibits offered at the hearing.

Unless ordered by the Supreme Court, a designation of record for appeal will not be required from the Board. An extension of time for preparation of the record may be granted only by order of the Supreme Court, for good cause shown. The Secretary of the Board shall promptly notify the court reporter respondent and the complainant of the completion and transmittal of the record.

b) Either the complainant or the court reporter may, within twenty (20) days of receipt of notice of completion and transmittal of the record, file a brief-in-chief contesting the Board's recommendation or any part thereof. An answer brief may be filed within ten (10) days after the filing of brief-in-chief. A reply brief may be filed within five (5) days after filing of the answer brief.

c) After filing of briefs, if any, the decision and recommendations of the Board shall stand submitted to the Supreme Court which may, in its sole discretion, adopt or reject such recommendations in whole or in part, remand with instructions, or make such other disposition as the Supreme Court may deem proper, with or without oral argument or formal written opinion. Either party aggrieved by the decision of the Supreme Court may make application for rehearing as provided by the Rules of the Supreme Court.

Rule 9. Reinstatement After Formal Disciplinary Proceedings.

a) Any court reporter who, as a result of formal disciplinary proceedings, has been suspended by order of the Supreme Court for a period of one (1) year or less shall have his/her certificate reinstated without further proceedings before the Board upon the filing of a verified application with the Secretary of the Board, and a copy thereof with the Clerk of the Supreme Court, which shall state:

1) That the term of the suspension as ordered by the decision of the Supreme Court has expired;

2) That all costs of the formal disciplinary proceedings, including transcript costs, as well as renewal fees, have been paid by the applicant;

3) That there is not currently pending before the Board any complaint of misconduct against the applicant, and;

4) That the applicant has not engaged in the practice of court reporting during the term of suspension.

Material deletions or misrepresentations in the application shall be grounds for discipline.

b) Any court reporter who, as a result of formal disciplinary proceedings, has had his/her enrollment as a certified court reporter revoked by order of the Supreme Court may seek

reinstatement by filing a verified application with the Secretary of the Board, and a copy with the Clerk of the Supreme Court, which shall state:

- 1) The applicant's current home and business address, together with a narrative of his/her residence and employment history during the period of revocation;
 - 2) That the applicant has not, during the period of his/her revocation, been finally convicted of a criminal offense which indicates a clear and rational likelihood that the reporter will not properly discharge the responsibilities of a certified shorthand reporter;
 - 3) The names of at least five (5) persons who will testify as to the good moral character of the applicant;
 - 4) That the applicant has paid all costs of the disciplinary proceedings resulting in his/her discipline, all renewal fees and/or penalty fees due but unpaid at the time of revocation, and will pay all costs attendant to processing of his/her application for reinstatement;
 - 5) That the applicant has not engaged in the practice of court reporting during the term of revocation; and
 - 6) That the applicant has taken and successfully passed the examination prescribed by the Board for certification of shorthand reporters.
- c) Upon receipt of an application for reinstatement pursuant to paragraph b, the Secretary of the Board shall transmit copies of said application to all members of the Board, and shall cause said application to be set for hearing before the Board. Notice of hearing on the application shall be sent to the applicant and shall be published in the Oklahoma Bar Journal and in a newspaper of general circulation in the county of the residence of the applicant and, if different, also in the county of the applicant's residence at the time of his/her cancellation or revocation. The cost of such publication shall be included in the costs to be paid by the applicant. Said notice shall be published in one (1) issue of each such periodical and shall advise interested persons when and where the hearing will be conducted.
- d) The Board shall conduct a full hearing on the reinstatement application in the same manner as in conducting hearings on formal disciplinary complaints. The Board shall make its decision in writing, with findings of fact and conclusions of law as applicable. The Board's written decision shall constitute its recommendation to the Supreme Court for or against reinstatement. The written decision of the Board shall reflect the votes of the members for or against the Board's recommendation. The written decision of the Board shall constitute its recommendation to the Supreme Court for or against reinstatement.

The written decision of the Board shall be immediately transmitted to the court reporter involved, by hand-delivery or by mailing it or sending it by third-party commercial carrier for delivery within

three (3) calendar days. Proof of service shall be documented, and may be made by a certificate of mailing endorsed on the written decision.

e) Within forty-five (45) days after the date of the Board's decision, the Board shall file with the Clerk of the Supreme Court the complete record of the reinstatement proceedings, which shall consist of the following:

- 1) The reinstatement application;
- 2) The Board's written decision, which constitutes its recommendation, and proof of service thereof;
- 3) A transcript of the reinstatement hearing; and
- 4) All exhibits offered at the hearing.

Unless ordered by the Supreme Court, a designation of record for appeal will not be required from the Board. An extension of time for preparation of the record may be granted only by order of the Supreme Court, for good cause shown. The Secretary of the Board shall promptly notify the court reporter applying for reinstatement of the completion and transmittal of the record.

f) After completion and transmittal of the record, the decision and recommendations of the Board shall stand submitted to the Supreme Court which may, in its sole discretion, adopt or reject such recommendations in whole or in part, remand with instructions, request briefs from the parties, or make such other disposition as the Supreme Court may deem proper, with or without oral argument or formal written opinion. Either party aggrieved by the decision of the Supreme Court may make application for rehearing as provided by the Rules of the Supreme Court.

Rule 10. Reinstatement After Administrative Revocation.

A court reporter who, due to failure to pay certificate renewal fees or obtain the required hours of continuing education, has had his/her enrollment administratively revoked, shall be reinstated without further proceedings before the Board by filing a verified application with the Secretary of the Board and a copy with the Clerk of the Supreme Court, which shall state:

- a) That the applicant has paid any certificate renewal fee, delinquent payment fee, continuing education penalty fee, or continuing education suspension fee that was accrued on the date of the administrative revocation;
- b) That there is not currently pending before the Board any complaint of misconduct against the applicant;

- c) That the applicant has not engaged in the practice of court reporting during the term of revocation, and;
- d) That the applicant has taken and successfully passed the examination prescribed by the Board for certification of shorthand reporters.

RECOMMENDATIONS FOR ETHICAL CONDUCT

It is imperative that a court reporter adhere to the strictest of ethical standards. The following guidelines may be helpful in this effort. These statements do not address all possible ethical situations, but provide a framework for the overall ethical conduct a court reporter should exhibit.

1. The reporter must take verbatim the proceedings and type the record exactly as reported. No changes in the record are to be made by the reporter, although some editing will naturally occur.
2. Be fair and impartial toward each participant in all aspects of reported proceedings.
3. Always offer to provide the same services to all parties in a proceeding.
4. The court reporter must keep certain court proceedings confidential. The proceedings that must be kept confidential include, but are not limited to, adoptions and juvenile matters. This confidentiality extends to questions by members of the public concerning both court proceedings in general and in specific cases.
5. A court reporter should possess great integrity. Impropriety or even the appearance of such is to be avoided under all circumstances.
6. Be alert to situations that may be a conflict of interest or may give the appearance of a conflict of interest. Always disclose any conflict of interest that may arise.
7. A court reporter should be punctual. The reporter must make every effort not to delay court proceedings. The reporter may occasionally be required to work irregular hours.
8. The court reporter is the unbiased, impartial scribe and custodian of the official record. It is the reporter's responsibility to make certain that the trust bestowed on him or her as the custodian of a record is not misplaced. A record that is not completely accurate and unbiased destroys the system of justice.
9. As an official reporter, refrain from freelance reporting activities that interfere with official duties and obligations.
10. A court reporter is a public servant. As such, the reporter will be expected to deal with attorneys, judges and members of the public in a courteous and cooperative manner.
11. A court reporter should conform to the same standards of dress as that required for members of the bar. The reporter should present a dignified and business-like appearance. The chewing of gum in the courtroom is unprofessional.
12. Each reporter must realize that he/she is an officer of the court and, as such, should conduct himself/herself in a professional manner at all times with strict adherence to the rules and statutes of the State.

A court reporter works in a public setting and will be viewed by the public as privy to all "inner workings" of the court system. The reporter should remember that for many of the litigants and other persons involved in the court process this is an uncommon situation in their lives. They may not fully understand the nuances of the legal system. The court reporter must make certain that his or her actions do not give rise to an appearance of impropriety within the court system. It is always better to err on the side of discretion.

The selling of transcripts that have not been made part of the public record to other than the litigants or the deponent without the agreement of the litigants and the deponent should not be done. Once a transcript has been made a part of the public record, subject to any protective order or state or local rule to the contrary, the reporter may sell the transcript to third parties without the consent of the parties or the deponent.

Because of Oklahoma's judicial selection and retention process, a District or Associate District Judge in Oklahoma must campaign to remain on the bench. An official court reporter may be called on to support a judge's campaign. The judge and the court reporter should review the provisions of the Code of Judicial Conduct, including the provisions in Canon 4. In short, a court reporter who works as a member of a judge's staff must follow the provisions of the Code of Judicial Conduct when campaigning for his/her judge. Court staff must act in a manner consistent with the judge's obligations under the Code of Judicial Conduct. See Canon 2.12.

Certain additional rules concerning a court reporter's political conduct must be observed:

1. The reporter may not use state supplies or equipment for any political purpose;
2. Political activities which give the potential appearance of prejudicial conduct of the court reporting function must be avoided; and,
3. Political activities must be conducted entirely on the court reporter's own time.

GENERAL ORGANIZATION OF TRANSCRIPTS

All transcripts shall be neat, clean and legible. Any transcript filed for submission to an appellate court must meet the requirements of the statutes governing such appeals.

1. **Size of Type.** Transcripts must be typed no fewer than nine characters to the typed inch.
2. **Corrections.** All typographical errors are to be corrected so as not to be messy or noticeably visible. All corrections and additions must be on the same line as the rest of the typed line. No insertion is permitted in the space between two lines of type. Never write in corrections.
3. **Paper.** Use 8-1/2 x 11 paper. Margins should be no more than one-half inch at the top, bottom and on the right side, and no more than one and one-half inch on the left, which will leave a proper amount of space for margin and binding. There should be at least twenty-five lines to a page. Any stapling of pages together, such as Instructions, should be done in the upper left-hand corner. Please note 20 O.S. § 106.4.
4. **Numbering.** Each page after the cover page and ending with the certificate should be numbered in the upper right-hand corner. Although cover pages are included in the numbering, a reporter should never place numbers directly on these pages. Index pages may be numbered with Roman Numerals.
5. **Spacing.** All transcript lines, excluding title and index pages, should be no more than double spaced. Cover pages and index pages should be spaced appropriately.
6. **Cover Page.** The first two lines of the cover page should specify the court or division in which the proceedings were held and in which the transcript is to be filed. The caption includes the participants designated by party, and case number. The pertinent information as to the contents of said transcript should be capitalized and centered. Attorneys' appearances should be listed on the cover page, unless space prohibits. The reporter's appearance is listed at the bottom of the page. The cover page is included in the numbering, but the page itself is not numbered.
7. **Appearance Page.** This will include appearances when there is not sufficient space on the cover page.
8. **Index/Table of Contents.** The index should contain the names of the witnesses, the page number(s) where the testimony occurs, the exhibits, and when exhibits are offered and/or admitted into evidence.
9. **Certificate Page.** The certificate page should contain the reporter's name, certificate number, a statement verifying that all contents are accurate and complete, and that the reporter is not a relative or employee or attorney or counsel of any of the parties, or a

relative or employee of the attorney or counsel, and is not financially interested in the action. It should be numbered sequentially in the upper right-hand corner.

10. **Swearing of Witnesses.** Although court reporters have the authority to swear witnesses, this is usually done by the judge or the court clerk. The reporter should always note this in the record and should further note whether the witness was sworn or affirmed.
11. **Introduction of Witnesses.** The names of witnesses should be centered, written in capitals and underscored. Please note these examples:

NAME

called as a witness on behalf of the State/Defendant, being first duly sworn/affirmed, testified as follows:

NAME

was called as a witness on behalf of the Plaintiff, after having been first duly sworn, and testified as follows:

NAME

was re-called as a witness, after having been previously duly sworn, and testified further as follows:

NAME (witness not sworn)

appeared as a witness and testified as follows:

NAME

called as a witness, after being first duly sworn, and testified through an interpreter as follows:

12. **Re-calling of Witnesses.** When a witness is re-called to the stand, the name should be written and placed in the same manner as when the witness was first called and then to be shown as "re-called on behalf of ..."
13. **Types of Examination.** There are four principal appropriate types of examination of a witness: direct, cross, redirect and recross. The first examination by a party who calls them is denominated as "Direct Examination" and the first examination of that witness by an opposite party is denominated as "Cross-Examination." Subsequent examination should be "Redirect" or "Recross" as the case may be. Examinations should be centered, written in capitals, and underscored.
14. **Names of Counsel Conducting Examination.** The name of the lawyer who is conducting the examination should be given immediately after the type of examination. It should be capitalized followed by a colon.

It is generally understood that the examination is still being conducted by the same lawyer until it is interrupted. For clarification, the name of the examining counsel is again indicated at the point of resumption of the examination, as follows:

Q (By Mr. Smith)

15. **Witness Called by Opposite Party.** When a witness is called by the opposite party to testify, it should be denominated in the same fashion as before.
16. **Voir Dire Examination.** The voir dire examination, as it applies to the testimony of witnesses, is one conducted for the purpose of determining a witness's qualifications to testify. It should be set up in colloquy unless conducted extensively, in which case, it should be set up in regular question and answer fashion. This type of voir dire examination is not to be confused with voir dire of the jury.
17. **Voir Dire Examination of the Jury.** When a jury is questioned on voir dire, it is to ascertain their qualifications to serve as a juror. This should be set up in a colloquy format.
18. **Transcript Format.** Questions and Answers should be indicated by the abbreviations "Q" and "A". Each question and answer should begin on a new line. The statutory requirements for transcripts are set forth in 20 OS. §. 106.4(b), "Each page shall be at least 25 lines to the page and typed nine characters per inch size. Said page as mentioned herein shall be no more than double spaced, and the margin on the left side of the page shall be no more than one and one-half inches, and the margin on the right side of the page shall be no more than one-half inch from the edge of the paper. The format for all transcripts shall be prescribed by the Supreme Court."
19. **Parenthetical Recitations by Reporter.** As much as possible, remarks and recitations by the reporter should be made in the past tense. (Example: Whereupon, recess was had.) The purpose of a parenthetical is to state in concise form what transpired at any given point in courtroom proceedings. The reporter never uses a parenthetical remark except when necessary to clarify, and should be very brief in any parenthetical

remark. The reporter should refrain as much as possible from reciting conclusions. For example, when the witness indicates that the distance involved is about "from here to there," indicated an object in the courtroom, there should be no attempt on the part of the reporter to estimate the distance as such would be their own conclusion. However, they may, in order to show more clearly what actually happened, insert the word "indicating" in parenthesis.

20. **Colloquy.** Colloquy is an on-the-record conversational exchange between counsel and the court or initiated by the court. It includes any remarks not part of Q and A. Colloquy begins at the second tab stop or ten (10) spaces from the Q and A symbol to help contrast that from the point where the questions and answers begin. The speaker's name is typed in all caps, followed by a colon and two spaces. Typing continues to the right-hand margin, and succeeding lines return to the left-hand margin. New paragraphs start after ten spaces, at the indentation of the original colloquy.
21. **Testimony by Deposition (Read or Video).** Before a deposition is read into evidence or a videotaped deposition played for the jury, consult with your judge. There are basically four options:
1. The reporter is absent from the courtroom.
 2. The reporter is present in the courtroom but only reports objections, noting page and line where they occur.
 3. The page and line number of objections and the court's ruling are dictated in the record prior to
or following the deposition.
 4. The reporter is present and reports the entire deposition.

The reporter should inquire of the attorneys in advance whether or not the deposition has been edited or if the deposition will be presented in its entirety.

If presented in its entirety, it is appropriate to inquire if there are any objections to the reporter being excused during the reading/playing of the deposition. Insert a parenthetical in the transcript that the deposition was read to or played for the jury. Also reflect on the index page where the deposition was read or played.

There are two ways to reflect when a deposition is edited by the attorneys. The attorneys may elect to dictate into the record the page and line numbers omitted, or the reporter will simply report what was read and transcribe that in the record.

When transcribing several pages of a deposition or previously given testimony presented at a trial, use the standard format, and Q and A symbols. Indicate who read the questions and answers, and put a quote mark at the beginning and end of the quoted material. If there are interruptions during the reading, repeat quotation marks. Reflect direct and cross-examination in the index.

22. **Quoting Testimony.** The quoting of testimony should be indicated by the use of quotation marks placed at the beginning and end of the quoted text. This may occur when an attorney attempts to impeach witnesses through their previous testimony.
23. **Quoting Statutes.** When statutes are quoted, they should be enclosed in quotation marks.
24. **Quoting Citations.** Always underscore a citation. For example, Smith v. Jones, 444 P.2d 7.
25. **Reading Back by Court Reporter.** Whenever the reporter reads back, whether it is only the last question or a day's proceedings, the facts should be noted in as simple, concise language as possible. Please note the examples regarding parentheticals in the Forms and Examples section.
26. **On-record and Off-record Discussion.** The judge or attorneys may want to hold a conversation at the bench in the presence but out of the hearing range of the jury to avoid having the jury leave the courtroom an excessive number of times. Such conferences may be either on the record or off the record. A parenthetical should be used to indicate what transpired.
27. **Incomplete Sentences.** When there is a break in thought by the speaker or if a witness, attorney or judge is interrupted, that interruption should be indicated by hyphens as follows: Smith -- Jones.

OFFICIAL REPORTERS

20 O.S. §106.1 - Court Reporters - Determination of Number Needed

The Supreme Court, with the aid of the Administrative Director of the Courts, shall determine the number of full-time and part-time court reporters that may be appointed in each judicial administrative district of the state in the manner as hereinafter provided by this act. In determining how many court reporters are needed in each administrative district the Supreme Court shall consider the following factors: (1) case loads in the administrative district; (2) the number of district judges, associate district judges and special judges in the administrative district; (3) the number of cities and towns within each administrative district in which regular court sessions are held and the distance in road miles between each; and (4) any other factor deemed relevant by the Supreme Court. The Court may, as the need arises, increase or decrease the number of court reporters so authorized, and the Court may, where the business of a court requires it, authorize the presiding judge of the administrative district in which said court is located to employ a temporary court reporter.

20 O.S. §106.2 - Appointment of Reporters – Oath

The Supreme Court shall certify in writing to the Presiding Judge of each judicial administrative district, the number of full-time and part-time court reporters that may be appointed within said judicial administrative district, provided that each district judge shall have a court reporter, who shall serve at the pleasure of said district judge.

Each district judge shall appoint a court reporter, and additional court reporters within a judicial administrative district shall be appointed by the presiding judge of such district, to serve at his pleasure within the district. Provided, all court reporters within such judicial administrative district may be assigned or transferred temporarily, according to need, by the presiding judge of the district.

Each court reporter appointed shall, before entering upon the duties of his office, take the official oath to faithfully discharge the duties of his office to the best of his knowledge and ability. The oath of office shall be filed in the office of the Director.

20 O.S. §106.3B – Official court reporter - eligibility

Only the following persons may act and are eligible for appointment on a full-time or part-time basis as official court reporters for the courts, including the Workers' Compensation Court and the Corporation Commission:

- a. Persons now certified or hereafter certified by the State Board of Examiners of Certified Shorthand Reporters shall be given primary consideration for appointment;
- b. Persons who, prior to July 1, 1978, were licensed as licensed shorthand reporters by the State Board of Examiners of Certified Shorthand Reporters shall be given secondary consideration for appointment;
- c. Persons who, prior to July 1, 1978, were acting shorthand reporters under a certificate issued by the Chief Justice;
- d. When no person eligible for appointment as an official court reporter, as provided above, is available for appointment, a presiding judge or a district judge may make application to the Chief Justice to appoint a shorthand reporter on a temporary basis. The Chief Justice may issue a temporary certificate valid for not more than twelve (12) months, upon payment of a fee of Fifty Dollars (\$50.00) and a fee of Seventy-five Dollars (\$75.00) for the certified shorthand reporter examination which will be deposited with the Clerk of the Supreme Court. The temporary certificate shall be nonrenewable, except in emergency situations as determined by the Chief Justice and for no longer than ninety (90) additional days. Absent good cause shown as determined by the State Board of Examiners of Certified Shorthand Reporters, a temporary certificate holder shall sit for at least one Oklahoma certified shorthand reporter examination administered during the term of the temporary certificate. The holder shall be required to transcribe the examination, and the results of such transcription shall be reported to the holder's supervisory judge;
- e. The appointment of an official court reporter by a district or presiding judge shall be subject to the approval of the Chief Justice. Before giving his approval to the appointment, the Chief Justice shall determine, with the aid of the Administrative Director of the Courts, that the appointing judge has given proper consideration to the statutory preference accorded herein to certified and licensed reporters; and
- f. A temporary court reporter, either while so serving or after the expiration of this appointment, shall be required to transcribe any testimony and other proceedings taken by him and to certify that the transcription is true and correct. A transcript certified by a temporary court reporter shall have the same effect as one certified by a regular court reporter.

20 O.S. §106.4 – Methods and Duties of Court Reporter

A. The court reporter shall make a full reporting by means of stenographic hand, steno-mask or machine notes, or a combination thereof, of all proceedings, including the statements of counsel and the court and the evidence, in trials and other judicial proceedings to which the court reporter is assigned by the appointing judge unless excused by the judge who is trying the case with the consent of the parties to the action. Nothing herein contained shall be construed to authorize the certification of persons as certified shorthand reporters who rely exclusively upon the steno-mask for reporting judicial proceedings, except as provided by law. A refusal of the court to permit or to

require any statement to be taken down by the court reporter or transcribed after being taken down, upon the same being shown by affidavit or other direct and competent evidence, to the Supreme Court, or other appellate court, shall constitute a denial of due process of law. The court reporter may use an electronic instrument as a supplementary device. In any trial, hearing or proceedings, the judge before whom the matter is being heard may, unless objection is made by a party or counsel, order the proceedings electronically recorded. A trial or proceedings may proceed without the necessity of a court reporter being present, unless there is objection by a party or counsel. Provided that if an official transcript is ordered then it shall be prepared by the official court reporter.

B. Upon request of either party in a civil or criminal case, the reporter shall transcribe the proceedings in a trial or other judicial proceeding, or so much thereof as may be requested by the party, certify to the correctness of the transcript, and deliver the same in accordance with the rules of the Supreme Court. The fee for an original transcript shall be Three Dollars and fifty cents (\$3.50) per page. Two copies of the original transcript shall be furnished without additional charge. Each page shall be at least twenty-five lines to the page and typed no fewer than nine characters to the typed inch. Each page shall be no more than double spaced and the margin on the left side of the page shall be no more than one and one-half (1 1/2) inches and the margin on the right side of the page shall be no more than one-half (1/2) inch from the edge of the paper. The format for all transcripts shall be prescribed by the Supreme Court. The fees for making the transcript shall be paid in the first instance by the party requesting the transcript and shall be taxed as costs in the suit.

When the judge on his or her own motion orders a transcript of the reporter's notes, the judge may direct the payment of charges and the taxation of the charges as costs in such manner as the court deems appropriate. In a criminal action, if the defendant shall present to the judge an affidavit that the defendant intends in good faith to take an appeal in the case and that a transcript of the reporter's notes is necessary to enable the defendant to prosecute the appeal, and that he or she has not the means to pay for the transcript, the court, upon finding that there is reasonable basis for the averment, shall order the transcript made at the expense of the district court fund. The format preparation, delivery and filing of transcripts to be used in civil and criminal appeals may be regulated by the Supreme Court.

C. The court reporter shall file his or her records of the evidence and the proceedings taken in any case with the clerk of the court in which the case was tried.

D. To the extent that it does not substantially interfere with the court reporter's other official duties, the judge by whom a reporter is employed or to whom he or she is assigned may assign a reporter to secretarial or clerical duties arising out of official court operations.

Court Rule – Title 20, Chapter 20, Appendix I, Rule 25 - Temporary Permits

A. Temporary permits to practice certified shorthand reporting until the conclusion of the next succeeding certified shorthand reporter (CSR) examination and report of the results thereof may be granted upon the recommendation of the Board after a showing of public convenience and necessity provided the applicant has not previously failed to complete satisfactorily the CSR examination. All applicants for temporary permit shall file with the Board an application for temporary permit in addition to the regular application for the CSR examination. The Board shall, as soon as practicable, report its recommendation on such application for temporary permit to the Supreme Court, together with a copy of such application.

B. The temporary permit of any person who takes the CSR examination shall expire on the date that the successful applicants at that examination are enrolled provided that the temporary permit of any person who fails the examination shall be revoked immediately upon the announcement of the results of such examination by the Board.

SALARY AND ADDITIONAL COMPENSATION

20 O.S. §106.9 - Salaries of Court Reporters

A. Until October 1, 2006, the salaries of all court reporters regularly engaged by the district court, the Workers' Compensation Court, or the Corporation Commission shall be paid by the state, except as otherwise provided in this section. Full-time court reporters regularly engaged by the district court, the Workers' Compensation Court and the Corporation Commission who are certified shorthand reporters shall be paid Thirty-five Thousand Six Hundred Dollars (\$35,600.00) per year, payable monthly. Effective October 1, 2006, the salaries of all court reporters regularly engaged by the district court, the Workers' Compensation Court, or the Corporation Commission shall be paid by the state, except as otherwise provided in this section. Full-time court reporters regularly engaged by the district court, the Workers' Compensation Court and the Corporation Commission who are certified shorthand reporters shall be paid Thirty-nine Thousand One Hundred Sixty Dollars (\$39,160.00) per year, payable monthly.

B. In addition to their base salaries, official court reporters who are certified or licensed shorthand reporters and those acting shorthand reporters pursuant to paragraph c of Section 106.3B of this title shall be paid annually the sum of Four Hundred Dollars (\$400.00) for each year of service to the district court, the Workers' Compensation Court and the Corporation Commission, with a maximum of twenty (20) years of service only to be used for the purpose of longevity, not to exceed Eight Thousand Dollars (\$8,000.00) per year, payable monthly. For the purpose of payment for longevity, "years of service" is defined as all years served as a certified or licensed court reporter in the district court, the Workers' Compensation Court and the Corporation Commission after June 30, 1978. Such longevity payments shall begin on July 1 of each year following completion of one (1) year's service as defined herein.

C. In addition to their base salaries, official court reporters who are certified shorthand reporters shall be paid the following:

1. The sum of One Thousand Five Hundred Dollars (\$1,500.00) per year, payable monthly, to any official court reporter who is a Registered Professional Reporter (RPR), as recognized by the State Board of Examiners of Certified Shorthand Reporters. To qualify as a RPR, an official court reporter shall have a proficiency level in reporting testimony and proceedings of a speed of not less than two hundred twenty-five (225) words per minute in taking a question-and-answer-type dictation, two hundred (200) words per minute in taking a jury charge and one hundred eighty (180) words per minute in taking literary material, shall pass a Written Knowledge Test with a score of at least seventy percent (70%), all as determined by an examination recognized by the Board, and shall complete thirty (30) hours of continuing education per three-year cycle commencing at the date of recognition;

2. The sum of One Thousand Five Hundred Dollars (\$1,500.00) per year, payable monthly, to any official court reporter who is a Registered Merit Reporter (RMR), as recognized by the State Board of Examiners of Certified Shorthand Reporters. To qualify as a RMR, an official court reporter shall have a proficiency level in reporting testimony and proceedings of a speed of not less than two hundred sixty (260) words per minute in taking a question-and-answer-type dictation, two hundred forty (240) words per minute in taking a jury charge and two hundred (200) words per minute in taking literary material, shall pass a Written Knowledge Test with a score of at least seventy percent (70%), all as determined by an examination recognized by the Board, and shall complete thirty (30) hours of continuing education per three-year cycle commencing at the date of recognition;

3. The sum of One Thousand Five Hundred Dollars (\$1,500.00) per year, payable monthly, to any official court reporter who is a Registered Diplomat Reporter (RDR), as recognized by the State Board of Examiners of Certified Shorthand Reporters, and who completes thirty (30) hours of continuing education per three-year cycle commencing at the date of recognition;

4. The sum of One Thousand Five Hundred Dollars (\$1,500.00) per year, payable monthly, to any official court reporter who is a Certified Realtime Reporter (CRR), as recognized by the State Board of Examiners of Certified Shorthand Reporters, and who completes thirty (30) hours of continuing education per three-year cycle commencing at the date of recognition; or

5. Any official court reporter who is the holder of more than one certification shall be compensated in the additional amounts specified in paragraphs 1 through 4 of this subsection for each certification up to a maximum of Six Thousand Dollars (\$6,000.00) per year over and above the reporter's base salary, payable monthly.

D. Court reporters temporarily employed by the district court, Workers' Compensation Court, or Corporation Commission shall be compensated by the court fund of the court which they serve at a rate to be set by such court. In addition, court reporters temporarily employed pursuant to this subsection who are required by the terms of their employment to travel outside their county of residence, shall receive reimbursement for mileage actually and necessarily traveled to and from the place of attendance at a rate not to exceed the rate of reimbursement specified in the State Travel Reimbursement Act for state employees. Any travel reimbursement shall be paid from the court fund of the court where the service of the temporarily employed court reporter is provided.

20 O.S. §104 - Reimbursement for Expenses of District Court Judges, Special Justices, Special Judges and Court Reporters

(a) When any judge of the district court is ordered by the Chief Justice of the Supreme Court of the State of Oklahoma or by the presiding judge of the judicial administrative district to perform duties or to attend or participate in a judicial conference outside the county of his residence, such

judge shall be entitled to reimbursement for actual and necessary expenses incurred in complying with such order or orders as provided by the State Travel Reimbursement Act. He shall certify such expense to the Chief Justice, and, upon the latter's approval thereof, the State Treasurer shall issue his reimbursing warrant, to be paid out of any funds appropriated for such purpose.

(b) Whenever a member of the Bar who was appointed by the Governor to sit on the Supreme Court as a special Justice or on the Court of Criminal Appeals as a special Judge is required to travel in performance of his duties as such special Justice or Judge beyond the county of his residence, he shall be entitled to mileage and subsistence or per diem, as the case may be, upon a claim approved by the Chief Justice and such special Justice or Judge shall be reimbursed for his travel and expenses to the same extent and in the same amount as a judge of the district court would have been authorized to receive under the law.

(c) Whenever a judge of the district court is assigned to serve a district court outside the district court judicial district such judge regularly serves, he shall certify his actual and necessary travel expenses, to the court clerk of the county he is assigned to serve upon a claim against that county's court fund, and upon approval of the claim he shall be reimbursed by check or warrant drawn against the court fund as provided by the State Travel Reimbursement Act. A court reporter assigned to serve outside the district court judicial district he regularly serves shall be entitled to reimbursement of expenses in a like manner from the court fund of the district court to which he has been assigned.

(d) Whenever a judge of the district court or a court reporter is assigned to serve at any place within the county designated for holding court sessions other than the courthouse of the county in which he is a resident judge or a resident court reporter of the district court, he shall be entitled to mileage for travel from the courthouse to such designated court location and back to the courthouse, as well as his travel from one designated court location to another designated court location within the county and back to the courthouse. The mileage so traveled shall be paid in accordance with the rate provided for in the State Travel Reimbursement Act out of the court fund of the county of which such official is a resident judge or a court reporter.

A district judge who is assigned to hold court at the courthouse of a county as well as at a place where formerly a superior court was held within the same county shall be entitled to mileage only from the court fund of that county for necessary travel between the courthouse and the place where formerly a superior court was located, so long as district court sessions continue to be held at such place. When two or more persons use the same motor vehicle for travel required in the performance of their duties either as a judge or as a court reporter, only one of them shall be entitled to claim mileage for such travel. No mileage shall be paid for travel by a judge or by a court reporter between his place of residence and the courthouse of the district court of the county of which such judge or court reporter is a resident.

20 O.S. §105.1 – Expenses of Judge and Court Reporters Within or Without Their District

Reimbursement for necessary and actual expenses of judges of the district court and their court reporters, within their districts or when assigned outside their districts shall be as provided in the State Travel Reimbursement Act. Reimbursement for such expenses shall be from funds appropriated for such purpose upon claims submitted to and approved by the Chief Justice.

20 O.S. §106.6 – Assignment of Reporters – Expenses

The presiding judge may assign a court reporter to serve anywhere within the administrative district in which the court reporter is appointed. A court reporter shall be paid travel expenses incurred in connection with his official duties outside the county wherein he resides. No expenses shall be paid by the state to a court reporter for travel in his county of residence. Expense vouchers shall be submitted to the Supreme Court for approval. The expense vouchers or claims submitted to the Supreme Court shall have endorsed thereon the signed approval of the presiding judge of the district in which the court reporter incurred the expense for which claim is made.

The Supreme Court may, with the consent of the presiding judge of his district, assign a court reporter to temporary service outside his own administrative district. A court reporter shall be paid travel expenses incurred in connection with his official duties during such periods of temporary assignment. Whenever a court reporter is assigned to serve a district court outside his judicial administrative district, he shall submit a claim for his mileage, subsistence expense or per diem, as the case may be, to the court clerk in the county where he is assigned to serve and the claim, at the rate authorized by the state, shall, upon its approval by the chief judge, be paid by check or warrant drawn against the court fund.

CUSTODY OF NOTES AND EXHIBITS

Each reporter must maintain his/her notes and exhibits in an orderly fashion. They should be filed in such a manner that another person could easily locate items. Each group of notes should be clearly marked either on the notes or on an information sheet with the reporter's name, personal number, the date, judge, case name, assigned case number, tape numbers, attorneys' names and the name of any other reporter(s) who took notes in the same case. Notes should be wrapped in rubber bands and stored in an upright manner in filing cabinets. Before being moved to long-term storage, all notes should be neatly boxed and identified.

The reporter, the supervising judge and the court clerk may wish to meet and discuss the long-term storage requirements for a reporter's notes and tapes. Local procedures vary as to storage of a court reporter's notes and tapes.

If a reporter moves from a district, or terminates employment, that reporter is still responsible for seeing that transcripts of proceedings previously reported are produced. Unless otherwise ordered by a judge of the district court, notes and other materials are removed by the reporter at the termination of employment.

20 O.S. §1011 - Court Reporter - Removal of Materials

A. Unless otherwise ordered by a judge of the district court, each court reporter who has been employed by a district court of this state shall remove all exhibits, notes and other materials from the custody of the court clerk within thirty (30) days after termination of employment with that district court by the court reporter. In the event that the court reporter fails to remove the property in a timely manner, the court clerk shall be authorized to destroy the materials after six (6) months have elapsed since termination of the court reporter's employment.

B. It shall be mandatory that the offering party in any case shall take possession of all exhibits offered in a case at the conclusion of an appeal, or after the appeal time has elapsed if no appeal is taken, except in capital murder and workers' compensation cases.

C. 1. The reporting notes of all certified shorthand reporters may be kept in any form of communication or representation including paper, electronic, or magnetic media or other technology capable of reproducing for transcription the testimony of the proceedings according to standards or guidelines for the preservation and reproduction of the medium adopted by the American National Standards Institute or the Association for Information and Image Management. Reporting notes shall be stored in an environment free from excessive moisture, temperature variation and electromagnetic fields if stored on a medium other than paper.

2. If the reporting notes are kept in any form other than paper, one duplicate backup copy of the notes shall be stored in a manner and place that reasonably assures its preservation.
3. A periodic review of the media on which the reporting notes are stored shall be conducted to assure that a storage medium is not obsolete and that current technology is capable of accessing and reproducing the records for the required retention period.

20 O.S. §1006 – Destruction of Certain Records and Court Reporter’s Notes - Limitations

- A. Unless there is an objection by the chief judge of the district court, the court clerk is authorized to destroy all exhibits in all domestic relations cases in which there has been no activity for more than twenty (20) years, and exhibits in all other civil cases in which there has been no activity for more than ten (10) years.
- B. The chief judge may direct a court reporter to destroy a court reporter's notes after the expiration of ten (10) years from the date of a proceeding, or, if a proceeding has not resulted in an appeal upon which a request has been made to transcribe the proceeding, all notes of a court reporter may be destroyed immediately upon completion of transcription of a proceeding.
- C. No pleadings or judgments shall be destroyed under the provisions of this section.

20 O.S. §1010 - Court Reporter's Notes May be Destroyed

A court reporter's notes may be destroyed by a person lawfully in possession of the notes after a one-year period has elapsed following the death of the court reporter.

TRANSCRIPTS

Transcripts Not On Appeal

Records on appeal have priority; however, reporters should make every effort to accommodate requests for transcripts not on appeal and should prepare these records within a reasonable time. Reporters must consider their workload and judge the time accordingly.

The original transcript, as in all cases, must be filed with the clerk of the court in which said case was tried. The reporter should furnish the copies to the ordering party. The number of copies needed should be ascertained at the time of ordering. Two copies of the transcript shall be furnished the ordering party upon request. One copy is sufficient, if that is all that is requested. The page rate remains the same as if an original and two copies were ordered. The amount of deposit is left at the discretion of the reporter.

File any exhibits with the original transcript. It is to the reporter's benefit to prepare a Notice of Filing to show receipt of filing of the transcript and exhibits.

20 O.S. §106.4 Methods and Duties of Court Reporter

A. The court reporter shall make a full reporting by means of stenographic hand, steno-mask or machine notes, or a combination thereof, of all proceedings, including the statements of counsel and the court and the evidence, in trials and other judicial proceedings to which the court reporter is assigned by the appointing judge unless excused by the judge who is trying the case with the consent of the parties to the action. Nothing herein contained shall be construed to authorize the certification of persons as certified shorthand reporters who rely exclusively upon the steno-mask for reporting judicial proceedings, except as provided by law. A refusal of the court to permit or to require any statement to be taken down by the court reporter or transcribed after being taken down, upon the same being shown by affidavit or other direct and competent evidence, to the Supreme Court, or other appellate court, shall constitute a denial of due process of law. The court reporter may use an electronic instrument as a supplementary device. In any trial, hearing or proceedings, the judge before whom the matter is being heard may, unless objection is made by a party or counsel, order the proceedings electronically recorded. A trial or proceedings may proceed without the necessity of a court reporter being present, unless there is objection by a party or counsel. Provided that if an official transcript is ordered then it shall be prepared by the official court reporter.

B. Upon request of either party in a civil or criminal case, the reporter shall transcribe the proceedings in a trial or other judicial proceeding, or so much thereof as may be requested by the party, certify to the correctness of the transcript, and deliver the same in accordance with the rules of the Supreme Court. The fee for an original transcript shall be Three Dollars and fifty cents (\$3.50) per page. Two copies of the original transcript shall be furnished without additional charge.

Each page shall be at least twenty-five lines to the page and typed no fewer than nine characters to the typed inch. Each page shall be no more than double spaced and the margin on the left side of the page shall be no more than one and one-half (1 1/2) inches and the margin on the right side of the page shall be no more than one-half (1/2) inch from the edge of the paper. The format for all transcripts shall be prescribed by the Supreme Court. The fees for making the transcript shall be paid in the first instance by the party requesting the transcript and shall be taxed as costs in the suit.

When the judge on his or her own motion orders a transcript of the reporter's notes, the judge may direct the payment of charges and the taxation of the charges as costs in such manner as the court deems appropriate. In a criminal action, if the defendant shall present to the judge an affidavit that the defendant intends in good faith to take an appeal in the case and that a transcript of the reporter's notes is necessary to enable the defendant to prosecute the appeal, and that he or she has not the means to pay for the transcript, the court, upon finding that there is reasonable basis for the averment, shall order the transcript made at the expense of the district court fund. The format preparation, delivery and filing of transcripts to be used in civil and criminal appeals may be regulated by the Supreme Court.

C. The court reporter shall file his or her records of the evidence and the proceedings taken in any case with the clerk of the court in which the case was tried.

D. To the extent that it does not substantially interfere with the court reporter's other official duties, the judge by whom a reporter is employed or to whom he or she is assigned may assign a reporter to secretarial or clerical duties arising out of official court operations.

20 O.S. §106.4a - Access of Transcripts to Indigent Defendants or District Attorney - Cost

A transcript of the court reporter's notes, upon request and for the use of an indigent defendant or a district attorney, may not be charged to the court fund unless, before its preparation, the cost to be incurred was authorized by written judicial order.

When a judge authorizes or orders a transcript of the court reporter's notes of any proceeding to be prepared at the expense of the court fund, or where a prosecuting attorney orders such a transcript at public or court fund expense and the accused as an indigent is constitutionally entitled to a free copy of the transcript, a reporter shall prepare an original and two copies of the transcript so ordered and file it with the clerk of the trial court. The court reporter shall immediately notify the district attorney and the defendant of the date the transcript was filed. The district attorney and the defendant shall have access to the copies of the transcript on such terms as the trial court may impose. The chief judge may prescribe rules for access to or disposition of the copies of the transcript.

20 O.S. §106.5 - Admissibility of Transcripts as Evidence

Any transcript of notes, duly certified as correct by the reporter who took the evidence, and filed with the clerk of the court in which the cause was tried, shall be admissible as evidence in all cases, of like force and effect, as testimony taken in the cause by deposition, and subject to the same objection, a transcript of said notes may be incorporated into any appellate record. If any reporter ceases to be the official reporter of the court, and thereafter makes a transcript of the notes taken by him while acting as official reporter, he shall swear to the transcript as true and correct and when so verified, the transcript shall have the same force and effect as if certified while he was an official reporter. A transcript of the notes of any reporter of the State Industrial Court, when certified or verified by such reporter who took the evidence in any hearing before such Industrial Court or any official thereof in any proceedings pending before such court, shall have the same force and effect as a transcript by a court reporter above mentioned, when such transcript is offered as a deposition in evidence in any subsequent trial or proceedings before any court of record wherein the parties are the same as the parties who took part in the proceedings before the State Industrial Court; that is, the same parties as the claimant and respondent before the Industrial Court; provided that, if such party, who is claimant before the Industrial Court, is deceased, then the provisions hereof shall apply if the subsequent action is by the personal representative of such deceased party in an action for wrongful death.

Title 12, Chapter 2, Appendix, Rule 26 - Transcripts in Criminal Cases

The delivery of transcripts in criminal cases where the fee for making the transcript is paid in the first instance by the State of Oklahoma or by a defendant shall be handled as provided by 20 O.S.1981 § 106.4a. In addition to the copies which are required to be filed by § 106.4a a party who desires a copy shall be furnished a copy by the court reporter upon payment of the costs for that copy by said party.

Title 10, Chapter 75, Article 3, Article Part 2, Section 7503-2.3 - Permanent Relinquishment – Form

A. A permanent relinquishment may be executed by a person whose consent to the adoption of a minor is required by Section [7503-2.1](#) of this title. The permanent relinquishment shall be in writing and shall relinquish all of that individual's rights with respect to the minor, including legal and physical custody and the right to consent to the minor's adoption.

B. Permanent relinquishments may be made only to:

1. The Department of Human Services;
2. A child-placing agency; or
3. Any other person, with the written consent of the Department or court.

C. A permanent relinquishment shall be in writing, executed before a judge of the district court in this state, recorded by a court reporter and contain:

1. The date, place, and time of the execution of the permanent relinquishment;
2. The name and date of birth of the person executing the permanent relinquishment;
3. The current mailing address, telephone number and social security number of the person executing the permanent relinquishment;
4. Instructions that the permanent relinquishment is irrevocable, except upon the specific grounds specified in Section [7503-2.7](#) of this title, upon which the permanent relinquishment can be revoked and the manner in which a motion to set aside the permanent relinquishment must be filed; and
5. The name of the person or agency as described in subsection B of this section to whom the permanent relinquishment is being given and who shall have the right to give consent to the minor's adoption.

D. A permanent relinquishment must state:

1. That the person executing the document is voluntarily and unequivocally consenting to the adoption of the minor;
2. An understanding that after the permanent relinquishment is executed, it is final and, except for fraud or duress, may not be revoked or set aside for any reason except as otherwise authorized by the Oklahoma Adoption Code;
3. That the person executing the permanent relinquishment is represented by counsel or has waived any right to counsel;

4. That the execution of the permanent relinquishment does not terminate any duty of the person executing the permanent relinquishment to support the mother or the minor until the adoption is completed;

5. That the person executing the permanent relinquishment has not received or been promised any money or anything of value for the permanent relinquishment, except for payments authorized by law;

6. Whether the individual executing the permanent relinquishment is a member of an Indian tribe and whether the minor is eligible for membership or the minor is a member of an Indian tribe;

7. That the person believes the adoption of the minor is in the minor's best interest; and

8. That the person executing the permanent relinquishment has been advised that an adult adopted person born in Oklahoma, whose decree of adoption is finalized after November 1, 1997, may obtain a copy of such person's original certificate of birth unless affidavits of nondisclosure have been filed pursuant to Section [7503-2.5](#) of this title and that the relinquishing parent may sign an affidavit of nondisclosure.

E. When it appears to the court that the parent or guardian executing a permanent relinquishment desires counsel but is indigent and cannot for that reason employ counsel, the court shall appoint counsel. In all counties having county indigent defenders, the county indigent defenders shall assume the duties of representation in such proceedings.

F. The transcript of the court proceedings pursuant to this section shall be placed in the court record.

G. The verification of the court shall be in substantially the following form:

I, _____, Judge of the District Court in and for _____ County, State of Oklahoma, a Court having original adoption jurisdiction, do hereby certify, that upon this day, _____ personally appeared in open Court, before me, and orally and in writing executed the above and foregoing permanent relinquishment for adoption.

In executing this acknowledgment, I further certify that the said _____ acknowledged that the person executed said relinquishment to adoption freely and voluntarily, and that it was explained to such person by or before me, the undersigned Judge of the District Court, that in executing the relinquishment, the person was surrendering all parental authority whatsoever over the minor; and that with such explanation made to the person relinquishing the minor by or before me, the undersigned Judge of the District Court, the person executed the relinquishment, freely, voluntarily and intelligently for all uses and purposes therein set forth.

I further certify that it was explained to the relinquishing person that this relinquishment is irrevocable and final except for fraud or duress and may not be revoked or set aside except and unless no Petition to Adopt is filed within nine (9) months after placement of the minor or if this or some other court decides not to terminate the rights of the other parent of the minor. I further certify that I am satisfied that the relinquishing person understands the consequences of an adoption; the relinquishing person has represented that such person has not received or been promised any money or anything of value for the giving of the permanent relinquishment except for those payments authorized by law; the relinquishing person has represented that such person is not under the influence of alcohol or medication or any other substance that affects the person's competence; the person fully understood the English language and communicated in the English language at all times during said hearing, or all information was translated into the relinquishing person's language, and was fully understood by the person; and if the relinquishing person was the biological parent, such parent was advised regarding the affidavit of nondisclosure.

H. A permanent relinquishment shall be signed before any judge of a court having probate or adoption jurisdiction in this state or in the state of residence of the person executing the permanent relinquishment.

I. 1. a. If an individual permanently relinquishing the child resides in a country or place other than the United States of America, other than a member of the United States Armed Services stationed abroad, the permanent relinquishment of the individual may be obtained by a written instrument signed by such person and acknowledged before an officer of the legal subdivision of the government of the place of such person's residence who is authorized to administer oaths under the laws of such country or place.

b. If the foreign country's government does not involve itself in adoption matters, the permanent relinquishment may be executed before an officer of the Judge Advocate General's Office of the United States Armed Services or before an officer of the United States Embassy located in that country, provided the execution of a permanent relinquishment is not a violation of the laws of the foreign country, or a violation of international law or treaty between the foreign country's government and the United States. The permanent relinquishment shall reflect that the permanent relinquishment is not given or accepted in violation of the laws of the foreign country or in violation of international law or treaty between such foreign country's government and the United States.

2. If an individual permanently relinquishing the child is a member of the United States Armed Services stationed in a country or place other than the United States, the individual's permanent relinquishment may be acknowledged before an officer of the Judge Advocate General's Office or other legal officer possessing the authority to administer oaths.

J. If the written instrument containing a permanent relinquishment is written in a language other than the English language, the petitioner must have it translated into the English language by a person qualified to do so, and must file the original instrument together with the translation with the court. The translation must be sworn to as being a true and correct translation by the person translating the document.

K. Except as otherwise required by subsection I of this section, when the person permanently relinquishing the child for the purposes of adoption resides outside of Oklahoma, the permanent relinquishment by such person may be executed in that state or country in the manner set forth in the Oklahoma Adoption Code or in the manner prescribed by the laws of the state or country of such person's residence.

L. 1. A court before which a permanent relinquishment has been executed may enter an order terminating parental rights of the parent of a child if such parent has executed a permanent relinquishment for adoption pursuant to the Oklahoma Adoption Code.

2. Any order terminating parental rights of a parent pursuant to this subsection shall state that the termination of parental rights shall not terminate the duty of the parent to support the child of such parent. The duty of the parent to support the child shall not be terminated until such time as a final decree of adoption has been entered.

3. Any proceedings held pursuant to this section shall not require the state as a necessary party.

Title 10, Chapter 75, Article 3, Article Part 2, Section 7503-2.4 - Consent to and Relinquishment for Adoption

A. A consent to an adoption of a minor shall be in writing, recorded by a court reporter, and executed before a judge of the district court in this state and contain:

1. The date, place, and time of the execution of the consent;
2. The name and date of birth of the person executing the consent;
3. The current mailing address, telephone number, and social security number of the person executing the consent; and
4. Instructions that the consent is irrevocable, except upon the specific grounds specified in Section [7503-2.7](#) of this title, upon which the consent can be revoked and the manner in which a motion to set aside the consent must be filed.

B. A consent must state:

1. That the person executing the document is voluntarily and unequivocally consenting to the adoption of the minor;
2. An understanding that after the consent is executed, it is final and, except for fraud or duress, may not be revoked or set aside for any reason except as otherwise authorized by the Oklahoma Adoption Code;
3. That the person executing the consent is represented by counsel or has waived any right to counsel;
4. That the execution of the consent does not terminate any duty of the person executing the consent to support the mother or the minor until the adoption is completed;
5. That the person executing the consent has not received or been promised any money or anything of value for the consent, except for payments authorized by law;
6. Whether the individual executing the consent is a member of an Indian tribe and whether the minor is eligible for membership or the child is a member of an Indian tribe;
7. That the person believes the adoption of the minor is in the minor's best interest; and
8. That the person executing the consent has been advised that an adult adopted person born in Oklahoma, whose decree of adoption is finalized after November 1, 1997, may obtain a copy of such person's original certificate of birth unless affidavits of nondisclosure have been filed pursuant to Section [7503-2.5](#) of this title and that the consenting parent may file an affidavit of nondisclosure.

C. Before executing a consent, a minor twelve (12) years of age or older must have been informed by the court of the meaning and consequences of the adoption and the availability of social and medical history information, pursuant to Section [7504-1.2](#) of this title, when the minor turns eighteen (18) years of age.

D. When it appears to the court that the parent or guardian executing a consent desires counsel but is indigent and cannot for that reason employ counsel, the court shall appoint counsel. In all counties having county indigent defenders, the county indigent defenders shall assume the duties of representation in such proceedings.

E. The transcript of the court proceedings pursuant to this section shall be placed in the court record.

F. Except as otherwise provided by subsection K of this section, verification of the court shall be in substantially the following form:

I, _____, Judge of the District Court in and for _____ County, State of Oklahoma, a Court having original adoption jurisdiction, do hereby certify, that upon this day, _____ personally appeared in open Court, before me, and orally and in writing executed the above and foregoing Appearance and Consent to Adoption.

In executing this acknowledgment, I further certify that the said _____ acknowledged that the person executed said consent to adoption freely and voluntarily, and that it was explained to such person by or before me, the undersigned Judge of the District Court, that in executing the consent the person was surrendering all parental authority whatsoever over the minor; and that with such explanation made to the consenting person by or before me, the undersigned Judge of the District Court, the person executed the consent, freely, voluntarily and intelligently for all uses and purposes therein set forth.

I further certify that it was explained to the consenting person that this consent is irrevocable and final except for fraud or duress and may not be revoked or set aside except and unless no Petition to Adopt is filed within nine (9) months after placement of the minor or if this or some other court decides not to terminate the rights of the other parent of the minor. I further certify that I am satisfied that the consenting person understands the consequences of an adoption; the consenting person has represented that such person has not received or been promised any money or anything of value for the giving of consent except for those payments authorized by law; the consenting person has represented that such person is not under the influence of alcohol or medication or other substance that affects the person's competence; the parent fully understood the English language and communicated in the English language at all times during said hearing, or all information was translated into the consenting person's language, and was fully understood by the person; and if the consenting person was the biological parent, such parent was advised regarding the affidavit of nondisclosure.

G. A consent may be signed before any judge of a court having probate or adoption jurisdiction in this state or in the state of residence of the person executing the consent.

H. 1. a. If an individual whose consent is necessary resides in a country or place other than the United States of America, other than a member of the United States Armed Services stationed abroad, the consent of the individual to the adoption may be obtained by a written instrument signed by such person and acknowledged before an officer of the legal subdivision of the government of the place of such person's residence who is authorized to administer oaths under the laws of such country or place.

b. If the foreign country's government does not involve itself in adoption matters, the consent may be executed before an officer of the Judge Advocate General's Office of the United States Armed Services or before an officer of the United States Embassy located in that country, provided the execution of such consent is not a violation of the laws of the foreign country, or a violation of international law or treaty between the foreign country's government and the United States. The consent shall reflect that the consent is not given or accepted in violation of the laws of the foreign country or in violation of international law or treaty between such foreign country's government and the United States.

2. If an individual whose consent is necessary is a member of the United States Armed Services stationed in a country or place other than the United States, the individual's consent may be acknowledged before an officer of the Judge Advocate General's Office or other legal officer possessing the authority to administer oaths.

I. If the written instrument containing a consent to adoption is written in a language other than the English language, the petitioner must have it translated into the English language by a qualified translator, and must file the original instrument together with the translation with the court. The translation must be sworn to as being a true and correct translation by the person translating the document.

J. Except as otherwise required by subsection H of this section, when the person whose consent is or may be required resides outside of Oklahoma, the consent to adoption by such person may be executed in that state or country in the manner set forth in the Oklahoma Adoption Code or in the manner prescribed by the laws of the state or country of such person's residence.

K. 1. When the person whose consent is required is the Director or designee of the Department of Human Services for minors in the custody of the Department of Human Services, the contents of the consent need only contain the full name of the person executing the consent, that the person executing the consent is duly authorized by the Director to consent to the adoption, the full name of the child being adopted, and the names and addresses of adoptive petitioners.

2. The verification of the court shall be in substantially the following form:

I, _____, Judge of the District Court in and for _____ County, State of Oklahoma, a Court having original adoption jurisdiction, do hereby certify, that upon this day, _____ personally appeared in open Court, before me, and orally and in writing executed the above and foregoing Appearance and Consent to Adoption.

Title 58, Chapter 2, Section 44 - Probate of Wills - Recording of Testimony - Admissibility

The testimony of any witness or witnesses admitted at a hearing on a petition to probate a will shall be recorded in one of the following methods:

- (a) filing with the court clerk a written summary of the testimony, subscribed and sworn to by each witness in the presence of a judge having jurisdiction of probate matters; or
- (b) having the testimony taken down verbatim in shorthand, stenotype, or any other method approved by the court; or
- (c) having the testimony recorded verbatim by a sound recorder approved by the court; or
- (d) having the testimony recorded verbatim by an official court reporter.

If the testimony is recorded by one of the methods described in subdivisions (b) or (c), the same shall be transcribed, subscribed and sworn to by each witness, and filed with the court clerk. If the testimony is recorded by the method described in subdivision (d), the same shall be transcribed and certified by the official court reporter who took the testimony, and filed with the clerk of the court. Such evidence shall be admissible in any subsequent proceedings concerning the validity of the will, or the sufficiency of the proof if the subscribing witness is dead, or has permanently left this state.

APPEAL TIME SUMMARY

(Always check the statutes)

CIVIL APPEAL TIME LIMITS

1. Appellate Procedure

In appeals from a final judgment or order of the district court, unless otherwise provided by rule or statute, the record must be ready for transmission to the Supreme Court not later than six (6) months from the date of the judgment or order appealed.

2. County Budget

On an appeal from a final order of the court approving or disapproving the setting of a county budget the record shall be ready for transmission to the Supreme Court within thirty (30) days of the date of the judgment.

3. Driver License Appeals

An appeal prosecuted under the rules from a decision falling within the provisions of 47 O.S. § 6-211(M) (Driver License Appeals), the record shall be ready for filing within thirty (30) days from the date of the decision sought to be reviewed. The record is filed with the petition in error.

4. Water Conservancy Appeals

In appeals involving water conservancy districts, 82 O.S. § 545 and 82 O.S. § 508, the record shall be ready for transmission within the time limits prescribed in those statutes for filing the appeal [one-hundred-eighty days (180) days].

5. Petition For Writ Of Certiorari

The record must be ready thirty (30) days from the grant of certiorari. (12 O.S., Chap. 15, App. 1, Rule 1.54)

6. Probate

The record must be ready six (6) months from date of judgment.

7. Interlocutory Appeals

The record must be ready sixty (60) days from the filing of the order appealed (12 O.S., Chap. 15, App. 1, Rule 1.64).

8. Juvenile (deprived).

The record must be ready sixty (60) days from the date of the order appealed from. However, please note certain exceptions to the time requirement listed in the section concerning Criminal Appeals.

9. Adoption

The record must be ready no later than thirty (30) days from the date the petition in error is filed.

APPEALS TO THE COURT OF CRIMINAL APPEAL TIME LIMITS

1. Juvenile

Please note both Section VII of the Rules of the Court of Criminal Appeals and 10A O.S. § 1-5-101. A juvenile appeal may go to either the Supreme Court or the Court of Criminal Appeals. Appeals taken from a trial court's decision in a proceeding for an adjudication of juvenile delinquency or in a proceeding certifying a juvenile to stand trial as an adult or denying such certification, and a conviction as a youthful offender are taken to the Court of Criminal Appeals in the same manner as other appeals. The record on appeal of an order of adjudication or of an order certifying or denying certification of a juvenile to stand trial as an adult, shall be completed and the appeal perfected within sixty (60) days after the date of the order, however, the reporter is required to complete his\her portion of the record and file it with the district court clerk within forty (40) days.

2. Misdemeanors

Records must be filed within ninety (90) days from the date the judgment and sentence is pronounced (Rule 2.3 of the Rules of the Oklahoma Court of Criminal Appeals).

3. Felonies

Records must be filed within ninety (90) days from the date the judgment and sentence is pronounced in non-capital cases and within six (6) months in capital appeals.

4. Appeal by Certiorari from a Plea of Guilty

The certified copy of the original transcript of the proceedings in which the plea of guilty was taken must be filed within ninety (90) days from the date the judgment and sentence is pronounced.

5. Appeal from Adverse Ruling or Order of Magistrate

The appeal is to be set for hearing in the District Court twenty (20) days from the filing of the application. If the State appeals the matter to the Court of Criminal Appeals, the time frames listed above under Misdemeanors and Felonies apply.

CIVIL APPEALS

The Supreme Court Rules include the form for Designation of Record form for Appeal from District Court (see Supreme Court Form No. 11). Upon receipt of a Designation of Record from the appellant, the reporter should write a letter to the attorney of record informing him/her of the estimated amount due for the completed transcript and request a deposit before commencing preparation. A Counter Designation of Record must be filed in each case if the appellee wishes to designate additional record. Check the terms of this document before submitting an estimate to the appellant attorney so the entire estimation can be included. The reporter should receive a copy of the Counter-Designation of Record from the designating party, or his/her attorney. (See reference, 12 O.S. Ch. 15, App. 1, Rules 1.28 and 1.33.) The cost of transcribing additional portions of the proceedings shall be advanced by the original party taking the appeal, unless the trial court designates otherwise.

Title 12, Chapter 15, Section 990A - Appeal to Supreme Court of Oklahoma - Filing of Petition - Rules Procedure - Dismissal

A. An appeal to the Supreme Court of Oklahoma, if taken, must be commenced by filing a petition in error with the Clerk of the Supreme Court of Oklahoma within thirty (30) days from the date a judgment, decree, or appealable order prepared in conformance with Section 696.3 of this title is filed with the clerk of the trial court. If the appellant did not prepare the judgment, decree, or appealable order, and Section 696.2 of this title required a copy of the judgment, decree, or appealable order to be served upon the appellant, and the court records do not reflect the service of a copy of the judgment, decree, or appealable order to the appellant within three (3) days, exclusive of weekends and holidays, after the filing of the judgment, decree, or appealable order, the petition in error may be filed within thirty (30) days after the earliest date on which the court records show that a copy of the judgment, decree, or appealable order was served upon the appellant.

B. The filing of the petition in error may be accomplished either by delivery or mailing by certified or first-class mail, postage prepaid, to the Clerk of the Supreme Court. The date of filing or the date of mailing, as shown by the postmark affixed by the post office or other proof from the post office of the date of mailing, shall constitute the date of filing of the petition in error. If there is no proof from the post office of the date of mailing, the date of receipt by the Clerk of the Supreme Court shall constitute the date of filing of the petition in error.

C. The Supreme Court shall provide by rule, which shall have the force of statute, and be in furtherance of this method of appeal:

1. For the filing of cross-appeals;
2. The procedure to be followed by the trial courts or tribunals in the preparation and authentication of transcripts and records in cases appealed under this act; and

3. The procedure to be followed for the completion and submission of the appeal taken hereunder.

D. In all cases the record on appeal shall be complete and ready for filing in the Supreme Court within the time prescribed by rule.

E. Except for the filing of a petition in error as provided herein, all steps in perfecting an appeal are not jurisdictional.

F. 1. If a petition in error is filed before the time prescribed in this section, it shall be dismissed as premature; however, if the time to commence the appeal accrues before the appeal is dismissed, the appellant may file a supplemental petition in error, without the payment of any additional costs. Such supplemental petition in error shall state when the time for commencing the appeal began and shall set out all matters which have occurred since the filing of the original petition in error and which should be included in a timely petition in error. When a proper supplemental petition in error is filed, the appeal shall not be dismissed on the ground that it was premature.

2. If an appeal is dismissed on the ground that it was premature, the appellant may file a new petition in error within the time prescribed in this section for filing petitions in error or within thirty (30) days after notice is mailed to the parties which states that the appeal was dismissed on the ground that it was premature, whichever date is later. A notice that an appeal was dismissed on the ground that it was premature shall include the date of mailing and the ground for dismissal.

G. 1. No designation of record shall be accepted by the district court clerk for filing unless it contains one of the following:

a. where a transcript is designated: A signed acknowledgment from the court reporter who reported evidence in the case indicating receipt of the request for transcript, the date received, and the amount of deposit received, if applicable, in substantially the following form: I, _____, court reporter for the above styled case, do hereby acknowledge this request for transcript on this ____ day of ____, 20__, and have received a deposit in the sum of \$____., or

b. where a transcript is not designated: A signed statement by the attorney preparing the designation of record stating that a transcript has not been ordered and a brief explanation why, in substantially the following form: I, _____, attorney for the appellant, hereby state that I have not ordered a transcript because:

(1) a transcript is not necessary for this appeal, or

(2) no stenographic reporting was made.

2. This section shall not apply to counter-designations of record filed by appellees.

Oklahoma Supreme Court Rules. Part II. Appeals From Judgment Or Final Order Of The District Court

Title 12, Chapter 15, Appendix 1, RULE 1.28 - RECORD

(a) All Parties to an Appeal Must Designate a Record. All parties to an appeal shall file either a designation of record or counter designation of record using Rule 1.301, Form 11, or by completing the designation of record process through the OUCMS.

(b) Designation of Record. Concurrently with or prior to filing a copy of the petition in error in the trial court, the party desiring to appeal shall mail to the other parties or their counsel and file in the trial court from which the appeal is to be taken, a designation of any pertinent instruments filed in the case and of proceedings and evidence adduced which are sought to be included in the record on appeal. An original and one copy of the designation of record shall be filed in the trial court. If there is designated for inclusion in the record any evidence or proceeding at a trial or hearing which was stenographically reported, an additional copy of the designation shall be given to the court reporter, and the cost of preparing the transcript shall be advanced forthwith by the designating party.

The designation of record shall be made using the form prescribed by Rule 1.301, Form No. 11, or by the designation of record process in the OUCMS. Pleadings and other papers filed with the district court clerk in the case shall be designated by: 1. Circling the document on a copy of the court clerk's appearance docket, and attaching a copy of the appearance docket to the designation of record; 2. Listing the specific pleadings or other papers on the face of the designation of record form; or, 3. By selecting the items on the designation of record screens of the OUCMS. No designation of record which generally includes the entire trial court record shall be filed without order of the Chief Justice.

The record on appeal shall not include the following unless upon order of the trial court or appellate court, or unless the document is specifically drawn in issue by the appeal: subpoenas, summonses, certificates of service, returns and acceptances of service, and procedural motions or orders (e.g., continuances, extensions of time, etc.). Depositions filed but not offered or admitted into evidence must be excluded from the record on appeal. Materials which were not before the trial court at the time of the decision appealed are not properly part of the record on appeal without order of the trial court or the appellate court.

Appellant's designation of record submitted on Form No. 11 shall contain the certification by the court reporter when a transcript is ordered. See 12 O.S. § 990A(G). Alternatively, if using the OUCMS designation of record process, the appellant shall provide the court reporter's certification using the form prescribed by Rule 1.301, Form No. 11A. Form No. 11A shall be attached to the designation of record submission or shall be filed in the district court case before the designation

of record process is commenced and it must be selected during the designation of record process. The court reporter may sign Form No. 11A with an electronic signature. *See* Rule 1.301, Form No. 11A.

A copy of appellant's designation of record shall be filed in the Supreme Court at the time the petition in error is filed or at the time the designation of record is filed in the District Court, whichever occurs later. Nothing herein precludes the appellate court from ordering any additional parts of the entire trial court record to be transmitted to the appellate court at any stage of the appeal.

(1) *Designation of Record When the Record on Appeal Must Be Completed Earlier Than Six Months From the Date of Judgment.* When statute or court rule requires completion of the record earlier than six months from the date of judgment the appellant shall file the designation of record within such time as required by statute or rule specific for the appeal. When statute or rule does not specify the time to file the designation of record for such an appeal the designation shall be filed within such time so as to allow the filing of a counter designation and timely preparation of the record. Any party may seek appropriate relief in the trial court to require timely filing of designations of record and timely completion of the record.

(2) *County Budget Appeals.* In appeals from a final order of the district court approving or disapproving the setting of a county budget appellant's designation of record shall be filed in the trial court within five days after the date of the judgment. Appellee's counter designation shall be filed within five days after the designation of record is filed.

(3) *Juvenile Appeals.* In an appeal from a District Court to the Oklahoma Supreme Court and involving a judgment or order issued pursuant to Title 10 of the Oklahoma Statutes in paternity proceedings, or Oklahoma Children's Code proceedings, or Oklahoma Juvenile Code proceedings, or Oklahoma Adoption Code proceedings, (sometimes referred to as a "juvenile appeal"), appellant's designation of record shall be filed in the trial court within ten days of the date of the order appealed. Appellee's counter designation shall be filed within ten days after the designation of record is filed. *See* 10 O.S. § 80 (paternity appeal); 10A O.S. § 1-5-103 (Oklahoma Children's Code appeal); and 10 O.S. §§ 7505-2.1, 7505-4.1, & 7505-7.1 (Oklahoma Adoption Code appeal).

(c) Counter Designation of Record. All appellees (including counter-appellees and cross-appellees) shall file a counter designation of record in the trial court. The counter designation of record shall be made using the form prescribed by Rule 1.301, Form No. 11, or by completing the counter designation of record process through the OUCMS. If an appellee does not order transcripts or record in addition to that designated by the appellant the appellee's designation of record shall so state on the counter designation of record form. An original and one copy of the counter designation of record shall be filed in the trial court. If additional portions of the proceedings and evidence are designated, an additional copy of the designation shall be given to the court reporter.

The appellee's (counter-appellee's, cross-appellee's) counter designation of record shall be filed in the trial court within 20 days after appellant's (counter-appellant's or cross-appellant's) designation of record is filed in the trial court. The times to file a counter designation of record in specific appeals are provided by Rule 1.28(b)(1), (2), and (3). A copy of the appellee's (counter-appellee's, cross-appellee's) counter designation of record shall be filed in the Supreme Court at the time the response to the petition in error is filed or at the time the counter designation of record is filed in the District Court, whichever occurs later.

(d) Cost of Transcribing Trial or Proceedings. Each appellant (counter or cross-appellant) must timely advance the costs, including cost deposit for transcripts ordered by any party relating to the appeal of that appellant. The trial court may, after notice and prompt hearing for good cause shown, direct parties to pay costs for transcript preparation in another equitable manner, pending final allocation of costs at the termination of the appeal. Proceedings in the trial court regarding allocation of costs shall not delay the appellate proceedings.

(e) Failure to Advance Costs Promptly. If the party required to advance costs shall fail to do so within a reasonable time, the trial court shall so certify to this court. Failure to pay costs required by this Rule shall not be good cause for an extension of time to complete the record and shall be ground for dismissal of the appeal (counter-appeal or cross-appeal) or any other sanction the appellate court deems appropriate.

(f) Error in Assessing Costs Reviewable. Trial court's errors in assessing costs for transcribing designated portions of the record may be reviewed by the appellate court if challenged by any party. Trial court decisions in assessing costs for transcribing designated portions of the record may be challenged by an amended petition in error and subsequent brief in the appeal.

(g) Designation of Record by Stipulation of Parties. Instead of serving designations, the parties may designate the record on appeal by written stipulation. The stipulated designation of record may be filed conventionally or through the designation of record process of the OUCMS, and shall include a notation that the designation is stipulated by all parties. The stipulated designation of record shall be filed in the trial court within 10 days after the petition in error is filed. This time limit may be extended by the trial court. Where portions of the evidence must be transcribed and exhibits incorporated, a copy of the stipulation must be given to the court reporter and the cost of transcribing advanced.

The parties may not stipulate to designate the entire trial court record. The parties may not stipulate to designate items prohibited by Rule 1.28(b), unless the trial court or appellate court has authorized by order their inclusion in the record on appeal.

(h) Power of Court to Order Additional Record. Nothing provided in this rule shall prevent the trial court or an appellate court from ordering that any undesigned portions of the record be transcribed and from assessing the cost thereof.

(i) Transcript Designated and Furnishing Copy of Designation to Court Reporter. Transcripts shall be ordered using the Designation of Record Form, or the Designation of Record document

submitted through OUCMS, and a completed copy thereof shall be delivered to the court reporter and to every party when the designation of record is filed in the trial court. The transcripts and the particular trial or hearing exhibits necessary to a review of the issues briefed shall be clearly and separately designated on the form. "Transcripts" includes transcripts of videotape, audiotape or other magnetic media.

(j) Penalties for Designating Excessive Portions of Transcript. When this court determines on motion to tax costs made after the determination of the appeal but before mandate is issued that any party has designated for inclusion in the record on appeal unnecessary portions of the proceedings or evidence either at that party's expense or at the expense of another party, the costs of transcription attributable to the unnecessary portion shall be taxed against the designating party (or be ordered to be borne by such party).

(k) Fees for Assembling Record and Cost of Transcribing Trial or Proceedings in a Juvenile Appeal. In an appeal from a District Court to the Oklahoma Supreme Court and involving a judgment or order issued pursuant to Title 10 or 10A of the Oklahoma Statutes in paternity proceedings, or Oklahoma Children's Code proceedings, or Oklahoma Adoption Code proceedings, (sometimes referred to as a "juvenile appeal"), the fee for preparing, assembling, indexing, and transmitting the record for appellate review shall be paid in the manner provided by 28 O.S. § 162(E). After a petition in error is filed the District Court retains jurisdiction to facilitate the completion of the record and allocate the costs of its preparation. Okla. Sup. Ct. R. 1.37(a); 28 O.S. § 162(E). When parental rights are terminated the District Court retains jurisdiction to determine if a parent is indigent for the purpose of payment of the fee required by § 162(E) and payment for transcripts designated to be included in the record on appeal. *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996); Okla. Sup. Ct. R. 1.37(a); Okla.Sup.Ct.R. 1.28(d). Alleged error in a District Court's order adjudicating indigent status or in allocating the costs of transcripts may be challenged in the original appeal by filing in the Supreme Court an amended petition in error within thirty (30) days of the date of the District Court's order, or by filing in the original appeal in the Supreme Court a motion within thirty (30) days of the date the District Court's order is filed in that court. Okla.Sup.Ct.R. 1.28(f) & 1.37(b).

(l) Juror questionnaires.

(A) If appellate counsel designates the questionnaire of any juror, the Clerk of the District Court shall transmit the sealed original questionnaire(s) to the Clerk of the Supreme Court along with the rest of the appellate record. Only the attorneys of record on appeal may view the juror questionnaires at the office of the Oklahoma Supreme Court Clerk, and attorneys shall not remove the juror questionnaires from the custody of the Court. The attorneys of record on appeal may contact the Clerk to schedule a date and time when the questionnaires may be viewed. The sealed juror questionnaires may not be photocopied or removed from the Supreme Court Clerk office.

(B) After an appeal has been decided by this Court, or the Court has denied A petition for writ of certiorari, the Oklahoma Supreme Court Clerk shall continue to retain all questionnaires until the later of (1) the expiration of time for filing a petition for a writ of certiorari in the United States Supreme Court; or (2) the issuance of a notice of final disposition by the United States Supreme

Court. *See* Okla. Sup. Ct. R. 1.16 and Sup. Ct. R. 45-46. Thereafter, the Oklahoma Supreme Court Clerk shall destroy all originals and photocopies of juror questionnaires.

(C) Briefs and motions shall not refer to jurors by name, but shall use initials or juror number instead.

Title 12, Chapter 15, Appendix 1, Rule 1.33 - FORM AND CONTENTS OF RECORD

(a) Duties of Clerk to Assemble Record.

(1) Electronic Filing via OUCMS: Provided the Oklahoma Unified Case Management System (OUCMS) has been implemented in both the district and appellate court at the time the appeal is commenced, where any statute or court rule requires the district court clerk to prepare, certify, and transmit a record on appeal to the clerk of the appellate court, an Electronic Record (E-Record) transmitted through the OUCMS shall satisfy that requirement. The E-Record shall be a chronological compilation of all instruments on file which have been designated for inclusion in the record on appeal and all orders made in the trial court with respect to the content of the transcript and assessment of cost. The instruments in the electronic record, indexed and numbered consecutively, shall be certified under the seal of the clerk, using the Certification and Notice of Completion of Electronic Record form prescribed in Rule 1.301, Form No. 12A. The record will not be re-paginated. Although a number will be assigned to each document in the record on appeal, the original internal pagination of each document will remain unchanged. The E-Record shall be transmitted to the clerk of the appellate court at the same time as the Certification and Notice of Completion of Electronic Record form No. 12A. All designations of record shall be included in the record on appeal. A copy of the appearance docket as of the date the record is certified shall be included in the record on appeal. For items which are not capable of being electronically transmitted, the court clerk must mail or deliver the non-electronic items to the Clerk of the Supreme Court, numbered consecutively, indexed and bound, and certified under the seal of the clerk.

(2) Conventional Means: Where the OUCMS is not implemented in both the district and appellate court at the time the appeal is commenced, after the designations of the record are made, the clerk shall promptly assemble in chronological sequence all of the instruments on file which have been designated for inclusion in the record on appeal and all orders made in the trial court with respect to the content of the transcript and assessment of cost. The instruments, numbered consecutively, indexed and bound, shall be certified under the seal of the clerk. All designations of record shall be included. A copy of the appearance docket shall be included in the record on appeal.

(b) Abbreviation of Record; Certified Copies of Instruments.

If the items of an account or the pages attached to the pleadings be voluminous, the trial court may order the record to be abbreviated by a narrative description of the omitted instrument, or by omitting such instrument entirely. The trial court may direct, for good cause shown, that certified copies be substituted either for original instruments (or their portions) or for trial exhibits.

(c) Duties of Court Reporter to File Transcripts and Assemble Exhibits, Copy of Transcript Upon Payment, and Duty of Appellant to Monitor Preparation.

The original transcript indexed and certified as correct together with two (2) certified copies and the exhibits in the case if any shall be filed in the trial court by the court reporter. Transcripts shall be completed and filed in the trial court as soon as practicable after they have been ordered, and in any event within sufficient time to permit the court clerk to file the Notice of Completion of Record within six (6) months after the filing of the judgment, decree or order from which the appeal was taken. In district courts where the OUCMS is implemented, the court reporter shall follow any rules and/or procedures for filing of electronic transcripts which have been prescribed by the Supreme Court.

The trial exhibits shall be indexed and incorporated into the transcript either by reference or physical attachment, as the court reporter may deem advisable. However, only two dimensional exhibits no larger than 8 1/2" x 14" may be transmitted to the Supreme Court with the record, except upon order of the Court.

If any party desires a copy of a transcript for his or her sole use such party shall procure it from the court reporter upon payment of cost.

If a transcript is sought to be included in the record on appeal, it shall be the responsibility of the trial court to expedite the preparation thereof by such orders, prospective or retrospective, to assure the earliest possible completion of the record. The appellant has the burden of monitoring the preparation of the appellate record and seeking relief from the trial court for its timely completion.

(d) Definition of Record on Appeal.

The record on appeal shall consist only of those portions of the "entire trial court record" properly designated by a party to the appeal or ordered by the appellate court. The "entire trial court record" shall consist of all papers and exhibits filed in the trial court, the reporter's notes and transcripts of proceedings, and the entries on the appearance docket in the office of the trial court clerk. A copy of the appearance docket shall be included in the record on appeal.

Only papers filed and exhibits presented to the trial court together with transcripts necessary to the appeal may be included in the record on appeal.

(e) Access to the Record by Parties or Counsel.

Until a uniform rule of procedure has been promulgated by this court, the parties shall have access to the transcript and to the bound instruments on file in the trial court on such terms as that court may impose.

(f) Access to the Record by Parties or Counsel in Custody/Visitation Disputes.

When a parent intends to appeal a custody or visitation determination and the trial court has previously held an *in camera* interview with the child or children, and a transcript of the proceeding was taken either by order of the trial court or by request of the parties, the transcript shall be provided the parties upon request and payment of costs. If no appeal is taken, it is within the trial court's discretion whether to allow the parties access to the transcripts.

Title 12, Chapter 15, Appendix 1, Rule 1.34 TIME FOR COMPLETION OF RECORD

(a) Time to Make Record Ready for Transmission. The record on appeal shall be ready for transmission to this court not later than six months from the date of the judgment or order appealed. When statute or specific rule requires completion of the record earlier than six months from the date of judgment that statute or rule shall be followed. See, e.g., 1.34(b), (c), (d), and (e). Appellant must monitor the preparation of the record and seek the appropriate relief when necessary for its timely preparation. See Rule 1.33(c), Rule 1.34(g). All transcripts shall be ordered and designations of record made in sufficient time that the entire record on appeal (including transcripts) may be completed and transmitted within the time limits required by statute or these rules.

(b) County Budget Appeals. In appeals from a final order of the district court approving or disapproving the setting of a county budget the record shall be ready for transmission to this court within thirty (30) days of the date of the judgment. If a transcript is sought to be included in the record on review, it shall be the responsibility of the trial court to expedite the preparation thereof by such orders, prospective or retrospective, in effect as may seem proper to assure the earliest possible completion of the record.

(c) Driver's License Appeals.

(1) Conventional Means: In all appeals from decisions falling within the provisions of 47 O.S. § 6-211(M) (driver's license appeals), whether prosecuted under these Rules or under the cited section, the record shall be filed in the Supreme Court with the petition in error, except as provided in section (2) below.

(2) Electronic filing via OUCMS: Where the OUCMS has been implemented in both the district and appellate court at the time the appeal is commenced, the appellant shall electronically file a designation of record with the district court clerk and the appellate

court clerk no later than the date of the filing of the petition in error. The electronic record shall be prepared and transmitted by the district court clerk as in appeals from other final district court orders except that the record shall be transmitted to the Clerk of the Supreme Court by the district court no later than thirty (30) days after the petition in error is filed.

(d) Water Conservancy Appeals. In appeals involving water conservancy districts, 82 O.S. § 545 and 82 O.S. § 508, the record shall be ready for transmission within the time limits prescribed in those statutes for filing the appeal.

(e) Juvenile Appeals. In an appeal from a District Court to the Oklahoma Supreme Court and involving a judgment or order issued pursuant to Title 10 of the Oklahoma Statutes in paternity proceedings, or Oklahoma Children's Code proceedings, or Oklahoma Juvenile Code proceedings, or Oklahoma Adoption Code proceedings, (sometimes referred to as a "juvenile appeal"), the Notice of Completion of Record shall be filed in the Supreme Court immediately upon completion of the record on appeal. In all juvenile appeals other than appeals from adoption orders, the record on appeal shall be completed for transmission no later than sixty (60) days from the date of the order or judgment appealed. In appeals pursuant to the Oklahoma Adoption Code the record on appeal shall be completed no later than thirty (30) days from the date the petition in error is filed in the Oklahoma Supreme Court. *See* 10 O.S. § 80 (paternity appeal); 10A O.S. § 1-5-103 (Oklahoma Children's Code appeal); and 10 O.S. §§ 7505-2.1, 7505-4.1, & 7505-7.1 (Oklahoma Adoption Code appeal).

(f) Reserved.

(g) Extension of Date for Completion of Record. The appealing party, whether an appellant, counter or cross-appellant, bears responsibility to ensure timely preparation of an adequate record to review the issues urged by that party. The appealing party must timely order and pay for transcripts, designate record, monitor proper completion in the trial court, and request any extensions of time if necessary for the performance of duties of the court reporter or district court clerk.

To obtain an extension of time to file the Notice of Completion of Record in the Supreme Court the appellant must file a motion for extension of time prior to the due date of the Notice of Completion of Record. A court reporter or court clerk may not file a motion for extension of time to file the Notice of Completion of Record.

The appellant's motion for extension of time must show good cause for the extension. Good cause for the delay in completing the transcripts or compiling the record shall be shown by attachment of an affidavit of the court reporter or court clerk, as applicable. No more than one thirty (30) day extension of time shall be granted to file a Notice of Completion of Record. The motion must comply with Rule 1.6.

(h) Duties of Clerk on Completion of Record. The clerk of the trial court shall upon completing the record for the appeal:

I. file with the Clerk of the Supreme Court a Notice of Completion of Record (Rule 1.301, Form 12, with Index of Record attached) stating that the record on appeal has been completed for transmission, and the parties or their counsel have been notified, or for those clerks filing the record electronically through OUCMS, file the Certification and Notice of Completion of Electronic Record (Rule 1.301, Form 12A) at the time the electronic record is transmitted and;

II. notify all parties or their counsel when the record on appeal has been completed and Rule 1.301, Form 12 or Form 12A has been filed with the Supreme Court.

(i) Duty of Clerk if Designations Do Not Require Proceedings or Evidence to Be Transcribed.

If the designations do not require any part of the proceedings or evidence to be transcribed, the clerk shall immediately file a Notice of Completion of Record with the Clerk of the Supreme Court and notify the parties that the record on appeal has been completed, is ready for transmission to the court, and that a Notice of Completion of Record has been filed. For those clerks filing the record electronically through OUCMS, the clerk shall file the Certification and Notice of Completion of Electronic Record (Rule 1.301, Form 12A) at the time the electronic record is transmitted.

(j) Record in Appeals From Summary Judgments and Dismissals. In appeals from summary judgments and dismissals governed by Rule 1.36 the record is required to be filed with the petition in error and any supplement may be filed with the response to the petition in error, as provided therein. In appeals filed electronically through the OUMCS, the record shall be completed and transmitted in the same manner as appeals from other district court final orders or judgments, but in any event, no later than 60 days after the petition in error is filed.

(k) Duties of Court Clerk when Unable to Complete E-Record

When unable to complete the E-Record within the prescribed time, the clerk of the trial court shall:

I. file with the Clerk of the Supreme Court a Notice of Non-Completion of E-Record (Rule 1.301, Form 12B) stating the reason(s) that the record on appeal cannot be completed and that the parties or their counsel have been notified, and;

II. send a copy of Form 12B to all parties or their counsel.

Title 12, Chapter 15, Appendix 1, Rule 1.35 FEES FOR ASSEMBLING RECORD AND TRANSCRIBING PROCEEDINGS

The fees which the clerk of the trial court shall be paid for preparing, filing and transmitting the record and the fees to which the court reporter shall be entitled for transcribing notes of testimony and proceedings and for copying any papers required by the trial court or this court to be copied

shall be those which are now or subsequently may be provided by statute. The required fee for preparing and transmitting the record shall be paid by the party taking the appeal. 28 O.S.Supp.2000 § 155.1. The costs of transcribing proceedings is governed by Rule 1.28. See Okla.Sup.Ct.R. Rule 1.28(k) for payment of record fee and transcription costs in appeals from orders and judgments in specified Oklahoma Title 10 proceedings.

Oklahoma Supreme Court Rules. Part III(A). Review Of Certified Interlocutory Orders Pursuant To 12 O.S.1991 952, Subdiv. (B)3

Title 12, Chapter 15, Appendix 1, Rule 1.54 Record

(a) Record on Certiorari.

The record shall be prepared in the same manner as that prescribed for perfecting an appeal from a final judgment or final order of the district court, except that petitioner for certiorari shall file and serve petitioner's designation of instruments to be included or portions of the evidence to be transcribed, within ten (10) days after this court grants certiorari. The record shall consist of the same materials as those set forth in Rule 1.33(d).

(b) Record Required.

The court may, in its discretion, at any time before certiorari is granted to review the interlocutory order, require the petitioner to supply the record prepared under the rules herein prescribed.

(c) Time for Completion and Transmission of Record on Certiorari.

The record shall be ready for transmission to this court not later than 30 days from the date certiorari is granted. If a transcript is sought to be included in the record on review, the trial court shall expedite the preparation thereof by such orders, prospective or retrospective in effect, as may seem proper to assure the earliest possible completion of the record. The petitioner must seek the appropriate order from the trial court to expedite the preparation of the record when necessary. On completion of the record the clerk of the trial court shall perform the duties required by Rule 1.34(h).

(d) Extension of Time to Complete and Transmit Record on Certiorari.

To obtain an extension of the time limit prescribed in Rule 1.54(c) for completing the record good cause must be shown in this court in the manner provided in Rule 1.34(g).

(e) Fees to be Charged for Record.

The fees which the clerk of the trial court and the court reporter shall charge shall be the same as those prescribed in Rules 1.28 and 1.35.

Oklahoma Supreme Court Rules, Part III(B). Appeals From Orders Granting A New Trial Or Vacating A Judgment And From Orders Dealing With Attachments, Temporary Injunctions, Receivers, And Other Provisional Remedies

Title 12, Appendix 1, Rule 1.64 - Record

The record shall be designated and prepared in the same manner as that prescribed for perfecting an appeal from a final judgment or final order of the district court. See Rules 1.28 through 1.34.

If transcripts are ordered the Notice of Completion of Record (Rule 1.301, Form No. 12) shall be filed within sixty (60) days of the filing of the interlocutory order. The record shall consist of the same items as in appeals from final decisions of a district court (Part II of these Rules, See Rule 1.33).

If a transcript is designated for inclusion in the record on appeal, it shall be the responsibility of the trial court to expedite the preparation thereof by such orders, prospective or retrospective in effect, as may seem proper to assure the earliest possible completion of the record. Appellant bears the burden of monitoring the preparation of the record and requesting the appropriate relief from the trial court for the timely preparation and completion of the record.

Oklahoma Supreme Court Rules. Part IV(c). Proceedings To Review A Decision Of The Workers' Compensation Court

Title 12, Appendix 1, Rule 1.104 – Record

(a) Ordering Transcripts and Filing Designation.

The party seeking review shall order any transcripts and file the designation of instruments and proceedings for inclusion in the record no later than the date of filing the petition for review. See Rule 1.76 and Rule 1.301, Form No. 15. Any additional transcripts shall be ordered and any counter-designation of record shall be filed within ten (10) days after the filing of the petition for review. If a transcript is sought to be included in the record on review, it shall be the responsibility

of the trial judge or the presiding judge to expedite the preparation thereof by such orders, prospective or retrospective in effect, as will assure the earliest possible completion of the record.

(b) Contents of Record.

The instruments designated by the party or parties bound by the court clerk, together with the original of the court reporter's transcript and exhibits incorporated therein (if portions of proceedings or evidence were designated for inclusion), shall constitute the record in the proceeding for review. Only two dimensional exhibits no larger than 8 1/2" x 14" may be transmitted to the Supreme Court with the record, except upon order of the Court. A copy of the appearance docket shall be included in the record for the proceeding for review.

(c) Preparation of Record.

After a designation of record has been filed, the court clerk shall promptly assemble in chronological sequence all of the designated instruments on file. These instruments shall be certified under the seal of the court clerk. All designations of record shall be included. The form of the record shall comply with Rule 1.76.

(d) Court Clerk and Notice of Completion of Record.

The court clerk shall file and mail to all parties a Notice of Completion of Record within forty-five (45) days from the date the petition for review is filed in the Supreme Court. See Rule 1.301 Form No. 17. Failure to timely file a Notice of Completion of Record within the time prescribed herein will result in the Court's dismissal of the proceeding for review sua sponte.

(e) Extension of Time to Complete Record.

The time limit prescribed in this Rule for completing the record may be extended for an additional period of time not to exceed thirty (30) days by this Court upon application and good cause shown. Extensions of time to complete record are governed by Rule 1.76.

(f) Record in Pro Se Review.

Where the party seeking review is acting pro se, and no designation of record is filed by the pro se party, the clerk shall prepare the entire court file as the record. Duties as to ordering and paying costs of transcripts are not affected by the fact that the party seeking review is acting pro se.

FILING THE TRANSCRIPT - CIVIL APPEALS

An original transcript, indexed and certified as correct, together with two copies of the transcript should be filed in the trial court by the court reporter. Exhibits are filed with the original transcript. There should be prepared an original and one copy of a Notice of Filing for the clerk to sign. This notice should contain:

- 1. The style of the case;*
- 2. The date the reporter filed the transcript;*
- 3. How many copies were filed;*
- 4. How many pages were contained therein;*
- 5. Whether any exhibits and/or written questions from the jury were filed with the appeal, and where they are contained; and,*
- 6. A signature line for the court reporter and a signature line for the clerk to verify receipt of same.*

List the exhibits and questions from the jury to be filed in the Notice of Filing. Indicate where they are filed, such as in a manila envelope, in the original transcript, etc. If exhibits are too numerous to be stored in a single envelope or container, make a separate list as part of the Notice of Filing, indicating where they are contained.

For protection, every time a reporter files a transcript, whether it is on appeal or not, it is wise to prepare and file a Notice of Filing or a receipt and keep a copy in the reporter's records. If, by some mistake, the transcript should be misplaced, this is proof that the transcript has been prepared and filed.

The reporter should file the original of this notice with the Court Clerk and retain a copy. The reporter should also have the clerk sign his/her copy as well.

Copies for Counsel

An original and two copies of the transcripts and the exhibits of any appeal are always filed with the Court Clerk. Attorneys may then withdraw a copy of the transcript with the permission of the trial court.

Rule 1.33 of the Rules of the Oklahoma Supreme Court states:

- (c) The original transcript indexed and certified as correct together with two (2) certified copies and the exhibits in the case if any shall be filed in the trial court*

by the court reporter. . . . If any party desires a copy of a transcript for his or her sole use such party shall procure it from the court reporter upon payment of cost.

Rule 1.33 further states:

- (e) Access to the record by parties or counsel. Until a uniform rule of procedure has been promulgated by this court, the parties shall have access to the transcript... on file in the trial court on such terms as that court may impose.

Under no circumstances should a transcript for appeal be released to anyone other than the Court Clerk. When a transcript is completed, it is the reporter's duty to notify counsel of its completion and the amount due and owing. Never file any transcript before it is paid in full except in indigent cases.

CIVIL EXHIBITS

In the District Courts of Oklahoma, the court reporter is responsible for the marking and maintaining of exhibits until such time as they are filed with the court clerk or released to the submitting party.

Rule 1.33 (c) of the Oklahoma Supreme Court Rules, entitled “Duties of Court Reporter to File Transcripts and to Assemble Exhibits, Copy of Transcript Upon Payment, and Duty of Appellant to Monitor Preparation” reads, in part, as follows: “ ... The trial exhibits shall be indexed and incorporated into the transcript either by reference or physical attachment, as the court reporter may deem advisable. However, only two dimensional exhibits no larger than 8 1/2 x 14” may be transmitted to the Supreme Court with the record, except upon order of the Court.”

In addition to keeping track of exhibits in the courtroom, the reporter will retain control of the exhibits, whether admitted or not admitted. At the conclusion of a day's proceedings, all exhibits should be in the custody of the reporter. Exhibits excluded from evidence by the court may raise an important issue on appeal and, therefore, they should likewise be retained, unless agreed by all parties that said exhibits may be withdrawn.

Upon conclusion of civil proceedings, exhibits are to be maintained in an orderly fashion, either chronologically or by case number. An exhibit information sheet should be kept with the exhibit file. If any exhibit is filed separately, due to size or volume, it must be clearly marked with its exhibit number, the case style, the date and the reporter's name. Make a note on the exhibit information sheet as to the location of same in order that it may be easily located.

Exhibits introduced in civil proceedings are not to be released to private individuals without order of the court. If the exhibits are not to be included as part of an appeal, the reporter may return the exhibits to the respective parties via their attorneys. The attorney should sign a receipt before receiving exhibits. Court reporters should consult with their submitting party. If the appeal time has not expired, always request an order signed by a judge allowing for the release of exhibits. Keep a copy of the release and/or order in the exhibit file.

Filing exhibits. When exhibits are few in number and not of voluminous or unwieldy size, they should be physically attached to the original transcript.

If the exhibits are too numerous to be filed in the original transcript, they shall be placed in a manila envelope, with the case style and exhibit contents listed on the front.

When a transcript is filed with the court clerk, regardless of whether or not it is on appeal, file all exhibits or photographs of exhibits in the case, even though some may not be admitted nor designated. They may be an important issue on appeal or further proceedings in the case. Information as to the filing of exhibits should be included in the Notice of Filing.

The court reporter must document when exhibits leave his or her custody. When exhibits are withdrawn, a copy of the receipt should be kept in the exhibit file. When exhibits are filed with the court clerk, the filing should be documented on your information sheet. If a case is settled, the exhibits may be returned to the counsel for the parties.

In the Workers' Compensation Court, the reporter is not involved in the custody and maintenance of exhibits, as they are marked by the court at the time of trial and maintained in the court file.

EXTENSION OF CIVIL APPEAL TIME

When the last day of the appeal period falls on a day when the clerk's office is not open for the performance of public business, the appeal may be filed on the next day that the clerk's office is open for the performance of public business. (Rule 1.3 of the Oklahoma Supreme Court Rules)

The provisions of Rule 1.34 of the Oklahoma Supreme Court Rules govern the procedures required for the extension of time for the completion of record. It may become necessary for the reporter to prepare an affidavit for extension of appeal time in certain instances. For example:

1. An attorney did not serve the reporter in a timely fashion with a Designation of Record;
2. No deposit or late deposit provided to the reporter, therefore no transcript prepared, or;
3. Extraordinary reporter workload.

Oklahoma Supreme Court Rules. Article Part II. Appeals From Judgment Or Final Order Of The District Court

RULE 1.34 - TIME FOR COMPLETION OF RECORD

(g) Extension of Date for Completion of Record. The appealing party, whether an appellant, counter or cross-appellant, bears responsibility to ensure timely preparation of an adequate record to review the issues urged by that party. The appealing party must timely order and pay for transcripts, designate record, monitor proper completion in the trial court, and request any

extensions of time if necessary for the performance of duties of the court reporter or district court clerk.

To obtain an extension of time to file the Notice of Completion of Record in the Supreme Court the appellant must file a motion for extension of time prior to the due date of the Notice of Completion of Record. A court reporter or court clerk may not file a motion for extension of time to file the Notice of Completion of Record.

The appellant's motion for extension of time must show good cause for the extension. Good cause for the delay in completing the transcripts or compiling the record shall be shown by attachment of an affidavit of the court reporter or court clerk, as applicable. No more than one thirty (30) day extension of time shall be granted to file a Notice of Completion of Record. The motion must comply with Rule 1.6.

It is important that the reporter prepare his/her own affidavit. Be cautious of signing affidavits prepared by another party that may incorrectly state the reason for the extension.

Provide the attorney with the affidavit and keep a file copy. The attorney will file his Application/Motion for Extension of time and the reporter's affidavit. The attorney should then notify the reporter if and when an extension is granted and the length of time allowed.

CRIMINAL APPEALS

Notice of Appeal

The defendant must, within ten (10) days from the date the Judgment and Sentence is imposed, or an order grants the appeal out of time, file with the trial court clerk a Notice of Intent to Appeal and Designation of Record. A certified copy of the document is filed with the Clerk of the Court of Criminal Appeals. A copy of the Designation of Record is served on the trial judge and the district attorney. An additional copy is served on and receipt is acknowledged by the court reporter at the time of filing or immediately thereafter. The designation of record for the transcript of evidence must specify that part of the record transcribed by the court reporter is to be included in the original record on appeal. The defendant must specifically state in the designation that he requests the entire record be included, if that is his wish. In capital cases, the voir dire must be included. (see 22 O.S., Chap. 18, App., Rule 2.5)

The court reporter and counsel, at the time the designation of record is served on the reporter, should make arrangements for the payment of costs, unless the appeal is at public expense. If the appealing party's designation of record does not specify the entire record,

then the opposing party or the trial judge has thirty (30) days after being served with the brief in chief to file a counter-designation of record. Unless the trial court orders otherwise, the cost for the counter-designation of record is borne by the appealing party.

RULES OF THE COURT OF CRIMINAL APPEALS

SECTION I. GENERAL RULES OF THE COURT AND DEFINITIONS

Title 22, Chapter 18, Appendix, Rule 1.0 Scope of Rules

- A. The Rules of the Court of Criminal Appeals shall apply to all appeals and proceedings in this Court. *See* Section [1051 of Title 22](#).
- B. The Rules set forth in Sections I, II and III shall apply in all appeals, unless a specific provision to the contrary appears in the Sections governing specific appeals.
- C. All references to statutes are to Oklahoma Statutes unless otherwise noted.
- D. Citation to the Rules of this Court shall be in the following format: Rule ____, *Rules of the Oklahoma Court of Criminal Appeals*, Title 22, Ch.18, App. (year).

Title 22, Chapter 18, Appendix, Rule 1.2 Methods for Bringing Appeals and Original Actions.

A. Regular Appeals.

- (1) Felony and Misdemeanor Appeals. Sections II, and III of these Rules. Appeals from Municipal Courts of Record, Section 28-128 of Title 11 and Capital Cases, Section 701.13 of Title 21 , are included within this class of appeals. PROVIDED HOWEVER, the specific provisions of Sections VII and IX shall control in Juvenile and capital cases, respectively, over the general provisions of Sections II and III.
- (2) Certiorari Appeals. Section IV of these Rules.
- (3) State or Municipality Appeals.
- (a) Appeals from Adverse Ruling of Magistrate. *See* Sections VI and XI of these Rules; Sections 1053, Sections 1089.1 through 1089.7 of Title 22.
 - (b) Appeals in Juvenile and Youthful Offender Cases. *See* Sections VII and XI of these Rules.
 - (c) Other State appeals. *See* Sections II and III of these Rules; Sections 1053 and 1053.1 of Title 22.
- (4) Juvenile and Youthful Offender Appeals. Sections VII and XI of these Rules.

(5) Resentencing Appeals. Sections II and III of these Rules for appeals pursuant to Section 929 of Title 22. Sections II, III and IX for appeals pursuant to Sections 701.10a and 701.13 of Title 21.

(6) Expungement of Records. (22 O.S.Supp.2002 § 19(C), placed jurisdiction for appeals of expungement orders in the Oklahoma Supreme Court).

B. Original Proceedings. Section X of these Rules.

C. Post-conviction Appeals. Section V of these Rules, and in capital cases the requirements of Section IX. *See* Sections 1087, 1088.1 and 1089 of Title 22.

D. All Other Appeals

(1) Revocation of Parole. Procedures for review of revocation of parole are governed by the Post-Conviction Procedure Act, Sections 1080 to 1089 of Title 22 and Section V of these Rules.

(2) Bail Pending Trial or Appeal. Excessive bail or denial of bail is governed by habeas corpus proceedings pursuant to Section 1079 of Title 22 and Section X of these Rules.

(3) Disqualification of Judges. Review of failure to disqualify by a judge in a criminal case is governed by Section 1403 of Title 20; Ch. 2, App., Rules 15 for District Court of Oklahoma and 15.1 of Title 12 , and Section X of these Rules. *See also* Code of Judicial Conduct, Ch. 1, App. 4, Title 5.

(4) Revocation of Suspended Sentence. Review of an order revoking a suspended sentence is governed by the same procedure as perfection of a regular misdemeanor or felony appeal. *See* Section 991(b) of Title 22 , and Sections II, and III of these Rules. However, the scope of review is limited to the validity of the revocation order. The appropriate appeal time commences upon imposition of the order revoking suspended sentence. The validity of the predicate conviction can only be appealed through a separate appeal pursuant to the regular felony and misdemeanor procedures of these Rules, Sections II and III, or the certiorari procedure, Section IV of these Rules.

(5) Deferred Judgment and Sentence.

(a) Appeal of Imposition of Order Deferring Judgment and Sentence. *See* *Gonseth v. Oklahoma*, 1994 OK CR 9, 871 P.2d 51, and *Lookingbill v. State*, 2007 OK CR 7, 157 P.3d 130 .

(i) A defendant may appeal the terms of probation imposed as a part of the Order Deferring Imposition of Judgment and Sentence, separate from or together with the validity of the plea entered at the time the order is entered. Failure to appeal the terms of the Order Deferring Imposition of Judgment and Sentence does not preclude a defendant's right to a certiorari review of the validity of the plea in accordance with this Rule if the order deferring is accelerated at a future date with Judgment and Sentence imposed.

(ii) A defendant who seeks to only appeal the terms imposed by the trial court as a condition for deferral of Judgment and Sentence may appeal under the Rules for regular misdemeanor or felony appeals. *See* Sections 1051 and 991c of Title 22; and Sections II, and III of these Rules. The scope of review will be limited to the validity of the conditions of probation set out in the Order Deferring Imposition of Judgment and Sentence.

(iii) A defendant who receives a deferral of Judgment and Sentence after pleading guilty or nolo contendere may challenge the terms of the deferral, seek to withdraw his or her plea, or challenge both such terms and plea, pursuant to the provisions of a regular appeal. Any person wishing to challenge the validity of the plea of guilty must comply with the provisions of Rule 4.1 . PROVIDED HOWEVER, failure to challenge the validity of the plea at the same time a defendant appeals the terms of probation imposed by the deferral will constitute a waiver of the right to challenge the plea's validity in any future proceeding.

(iv) The appeal time commences upon the imposition of the order deferring Judgment and Sentence.

(b) Acceleration Proceeding. A defendant who wishes to challenge only errors in the acceleration proceeding shall perfect an appeal in accordance with Sections II, and III of these Rules. The appeal time commences upon the imposition of Judgment and Sentence after acceleration of sentencing. The scope of review will be limited to the validity of the acceleration order.

(c) **Withdrawal of Plea After Acceleration.** In addition to appealing the validity of the acceleration order, a defendant who pled guilty or nolo contendere and seeks to withdraw his plea shall appeal by certiorari pursuant to Section IV of these Rules as a part of the appeal of the validity of the acceleration order; PROVIDED HOWEVER, a defendant who appealed after the order deferring sentence pursuant to Subsection (a) of this Section shall not have the right to challenge the validity of the plea after the order deferring has been accelerated and the Judgment and Sentence has been imposed.

(6) **Termination from Drug Court**

(a) Same procedure as appeal from Acceleration of Deferred Sentence set out in paragraph 5(b) above. See *Hager v. State*, [1999 OK CR 35](#), ¶12, [990 P.2d 894](#), 898.

(7) **Judgment and Sentence in Contempt Cases Within the Jurisdiction of the Court of Criminal Appeals** . Review of the Judgment and Sentence in contempt cases within the jurisdiction of this Court is governed by the Misdemeanor Rules of Sections II, and III of these Rules. See Sections 565-568 of Title 21.

(8) **Order of Detention for Non-Payment of Fines or Costs.** Review of a final order of detention for a defendant's non-payment of fines, costs, or other assessments ordered paid as part of judgment and sentence is governed by Section VIII of these Rules.

(9) **Judicial Review of Prison Disciplinary Proceedings Revoking Earned Credits.** Section XV of these Rules governs appeals from a District Court's final order entered pursuant to Section 564.1 of Title 57 upon a Petition for Judicial review of Prison Disciplinary Proceedings that resulted in Revocation of Earned Credits.

Title 22, Chapter 18, Appendix, Rule 1.4 - Computation of Time for Appeal

The computation of the time period for perfecting an appeal commences to run on the date the Judgment and Sentence is pronounced or, in the case of a resentencing appeal, when the new sentence is pronounced in open court. In computing a time limit prescribed in these Rules, the first day shall be excluded and the last included to complete the time period, as follows:

A. Misdemeanor and Felony Appeals . An appeal from any misdemeanor or felony conviction, except capital cases, must be perfected by the filing of the petition in error, original record,

transcripts and evidence within ninety (90) days from the date the Judgment and Sentence is pronounced. *See* Section 1054 of Title 22.

B. Capital Appeals . An appeal from a conviction for Murder, First Degree, where the death penalty is imposed must be perfected by the filing of the petition in error, original record, transcripts and evidence, and trial judge's report within six (6) months from the date the Judgment and Sentence is pronounced. *See* Section 701.13 of Title 21.

C. Other Regular Appeals

(1) State appeals, except for juvenile cases, must be perfected within the time limits as set out in Subdivision A, commencing from the date of the order entered by the trial court.

(2) Resentencing appeals must be perfected as set out in Subdivision A for misdemeanor and felony appeals, and Subdivision B for capital appeals.

(3) Certiorari appeals must be perfected as set out in Section IV.

(4) Juvenile appeals must be perfected as set out in Sections VII and XI.

Title 22, Chapter 18, Appendix, Rule 1.13 Definitions

A. Judgment and Sentence. The formal instrument which reflects the Judgment and Sentence of the trial court and the date it was pronounced. *See* Rule 2.1 (B)(4).

B. Original Record. All instruments filed with the clerk of the trial court during the trial proceedings, in chronological order, preceded by an index, as designated.

C. Transcript of Evidence. The reported transcript of all proceedings designated on appeal, together with required copies or photos of all exhibits attached, prepared by a certified or licensed shorthand reporter or a reporter appointed in compliance with [Section 106.3B of Title 20](#) . *But see* [Rule 2.2](#) (B)(4).

D. Notice of Intent to Appeal. A written instrument in the form prescribed by this Court filed by trial counsel serving notice to the trial court of the appealing party's intent to appeal the conviction or order, and filed with the clerk of the trial court, and a certified copy filed with the Clerk of the Court of Criminal Appeals. *See* [Rule 1.14](#) (C).

E. Designation of Record. The instrument filed by trial counsel with the clerk of the trial court and the Clerk of the Court of Criminal Appeals designating the records to be filed on appeal. It shall include that portion of the original record and that portion of the transcript of evidence which the appealing party requests in order to perfect the appeal. It shall list in specific terms the items to be included on appeal. Use of terms such as "All proceedings where a court reporter was present" are not sufficiently specific for the purpose of requiring transcripts to be prepared. Transcripts shall be requested by date and type of hearing to be transcribed.

F. Record on Appeal. The record on appeal consists of the Petition in Error, three (3) certified copies of the original record and, the original and two certified copies of the transcript of evidence and the exhibits incorporated therein, if any portions of the proceedings or evidence were designated for inclusion. In capital cases, the record on appeal consists of the Petition in Error, four (4) certified copies of the original record, and the original and three (3) certified copies of the transcript of evidence and the exhibits incorporated therein. *See* Section [1089](#) (B) of Title 22.

G. Certiorari on Plea of Guilty or Nolo Contendere. The only method of appeal from a conviction on a plea of guilty or nolo contendere entered in the trial court. *See* Section IV of these Rules.

H. Post-Conviction Remedies. Remedies available after the regular appeal period has lapsed or mandate issued. Sections [1080](#) to [1089](#) of Title 22. *See* Section V of these Rules. PROVIDED HOWEVER, capital cases are subject to specific remedies set out in Rule 9.7.

I. Capital Cases. Any case (including post-conviction applications) in which the death penalty has been imposed. *See* Section IX of these Rules.

J. Resentencing Appeal. An appeal from a resentencing proceeding conducted by the trial court. *See* Section [929](#) of Title 22 and Section [701.10a](#) of Title 21.

K. Tendered for Filing. Any document, other than the record on appeal and briefs filed as a matter of right pursuant to [Rule 3.4](#) , offered by a party, which that party seeks to have admitted into the record before the Court of Criminal Appeals shall be presented to the Clerk of this Court, who shall stamp it tendered for filing, enter it on the docket as tendered, and submit to the Court for a decision whether to grant or deny the tendered document. Documents tendered for filing shall not be a part of the record of the pending appeal unless an order granting the acceptance of the document is entered by the Court.

L. Verification/Notary Public. For the purpose of these Rules when a Rule or Form requires that a document be verified before a Notary Public or other person authorized to administer oaths, it shall be sufficient if the person required to verify the document or form complies with the provisions of [12 O.S.Supp.2004, § 426](#), and verifies utilizing the statutory verification as follows: "I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct. (Date and place) (Signature)" with the date and place printed on the line and the name printed under the signature.

Title 22, Chapter 18, Appendix, Rule 1.15 - Use of Court Reporter's Transcripts and Recordings by Appellate Indigent Defender

In order to expedite the criminal appeal process and to prevent unnecessary expense to local court funds, in indigent criminal appeals assigned to an appellate indigent defender in accordance with [Section 1051 of Title 22](#), the following provisions are made:

A. When the court reporter transcribes the trial transcript of testimony for an indigent defendant, an original and two (2) copies (original and three (3) copies in capital cases) are to be filed in the trial court clerk's office in accordance with [Rule 3.2](#) (C).

B. An appellate indigent defender is required to review the statement of appealable issues attached as Exhibit B to the notice of intent to appeal and discuss the viability of issues for appeal with trial counsel prior to filing a supplemental designation of record, if supplementation is required. Any supplemental designation of record shall set forth why the additional record is required and include only those portions of the record necessary to address the propositions to be raised. Any supplemental designation of record shall include a signed acknowledgement of receipt of the additional designation from each court reporter responsible for preparing the record. The acknowledgement may be part of the designation of record filed or a signed certified mail return receipt card acknowledged by the reporter with an affidavit of mailing executed by the attorney requesting the additional record attached to it.

C. In the event some portion of the trial proceeding was not transcribed and was not included in trial counsel's designation of record and the appellate indigent defender feels that portion should be provided, as an alternative, the court reporter may make available to the appellate indigent defender the electronic recording, or a copy of that recording. The appellate indigent defender may review it to determine what portion of the record should be transcribed.

D. In the event partial transcripts have been prepared during trial, at the time Judgment and Sentence is imposed those transcripts must be filed with the trial court clerk, together with all transcripts of pre-trial motions and preliminary hearings. See [Rule 3.2](#)(E).

SECTION II. INITIATING AN APPEAL FROM THE TRIAL COURT

Title 22, Chapter 18, Appendix, Rule 2.1 - Initiating an Appeal (Motion for New Trial, Commencement of Appeal, Filing of Appeal Records, Appeals by the State, Appeals Out of Time)

A. Motion for New Trial. A motion for new trial based on newly discovered evidence is governed by Sections 952 and 953 of Title 22, and in the Post-Conviction Procedure Act, Sections 1080 through 1089 of Title 22.

(1) In the event a motion for new trial based on newly discovered evidence is filed after the Judgment and Sentence is pronounced by the trial court, but before an appeal has been perfected by the filing of the Petition in Error in this Court, the motion must be filed with the clerk of the District Court, accompanied by affidavits in support, and a copy must be served on the trial judge and the district attorney. The motion shall also request a hearing date be set within twenty (20) days, with postponement only at the trial judge's discretion. If the motion has not been ruled on within the time in which an appeal has been perfected to this Court, the trial court shall have continuing jurisdiction to rule on the motion, but in no event shall the ruling be delayed more than thirty (30) days after the appeal has been perfected. The filing of the motion in the trial court shall not stay proceedings or absolve the defendant from the duty to file the appeal in this Court within the time provided by law.

(2) PROVIDED HOWEVER, if the motion for new trial is filed within ten (10) days of the date the Judgment and Sentence is imposed in open court, the filing of the Notice of Intent to Appeal and Designation of Record (Form 13.4) shall be stayed until the trial court rules on the pending motion. If a motion for new trial is filed within ten (10) days from the imposition of Judgment and Sentence in open court, the trial court shall hold a hearing on the motion and enter its order granting or denying the motion within thirty (30) days from the date the motion is filed. If the motion is denied, the defendant shall then file, within ten (10) days of the order denying the motion, the Notice of Intent to Appeal and Designation of Record pursuant to Rule 2.1 (B). If the trial court fails to hold the hearing within thirty (30) days, the defendant may seek extraordinary relief with this Court. *See* Section 1054.1 of Title 22 and *Steffey v. State*, 916 P.2d 263 (Okl.Cr.1996).

(3) If a motion for a new trial on newly discovered evidence is filed after an appeal has been perfected in this Court and prior to the expiration of one (1) year from the date that the Judgment and Sentence is pronounced, the motion shall be filed with the Clerk of this Court. *See* Section 953 of Title 22. The motion shall contain all the allegations required in the trial court and must be accompanied by affidavits and a supporting brief at the time of filing. This Court may dispose of the motion on the pleadings and the accompanying affidavits of the respective parties, by separate order or in the opinion on the appeal, may direct a response, or may remand for an evidentiary

hearing in the trial court; PROVIDED HOWEVER, no motion may be filed in this Court after a decision has been rendered and the mandate is issued.

(4) If the appeal has been decided, the opinion has been rendered and the mandate has been issued by this Court, then in all other cases of newly discovered evidence, a petitioner must proceed under the provisions of the Post-Conviction Procedure Act, Sections 1080 to 1089 of Title 22.

B. Commencement of Appeal. An appeal is commenced by the trial counsel's filing with the trial court a written notice of intent to appeal and a designation of record as prescribed in Rule 1.14 (C) within ten (10) days from the date the Judgment and Sentence is imposed in open court. The filing of the Notice of Intent to Appeal and Designation of Record in the District Court is jurisdictional and failure to timely file constitutes waiver of the right to appeal. A certified copy of the Notice of Intent to Appeal and Designation of Record shall also be filed by trial counsel with the Clerk of this Court within ten (10) days from the date the Notice is filed in the trial court. *See* Rule 2.5 and Form 13.4. In addition to the above notice and designation of record, the attorney of record shall submit to the Clerk of this Court either the appropriate filing fee, pauper's affidavit or the trial court's determination of indigency for the appeal filed. The Clerk of this Court shall then issue a Certificate of Appeal, containing the due date for filing of the Petition in Error and the Original Record together with the Transcripts of the Trial Proceedings.

(1) A motion for new trial is not required in order to commence an appeal in this Court. *See* Section 1054.1 of Title 22.

(2) The notice of intent to appeal must include specific authority under which the party seeks to perfect the appeal.

(3) Any supplemental designation of record pursuant to Section 1362 of Title 22 must be filed, with acknowledgement of service on court reporters, within thirty (30) days of date of appointment. *See* Rule 1.15(B). Otherwise any request to supplement the record shall be pursuant to Rule 3.11.

(4) The Judgment and Sentence shall be in the form prescribed in Section XIII, Form 13.8; appropriate addenda may be added as attachments to address local requirements. The trial courts shall develop and utilize an Order Deferring Imposition of Judgment when judgment is deferred pursuant to Section 991c of Title 22. In addition, the trial court shall develop and utilize an Order of Revocation of Suspended Sentence pursuant to Section 991b of Title 22. PROVIDED HOWEVER, when a sentence of death is imposed, the District Court shall utilize a Judgment and Sentence which incorporates the death warrant; and in fish and game violations and motor vehicle traffic cases prosecuted by Uniform Citation Complaint, the Judgment and Sentence may be set forth on the abstract of the court's action contained on the Uniform Citation Complaint Form or other form approved by the District Court.

C. Filing of Appeal Records. The records for appeal in all misdemeanor and felony cases, including the petition in error, must be filed with the Clerk of this Court within ninety (90) days

from the date the Judgment and Sentence is imposed. *See* Section 1054 of Title 22 . *See* Rule 7.3(C) for time requirements in juvenile cases and Rule 9.2(B) for time requirements in capital cases. Excluding the Notice of Intent to Appeal and the Designation of Record, which must be filed by trial counsel within ten (10) days after Judgment and Sentence is imposed, appellate counsel is responsible to ensure all records necessary to complete the appeal are filed. Where the transcript cannot be completed and filed within the time provided for filing appeals, the appellant must file his petition in error within ninety (90) days from the date the Judgment and Sentence is imposed and then proceed in accordance with Rule 3.2(C)(2).

D. Appeals by the State. The State must give notice in open court of the intent to appeal, and must state the specific authority under which the appeal will be taken in the written notice which must be filed in the trial court within ten (10) days of the District Court's order sought to be appealed. *See* Rule 1.2(A)(3). The prosecutor shall also file with the trial court clerk a written notice of intent to appeal and a designation of record as prescribed in Rule 1.14 (C) within ten (10) days from the date the Judgment and Sentence is imposed or the order being appealed is entered. The filing of the notice of Intent to Appeal and Designation of Record in the District Court is jurisdictional and failure to timely file constitutes waiver of the right to appeal. A certified copy of the Notice of Intent to Appeal and Designation of Record shall also be filed by the prosecutor with the Clerk of this Court within ten (10) days from the date the Notice is filed in the Trial Court. *See* Rule 2.5 and Form 13.4.

E. Appeal Out Of Time. (1) General Procedures for Obtaining an Out-of-Time Appeal. If petitioner seeks an appeal out of time, the proper procedure is to file an Application for Post-Conviction Relief requesting an appeal out of time. The Application must be filed in the trial court where the judgment and sentence on conviction or the final order denying relief was imposed. A petitioner's right to appeal is dependent upon the ability to prove he/she was denied an appeal through no fault of his/her own. *See Blades v. State*, [2005 OK CR 1](#) , 107 P.3d 607; *see also Smith v. State*, [1980 OK CR 43](#), 611 P.2d 276. If the trial court recommends an appeal out of time, then petitioner shall file a petition for an appeal out of time in this Court within thirty (30) days of the trial court's ruling. The petitioner must attach to the petition a copy of the post-conviction application for the out-of-time appeal that was filed in the trial court and a certified copy of the trial court's ruling upon that application. This Court will consider the trial court's recommendation and issue an order granting or denying an appeal out of time. If the trial court denies the request, then Petitioner should attach a certified copy of the order denying relief to the petition for appeal to this Court and shall otherwise comply with those procedures for perfecting a post-conviction appeal. *See* Section V of this Court's Rules.

(2) Out-of-Time Direct Appeals. When an appeal out of time is granted by this Court in a direct appeal, a Notice of Intent to Appeal and Designation of Record in the form prescribed by Rule 1.14(C), and as set forth in Section XIII, Form 13.4, shall be filed with the clerk of the trial court and the Clerk of this Court within ten (10) days of the date of this Court's order allowing an appeal out of time. The procedure set forth in Sections II and III of this Court's Rules shall then be followed. The clerk of the trial court shall timely file a Notice of Completion or Non-Completion

as set out in Rule 2.3. If the appeal record is already on file with the Court of Criminal Appeals, this should be noted in the Notice of Completion or Non-Completion.

(3) Out-of-Time Post-Conviction Appeals. When this Court grants an appeal out of time from a final judgment entered under the Post-Conviction Procedure Act, the documents required to be filed in this Court for perfecting that post-conviction appeal shall be filed by the petitioner within thirty (30) days of the order granting an appeal out of time in accordance with Rule 5.2(C).

(4) Out of Time Certiorari Appeals. When an appeal out of time is granted by this Court for a certiorari appeal arising from a plea of guilty or nolo contendere, an Application to Withdraw the Plea must be filed with the clerk of the trial court within ten (10) days from the date of this Court's order with a request for evidentiary hearing pursuant to Rule 4.2; provided however, if prior to the request for the out of time appeal, the defendant timely filed an application to withdraw the plea and received a decision thereon, then the defendant will file a Notice of Intent to Appeal and Designation of Record within ten (10) days from the date of this Court's order granting an appeal out of time.

Title 22, Chapter 18, Appendix, Rule 2.2 - Form and Contents of Record

A. Duties of Clerk to Assemble Record. After a designation of the record is made, the trial court clerk shall promptly assemble, in chronological sequence, all of the instruments on file, together with transcripts as required by subpart B of this Rule, which have been designated for inclusion in the record on appeal. The instruments, numbered consecutively, indexed and bound in volumes which shall not exceed two hundred (200) pages each, shall be certified under the seal of the clerk of the trial court. All designations of record and a certified copy of all the appearance docket sheets, as well as the Judgment and Sentence AND/OR final order, shall be included. In accordance with Rule 3.2, three (3) certified copies shall be prepared for transmission to this Court and appellant's attorney. The Court recognizes the provisions of Section 1054 of Title 22, but directs the clerk of the trial court to retain the original record in the trial court. *See* Rule 4.3 for duties in certiorari appeals.

B. Duties of Court Reporter to Assemble Exhibits.

(1) The court reporter shall ensure trial exhibits are indexed and incorporated into the transcript by physical attachment. In the event the exhibit cannot be physically attached, the court reporter shall attach a clear and viewable photograph or photocopy accurately depicting the exhibit to both the original transcript (or separate volume if necessary) and copies as required below. All copies of exhibits, including photographs, provided pursuant to this Rule shall be in color unless the original exhibit was in black and white. Black and white photocopies of color exhibits are not acceptable. If the exhibit is an audio or video tape or other

electronically reproduced medium, the reporter shall be responsible for ensuring that the original and two (2) copies of the item are filed with the transcripts. In each instance, as a condition to the admissibility of the exhibit for consideration on appeal, the trial court shall ensure the party introducing the exhibit shall be responsible for both its reproduction in the same quality as the original, including delivery to the court reporter, and the cost of reproduction. If a party fails to comply with a reporter's request to provide copies of exhibits in accordance with this Rule, the court reporter, after completion of the transcripts, shall file a notice of non-completion with the clerk of the District Court and the Clerk of this Court setting out with specificity the items that have not been provided, when the request was made and the party who has failed to comply with this Rule..

(2) The original transcript, indexed and certified as correct, together with two (2) certified copies (original and three (3) certified copies in capital cases), and attached exhibits or photos or copies of exhibits, in volumes not to exceed three hundred (300) pages of text per volume, shall be filed with the court clerk in the trial court by the court reporter within sufficient time to allow the trial court clerk to file the notice required by Rule 2.3(A) within ninety (90) days of Judgment and Sentence in misdemeanor and regular felony appeals, and within six (6) months in capital appeals.

(3) Upon the filing of the transcript, the court reporter is required to notify in writing the defendant's appellate attorney, the district attorney, the attorney general, the trial court clerk and the Clerk of this Court that the transcripts have been filed with the trial court clerk. This notice shall be specific, itemizing and describing with particularity all transcripts (by volume number or date of hearing) and exhibits (by number/letter and description) filed with the court clerk. If more than one court reporter was involved in the proceedings at issue, each court reporter shall be responsible for filing a separate specific, itemized list. The clerk of the trial court shall file the notice with the record.

(4) No exhibits other than documentary, photographic or electronically recorded evidence, as required by subpart (B)(1) of this Rule, shall be incorporated into the record on appeal or transmitted to the Clerk of the Court of Criminal Appeals; PROVIDED HOWEVER, this Court may direct supplementation of the record for any exhibit necessary for the determination of the appeal. Under no circumstances will controlled or dangerous substances, weapons, or ammunition, or body fluids or tissues be included in the record.

C. Transcript Not Available. If no transcript has been previously prepared and no tape recording is available for any portion of the trial proceedings, the trial attorneys may stipulate or submit affidavits as to what transpired during the proceeding not transcribed or recorded. The trial judge shall enter an order adjudicating any matters upon which the attorneys cannot agree regarding what transpired during the unrecorded or untranscribed proceedings.

D. Transcript Available. The transcript prepared by the court reporter shall constitute the record of the proceedings from which it was transcribed. When such transcript is made, tape recordings made by the court reporter as a supplementary backup to the stenographic record to the completed transcript of proceedings shall not constitute a part of the official record unless such proceedings were recorded in accordance with Section 1223.1 of Title 22 . *See* Sections 106.4(a), 106.4a, and 106.5 of Title 20. This Rule does not preclude findings of extreme necessity by the trial court that such recordings, if they exist, are necessary to supplement inadequate transcripts.

E. Form of Certification for Original Record in Trial Court. The original record to be filed in this Court must be certified by the clerk of the trial court utilizing the form set out in Section XIII, Form 13.9.

F. When a city or municipality is a party, a certified copy of the specific ordinance(s) involved in the case shall be included in the record. It shall be the responsibility of the city or municipality to ensure the ordinance(s) are included in the record for appellate review. *See Hishaw v. City of Oklahoma City*, [1991 OK CR 122](#), [822 P.2d 1139](#).

G. When the Record Includes Child Pornography. When the record includes exhibits which depict or contain child pornography (*See* Section 1024.1 of Title 21), the trial court shall take precautionary steps in the handling of such exhibits. An exhibit depicting or containing child pornography may only be possessed by the court, the court clerk, the district attorney, an assistant district attorney, and law enforcement.

(1) An exhibit depicting or containing child pornography shall not be copied, duplicated, or reproduced in any manner. The condition to admissibility requiring the party introducing an exhibit to be responsible for delivering copies to the court reporter in Subsection B, above, shall not apply to an exhibit depicting or containing child pornography.

(2) The trial court shall enter an order sealing any exhibit introduced at trial which depicts or contains child pornography in accordance with Section 24A.29(A)(3) of Title 51. The trial court clerk shall take possession of the sealed exhibit and secure it in a locked, secured repository with access only as directed by the trial court and this Court.

(3) An exhibit depicting or containing child pornography shall not be transmitted with the record. Upon receipt of the Notice to Transmit, the District Court shall enter an Order to Transport directing the district attorney, assistant district attorney or law enforcement to transport the exhibit under seal with two (2) copies of the Order to Transport and hand-deliver both the sealed exhibit and the copies of the Order to Transport to the Clerk of this Court. Any exhibit depicting or containing child pornography shall be transported to the Clerk of this Court within ten (10) days of receipt of the Notice to Transmit. The trial court clerk shall certify the exhibit on the copies of the Order to Transport utilizing the form set out in Section XIII, Form 13.16.

(4) Upon receipt of the sealed exhibit and copies of the District Court's Order to Transport, the individual transporting such an exhibit shall execute and file a Receipt to Transport and acknowledge receipt of the sealed exhibit with the trial court clerk. The individual shall maintain

proper chain-of-custody of the exhibit until hand-delivered to the Clerk of this Court with two (2) copies of the Order to Transport. The individual shall return one copy of the District Court's Order to Transport with the Clerk of this Court's acknowledgment of receipt to the trial court clerk.

(5) Upon receipt of a sealed exhibit depicting or containing child pornography, the Clerk of this Court shall acknowledge receipt of the exhibit on one (1) copy of the District Court's Order to Transport and file one (1) copy of the Order to Transport. The clerk of this Court shall enter the exhibit on the case docket and secure the exhibit in a locked, secured repository with access only as directed by this Court. Counsel for Appellant and for the State may contact the Marshal of this Court for viewing of any exhibit depicting or containing child pornography. When an exhibit depicting or containing child pornography is no longer needed for judicial review, this Court will order destruction of the exhibit.

Important! Note that paragraph G above contains specific provisions regarding exhibits which depict or contain child pornography.

Title 22, Chapter 18, Appendix, Rule 2.5 - Notice of Intent to Appeal; Designation of Record

A. Ten-Day Requirement. Within ten (10) days from the date the Judgment and Sentence is imposed in open court or an order grants an appeal out of time, the defendant must file with the trial court clerk a notice of intent to appeal and designation of record in the form prescribed in [Rule 1.14](#) (C). The filing of the Notice of Intent to Appeal and Designation of Record in the District Court is jurisdictional and failure to timely file constitutes waiver of the right to appeal. A certified copy of the Notice of Intent to Appeal and Designation of Record shall also be filed by trial counsel with the Clerk of this Court within ten (10) days from the date the Notice is filed in the trial court. A copy of the designation of record must be served on the trial judge and the district attorney or, if an appeal from a municipal court of record, the municipal attorney. An additional copy must be served on, and receipt acknowledged by, the court reporter at the time of filing or immediately thereafter. See [Rule 2.1](#)(B) and [Form 13.4](#).

(1) Original Record. The designation of the original record shall specify those records filed in the trial court which are to be included in the original record for appeal. The Judgment and Sentence **MUST BE INCLUDED** in the designation of record.

(2) Transcript of Evidence. The designation of record for the transcript of evidence must specify that part of the record transcribed by the court reporter to be included in the record on appeal. If the defendant requests the entire proceedings to be included, the designation of record must so state. The certification of the transcript shall be made by the court reporter and be in substantially the same form as

prescribed in [Form 13.9](#). The voir dire shall be included in all capital cases as required by Rule 9.2.

(3) Court Reporter's Costs. At the time the designation of record is served on the court reporter, arrangements for preparing the transcripts of evidence shall be reached between the attorney and the court reporter, unless the court directs the appeal to be at public expense, and certified in accordance with the form prescribed in Rule 1.14(C). See [Form 13.4](#). In all cases, arrangements for the payment of costs for preparation of the transcripts shall be made to ensure transcripts are prepared within the time allotted by these rules.

B. Counter-Designation of Record. If the appealing party's designation of record does not specify preparation of the entire record, the opposing party or trial judge may file a counter-designation of record with the clerk of the trial court within thirty (30) days after being served with a copy of the appealing party's brief in chief. See [Rule 3.11\(B\)\(2\)](#); 20 O.S.2001 § 106.4(B).

C. Cost for Counter-Designation. Unless otherwise ordered by the trial court, the cost for the counter-designation of record shall be borne by the appealing party. Portions of the counter-designated record, shown at a hearing before the trial court to be unnecessary, may be ordered at the opposing party's expense when inclusion is demanded.

SECTION III. PERFECTING AN APPEAL IN THE COURT OF CRIMINAL APPEALS

Title 22, Chapter 18, Appendix, Rule 3.2 Instruments to be Filed to Complete the Appeal.

A. Petition in Error. An original and ten (10) copies.

B. Original Record. Three (3) certified copies, two (2) to be sent to the Clerk of the Court of Criminal Appeals and one (1) to either the Oklahoma Indigent Defense System, pursuant to Section 1362 of Title 22, or retained or other appointed counsel of record on appeal. In capital cases in which an application for post-conviction relief will be filed, and in which the Oklahoma Indigent Defense System or another attorney has been appointed for that purpose, another copy in addition to the copies specified above shall be sent to the Oklahoma Indigent Defense System or the attorney appointed. See Section 1089(B) of Title 22.

C. Transcript of Evidence

(1) An original and two (2) certified copies of all designated transcripts, the original and one (1) certified copy to be sent to the Clerk of the Court of Criminal Appeals and one (1) certified copy to either the Oklahoma Indigent Defense System, pursuant to Section 1362 of Title 22 , or retained or other appointed counsel of record on appeal. In capital cases in which an application for post-conviction relief will be filed, and in which the Oklahoma Indigent Defense System or another attorney has been appointed for that purpose, another copy in addition to the copies specified above shall be sent to the Oklahoma Indigent Defense System or the attorney appointed. *See* Section 1089(B) of Title 22.

(2) In the event the petition in error is timely filed but the designated transcripts have not been completed and cannot be filed, the court reporter who transcribed the trial, or other proceeding, must submit an affidavit to this Court showing why the transcripts have not been completed and requesting an extension of time not exceeding thirty (30) days. A copy of the affidavit and request for extension of time shall be mailed to the trial judge, trial court clerk and appellate counsel. The affidavit must be submitted by the court reporter to this Court and must show good cause why the additional time is needed. An affidavit from an appellant's attorney, the attorney's assistant or any person other than the court reporter shall not suffice. For purposes of this Section, "good cause shown" shall not include press of business. If the reason the transcripts have not been timely filed is due to the fault of the appellant, the court reporter shall set out with specificity the facts constituting appellant's fault. The Presiding Judge may grant requests for extensions. The clerk of this Court shall send a copy of the order granting or denying the extension request to the trial judge, trial court clerk and appellate counsel in addition to the court reporter. After filing the affidavit and request for extension out of time pursuant to this subsection, any request for an extension beyond sixty (60) days from the original due date will require the court reporter to contact the Presiding Judge or Vice-Presiding Judge who shall, subject to the approval of the Court at confidence, make a determination of whether additional time can be granted or whether the court reporter must appear in person before the Presiding Judge or the Vice-Presiding Judge, or the Court en banc to show cause as to why any additional time is required. *See also* Rule 9.2(C) and Section 701.13 of Title 21. If the Court determines the failure to timely file the transcripts is due to the fault of appellant, the appeal may be dismissed after notice and opportunity to be heard.

(3) The appellate counsel is required to constantly monitor the preparation of the records for appeal and is ultimately responsible for the timely filing of the appeal records. Requests for assistance in the timely preparation of the records may be submitted to this Court for appropriate action, to include applications for writ of mandamus.

D. Transmission of Records. The Clerk of this Court shall transmit copies of records and transcripts to appellee as necessary.

E. Trial Court's Duty to Preserve Records. When during the course of trial proceedings a transcript is prepared at State expense, it shall be the duty of the trial court to enter an appropriate order defining access to those transcripts during the trial proceedings; and after completion of the

trial proceedings to order the timely return of all transcripts to the trial court clerk so they may be filed on appeal. At the time the trial court approves transcripts of preliminary hearings or pretrial proceedings to be prepared at State expense, the order entered shall require the court reporter to file the transcripts with the trial court clerk and provide access to the parties for trial preparation with the requirement all transcripts shall be returned to the clerk of the trial court within ten (10) days of the sentencing. The order shall also direct that a party granted access to the transcripts for purpose of appeal shall return all transcripts to the clerk of the trial court within twenty (20) days from the date the mandate of the decision on appeal is entered by this Court. This order shall ensure notice of requirements is directed to both the State and the defendant. *See* Section 106.4a of Title 20; *Tiger v. State*, 859 P.2d 1117 (Okl.Cr.1993).

**SECTION IV. PROCEDURES FOR APPEAL BY CERTIORARI FROM
PLEA OF GUILTY OR NOLO CONTENDERE**

Title 22, Chapter 18, Appendix, Rule 4.3 - Time for Lodging Appeal; Record of Proceedings; Contents of Petition in Error; Briefs.

A. In order to perfect a certiorari appeal in convictions where the death penalty is not imposed, the petitioner must ensure the following record on appeal is completed in accordance with Rules 2.2, 2.3 and 2.4 and filed with the Clerk of this Court within ninety (90) days from the date the trial court ruled on the application to withdraw the plea. The filing of the petition for writ of certiorari is jurisdictional and failure to timely file constitutes waiver of right to appeal. In convictions where the death penalty is imposed, the petitioner must file the following items within six (6) months from the date the trial court ruled on the application to withdraw the plea in accordance with Rules 9.1, 9.2 and 9.3.

- (1) A petition for a writ of certiorari;
- (2) Two (2) certified copies of the original record (three (3) certified copies in capital cases) which shall include a copy of the order denying the application to withdraw plea; and,
- (3) The original and one (1) copy of the transcript of the proceedings in which the plea of guilty or nolo contendere was taken (not applicable if a court reporter was waived as set forth in Form 13.10), and the evidentiary hearing on the application to withdraw plea. In capital cases, petitioner shall ensure that the original and three (3) copies of the transcript of proceedings are filed and sent to the appropriate parties. See [Section 1089](#) (B) of Title 22, Rule 3.2 (C).

The above items shall be filed in accordance with Rules 2.2, 2.3 and 2.4 .

B. Contents of the Transcript. The transcript shall include the proceedings held on the court's acceptance of the plea, the pronouncement of the Judgment and Sentence and the hearing on the application to withdraw the plea of guilty or nolo contendere.

C. Contents of Petition. The petition for a writ of certiorari shall consist of the following:

- (1) The trial court from which the appeal is lodged and the trial court case number;
- (2) The crime for which the petitioner was sentenced;
- (3) The Judgment and Sentence imposed and the date of pronouncement;

- (4) The date the application to withdraw the plea of guilty or nolo contendere was filed and the date it was denied by the trial court;
- (5) The errors of law urged as having been committed during the proceedings in the trial court which were raised in the application to withdraw plea;
- (6) The nature of the relief the petitioner seeks; and
- (7) The statute under which the petitioner is appealing.
- (8) A certified copy of the trial court's final order denying the application to withdraw plea.

D. Brief in Support. A brief in support shall be filed within thirty (30) days from the date the notice to transmit record on appeal is filed by the Clerk of this Court. *See* Section IX for capital cases.

E. Answer Brief. This Court may then direct either the district attorney, municipal attorney or the Attorney General to file an answer brief, if necessary. While not required to respond unless directed by the Court, the district attorney, municipal attorney or the Attorney General may file an answer brief to the petition and brief on their own motion within thirty (30) days from the filing of the petitioner's brief. PROVIDED HOWEVER, in instances where a sentence of death has been imposed upon a petitioner, the Attorney General shall respond within sixty (60) days from the filing of the petitioner's brief.

SECTION V. PROCEDURES FOR APPEALING FINAL JUDGMENT **UNDER POST-CONVICTION PROCEDURE ACT**

Title 22, Chapter 18, Appendix, Rule 5.3 Duties of Court Clerks and Court Reporters

A. The court clerk shall on the same day that the order granting or denying post-conviction relief is filed in the District Court, mail to petitioner or counsel of record for the post-conviction proceedings, a file-stamped certified copy of the order of the District Court setting out findings of fact and conclusions of law granting or denying the application. The Court Clerk shall include a certificate of mailing with the order, which shall also be made a part of the record of the case.

B. 1. Upon receipt of the notice of post-conviction appeal, the Clerk of the District Court shall compile two certified copies of the record on appeal as defined by [Rule 5.2\(C\)\(6\)](#), and ensure the

Notice of Completion of record is filed with this Court within thirty (30) days of the filing of the order granting or denying post-conviction relief, unless an extension is requested by the court clerk and granted by this Court.

2. When an evidentiary hearing is held in a non-capital case pursuant to [Section 1084 of Title 22](#) and a notice of post-conviction appeal is filed with the court clerk and served on the court reporter within ten (10) days of the filing of the order granting or denying post-conviction relief, the court clerk and court reporter shall ensure the record and transcript of the proceedings on the application are completed and notice of completion of record is filed with this Court within thirty (30) days of the filing of the order. Except for the specific time requirements of this Rule, the provisions of [Rule 2.3\(B\)](#) apply.

**SECTION VII. PROCEDURE FOR APPEALING FROM AN ORDER
ADJUDICATING A JUVENILE TO BE DELINQUENT; FROM A
FINAL ORDER CERTIFYING OR DENYING CERTIFICATION OF
A JUVENILE TO STAND TRIAL AS AN ADULT; OR FROM A
FINAL ORDER GRANTING OR DENYING REVERSE
CERTIFICATION; OR SENTENCING UNDER THE YOUTHFUL
OFFENDER ACT**

**Title 22, Chapter 18, Appendix, Rule 7.1 Courts from Which Appeals are
Lodged**

An appeal may be lodged by either party under the Rules of this Court from:

1. an adjudication of juvenile delinquency or certification of a juvenile to stand trial as an adult or deny such certification under § 7303 - 4.3(F) and 6.2(A), of Title 10;
2. an order certifying a person as a child or denying the request for certification as a child under § 7306 - 1.1(G), of Title 10;
3. an order certifying or denying certification of a person as a youthful offender or juvenile under § 7306 - 2.5(E) and 2.6(F)(5), of Title 10;
4. an order certifying or denying certification for imposition of an adult sentence under § 7306 - 2.8(E), of Title 10;
5. a conviction as a youthful offender under § 7306 - 2.6(G), 2.8(F), or 2.8(G), of Title 10;
6. an order transferring custody under § 7306 - 2.10(H), of Title 10.

**Title 22, Chapter 18, Appendix, Rule 7.3 Time for Perfecting Appeal;
Extension Request; Record of Proceedings**

A. Perfecting an Appeal. In order to perfect an appeal from any juvenile or youthful offender proceeding, the petition in error, certified copy of original record, transcript of proceedings and brief shall be filed with the Clerk of this Court within sixty (60) days from the date the trial court enters a final order adjudicating a juvenile as delinquent, or certifying or

denying certification of a juvenile to stand trial as an adult, or sentencing under the provisions of the Youthful Offender Act.

B. Extensions. See [Rule 3.2](#) (C); however, insofar as these proceedings are *sui generis* and time is of the essence, the court reporter shall be required by the District Court to expedite the record of the proceedings being appealed.

C. Preparation of Record and Transcripts. To ensure the appeal is perfected within sixty (60) days, the record and transcripts shall be completed and filed with the District Court clerk, and immediately transmitted to the Clerk of the Court of Criminal Appeals and appellate counsel within forty (40) days of the entry of the trial court's order. If the record is not complete within forty (40) days of the trial court's order, a Notice of Non-Completion of Record shall be sent to the Clerk of the Court of Criminal Appeals, explaining the cause of the delay. A show cause hearing in this Court may be scheduled.

SECTION IX. APPEALS IN CAPITAL CASES

Title 22, Chapter 18, Appendix, Rule 9.1 - Applicable Provisions

Unless otherwise noted, Rules 9.1 through 9.6 deal specifically with all cases on direct appeal, both after a trial or a plea of guilty or nolo contendere, in which the death penalty has been imposed. If a particular issue is not addressed in this Section, the Rules set forth in Sections I, II, III, IV and V are applicable and shall be followed. See Rule 9.7 for post-conviction procedures in capital cases.

Title 22, Chapter 18, Appendix, Rule 9.2 - Notice of Intent to Appeal; Petition in Error; Stenographic Record; Trial Judge's Report; Duties of Trial Court Clerk

A. Notice of Intent to Appeal and Designation of Record. The trial counsel shall file a notice of intent to appeal and designation of record in accordance with the provisions of [Rules 2.1](#)(B) and [1.14](#) (C). See Form 13.4.

B. Petition in Error. The petition in error must be filed with the Clerk of this Court within six (6) months from the date the Judgment and Sentence is imposed.

C. Stenographic Record.

(1) A complete stenographic record of all proceedings shall be made and filed with this Court on appeal to enable this Court to conduct its mandatory sentence review. See *Van White v. State*, 752 P.2d 814, 820 (Okl.Cr.1988). The stenographic record

shall be prepared within six (6) months of the imposition of sentence. *See* [Section 701.13\(A\) of Title 21](#).

(2) PROVIDED HOWEVER, should the court reporter fail to complete preparation of the transcripts necessary for appeal within the required six (6) month period, the court reporter shall transmit a written affidavit and request for extension of time to the Chief Justice of the Oklahoma Supreme Court, the Presiding Judge of this Court, and the Administrative Director of the Courts. This Court shall have authority to grant an extension of time in which to file the transcripts, based upon a showing of just cause. Failure to complete the transcripts in the required time may be punishable as indirect contempt of this Court and except for just cause may result in revocation of the license of the court reporter. *See* [Section 701.13\(G\) of Title 21](#). The affidavit and request for extension shall comply with and be subject to the provisions of [Rule 3.2\(C\)\(2\)](#).

D. Trial Judge's Report. The trial judge shall file a report in compliance with [Section 701.13\(A\) of Title 21](#). The report must be in the form set out in Section XIII, [Form 13.12](#).

E. Duties of the Clerk of the Trial Court. The entire record and transcripts, along with the trial judge's report and the notice prepared by the clerk of the trial court, shall be transmitted to this Court within six (6) months of the date of the Judgment and Sentence pursuant to [Section 701.13\(A\) of Title 21](#), and in accordance with the procedure set out in [Rule 2.3\(B\)](#).

F. Mandatory Sentence Review. All documents listed herein shall be filed in all cases in which the death penalty is imposed, including cases where a defendant does not wish to appeal his conviction. The documents and record must be filed to begin proceedings connected with this Court's Mandatory Sentence Review. *See* [Section 701.13\(C\) of Title 21](#).

Title 21, Section 701.13 - Review of Death Penalty Sentence

A. Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Oklahoma Court of Criminal Appeals. The court reporter of the trial court shall prepare all transcripts necessary for appeal within six (6) months of the imposition of the sentence.

The clerk of the trial court, within ten (10) days after receiving the transcript, shall transmit the entire record and transcript to the Oklahoma Court of Criminal Appeals together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Oklahoma Court of Criminal Appeals.

B. The Oklahoma Court of Criminal Appeals shall consider the punishment as well as any errors enumerated by way of appeal.

C. With regard to the sentence, the court shall determine:

1. Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor; and

2. Whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in Section [701.12](#) of this title

D. Both the defendant and the state shall have the right to submit briefs within the time provided by the court, and to present oral argument to the court. The defendant shall have one hundred twenty (120) days from the date of receipt by the court of the record, transcript notice, and report provided for in subsection A of this section, in which to submit a brief. The state shall have sixty (60) days from the date of filing of the defendant's brief to file a reply brief. The defendant may file a reply brief within a time period established by the court, however the receipt of the reply brief, the hearing of oral arguments, and the rendering of a decision by the court all shall be concluded within one (1) year after the date of the filing of the reply brief. If the defendant or the state fails to submit their respective briefs within the period prescribed by law, the defendant or the state shall transmit a written statement of explanation to the Presiding Judge of the Court of Criminal Appeals who shall have the authority to grant an extension of the time to submit briefs, based upon a showing of just cause. Failure to submit briefs in the required time may be punishable as indirect contempt of court.

E. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

1. Affirm the sentence of death; or

2. Set the sentence aside and remand the case for resentencing by the trial court.

F. The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration. The court shall render its decision on legal errors enumerated, the factual substantiation of the verdict, and the validity of the sentence.

G. If the court reporter of the trial court fails to complete preparation of the transcripts necessary for appeal within the six-month period required by the provisions of subsection A of this section, the court reporter shall transmit a written statement of explanation of such failure to the Chief Justice of the Oklahoma Supreme Court, the Presiding Judge of the Court of Criminal Appeals, and the Administrative Director of the Courts. The Court of Criminal Appeals shall have the authority to grant an extension of the time for filing the transcripts, based upon a showing of just cause. Failure to complete the transcripts in the required time may be punishable as indirect

contempt of court and except for just cause shown may result in revocation of the license of the court reporter.

SECTION X. EXTRAORDINARY WRITS

Title 22, Chapter 18, Appendix, Rule 10.1 Types of Extraordinary Writs; Jurisdiction; Duties of District Court Clerk

A. This Court may entertain certain extraordinary writs which arise out of criminal matters. Such extraordinary writs include writs of mandamus, prohibition, and habeas corpus. This Court will only entertain such writs if petitioner has been denied relief in the District Court. *See, e.g., McNeil v. Greenway*, [815 P.2d 1202](#), 1203 (Okl.Cr.1991), *In re Dykes*, 13 Okl. 339, [74 P. 506](#), 507 (1903).

B. The District Court may stay the execution of its judgment upon the filing of a verified motion to stay execution of the judgment pending appeal within ten (10) days from the date of the entry of the judgment. If the motion is granted, the party granted the stay shall file a certified copy of the petition for extraordinary relief in the District Court within five (5) days after the filing of the petition in this Court to ensure the District Court is notified of the perfecting of the appeal.

C. It shall be the responsibility of the petitioner to ensure the record is filed with the Clerk of this Court. In order to seek relief, the petitioner shall file within thirty (30) days from the date the trial court's order is filed in the District Court:

(1) A petition and supporting brief setting forth the relief requested which shall contain a statement of facts, the trial court from which the appeal is lodged and the District Court case number, errors of law urged as having been committed during the proceedings in the trial court and citation of legal authority supporting the petition;

(2) A certified copy of the original record applicable to the writ which shall include a copy of the order entered by the trial court;

(3) A certified copy of any supporting evidence presented to the District Court upon which the request for relief is predicated; and,

(4) The original transcript of any proceedings conducted on the petition, if applicable.

D. It shall be the duty of the clerk of the trial court to mail, no later than one (1) day after the order granting or denying extraordinary relief is filed, a certified file-stamped copy of the order to the Petitioner and/or Counsel or record. The clerk of the trial court shall include a certificate of mailing with the order.

SECTION XIII. FORMS

Rule 13.0 Mandatory Forms to be Utilized in Criminal Cases in the State of Oklahoma

Section Form 13.4 - Notice of Intent to Appeal

(A full form is not included here, only the section pertaining to the court reporter).

IV. COURT REPORTER'S ACKNOWLEDGEMENT

A. The Designation of Record, attached as "Exhibit A", was received on _____, 20_____.

B. IF NOT INDIGENT, satisfactory arrangements ()have ()have not been made for payment of the transcript cost. These financial arrangements were completed on , _____ 20_____. If payment has not been made/arranged, explain why: _____

C. Number of trial and/or hearing days: _____

D. Estimated number of transcript pages: _____

E. Estimated completion date: _____

F. I acknowledge receipt of this document and understand I must prepare the record within the time limits prescribed by the Oklahoma Court of Criminal Appeals.

DATE: _____

Signature - Official Court Reporter

Printed Signature

FILING THE TRANSCRIPT – CRIMINAL APPEALS

Title 22, Chapter 18, Appendix, Rule 2.2 - Form and Contents of Record (states in part:)

B. Duties of Court Reporter to Assemble Exhibits.

(1) The court reporter shall ensure trial exhibits are indexed and incorporated into the transcript by physical attachment. In the event the exhibit cannot be physically attached, the court reporter shall attach a clear and viewable photograph or photocopy accurately depicting the exhibit to both the original transcript (or separate volume if necessary) and copies as required below. All copies of exhibits, including photographs, provided pursuant to this Rule shall be in color unless the original exhibit was in black and white. Black and white photocopies of color exhibits are not acceptable. If the exhibit is an audio or video tape or other electronically reproduced medium, the reporter shall be responsible for ensuring that the original and two (2) copies of the item are filed with the transcripts. In each instance, as a condition to the admissibility of the exhibit for consideration on appeal, the trial court shall ensure the party introducing the exhibit shall be responsible for both its reproduction in the same quality as the original, including delivery to the court reporter, and the cost of reproduction. If a party fails to comply with a reporter's request to provide copies of exhibits in accordance with this Rule, the court reporter, after completion of the transcripts, shall file a notice of non-completion with the clerk of the District Court and the Clerk of this Court setting out with specificity the items that have not been provided, when the request was made and the party who has failed to comply with this Rule..

(2) The original transcript, indexed and certified as correct, together with two (2) certified copies (original and three (3) certified copies in capital cases), and attached exhibits or photos or copies of exhibits, in volumes not to exceed three hundred (300) pages of text per volume, shall be filed with the court clerk in the trial court by the court reporter within sufficient time to allow the trial court clerk to file the notice required by Rule 2.3(A) within ninety (90) days of Judgment and Sentence in misdemeanor and regular felony appeals, and within six (6) months in capital appeals.

(3) Upon the filing of the transcript, the court reporter is required to notify in writing the defendant's appellate attorney, the district attorney, the attorney general, the trial court clerk and the Clerk of this Court that the transcripts have been filed with the trial court clerk. This notice shall be specific, itemizing and describing with particularity all transcripts (by volume number or date of hearing) and exhibits (by number/letter and description) filed with the court clerk. If more than one court reporter was involved in the proceedings at issue, each court reporter shall be responsible for filing a separate specific, itemized list. The clerk of the trial court shall file the notice with the record.

(4) No exhibits other than documentary, photographic or electronically recorded evidence, as required by subpart (B)(1) of this Rule, shall be incorporated into the record on appeal or transmitted to the Clerk of the Court of Criminal Appeals; PROVIDED HOWEVER, this Court may direct supplementation of the record for any exhibit necessary for the determination of the appeal. Under no circumstances will controlled or dangerous substances, weapons, or ammunition, or body fluids or tissues be included in the record.

The court reporter must document when exhibits leave their custody. When exhibits are withdrawn, a copy of the receipt should be kept in the exhibit file. When exhibits are filed with the court clerk, the filing should be documented on your information sheet.

FREELANCE REPORTERS, DEPOSITIONS, ETC.

Title 12. Civil Procedure, Chapter 41 - Discovery Code, Section 3227 – Depositions before action or pending appeal

A. BEFORE ACTION.

1. PETITION. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable in any court may file a verified petition in the district court in the county of the residence of any expected adverse party for such perpetuation of testimony. The petition shall be entitled in the name of the petitioner and shall show:

a. That the petitioner or his personal representative, heirs, beneficiaries, successors or assigns may be a party to an action cognizable in a court but is presently unable to bring it or cause it to be brought.

b. The subject matter of the expected action and his interest therein, and a copy, attached to the petition, of any written instrument the validity or construction of which may be called in question or which is connected with the subject matter of the requested deposition.

c. The facts which he desires to establish by the proposed testimony and his reasons for desiring to perpetuate it.

d. The names or, if the names are unknown, a description of the persons he expects will be adverse parties and their addresses so far as known.

e. The names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each.

The petition shall request an order authorizing the petitioner to take the depositions of the persons named in the petition to be examined for the purpose of perpetuating their testimony.

2. NOTICE AND SERVICE. The petitioner shall thereafter serve a notice upon each person named or described in the petition as an expected adverse party, together with a copy of the petition, stating that the petitioner will apply to the court, at a time and place named therein, for the order described in the petition. At least twenty (20) days before the date of hearing, the notice shall be served either within or without the state in the manner provided for personal service of summons. If such service cannot, with due diligence, be made upon any expected adverse party named or described in the petition, the court may enter such order as is just for service by publication or otherwise, and shall appoint, for persons not served by personal service, an attorney who shall represent them and, if they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent the court shall appoint a guardian ad litem for any such minor or incompetent not legally represented.

3. ORDER AND EXAMINATION. If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall enter an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and how the depositions shall be taken. The depositions may then be taken in accordance with the Oklahoma Discovery Code, Section 3224 et seq. of this title. The court may enter orders of the character provided for by Sections 3234 and 3235 of this title. For the purpose of applying the Oklahoma Discovery Code to depositions for perpetuating testimony, each reference to the court in which the action is pending shall be deemed to refer to the court in which the petition for such deposition was filed.

4. USE OF DEPOSITION. If a deposition to perpetuate testimony is taken under the Oklahoma Discovery Code, it may be used in any action involving the same subject matter subsequently brought in a court of this state, in accordance with the provisions of subsection A of Section 3232 of this title.

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

1. The names and addresses of persons to be examined and the substance of the testimony which he expects to elicit from each;

2. The reasons for perpetuating the testimony.

If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may enter an order allowing the depositions to be taken and may make orders of the character provided for by Sections 3234 and 3235 of this title, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in the Oklahoma Discovery Code for depositions taken in actions pending in the district court.

C. PERPETUATION BY ACTION. The procedures prescribed in this section do not limit the power of a court to entertain an action to perpetuate testimony.

D. FILING OF DEPOSITION. Depositions taken under this section shall not be filed with the court in which the petition is filed or the motion is made except on order of the court or unless they are attached to a motion, response thereto, or are needed for use in a trial or hearing.

E. COSTS. The attorney taking any deposition under this section shall pay the costs thereof unless otherwise ordered by the court.

F. DEPOSITIONS TAKEN IN OTHER JURISDICTIONS ADMISSIBLE. A deposition taken under procedures of another jurisdiction, which are similar to those in this section, is admissible in this state to the same extent as a deposition taken under this section.

Title 12. Civil Procedure

Chapter 41 - Discovery Code

Section 3228 - Persons Before Whom Depositions May Be Taken

A. DEPOSITIONS TAKEN WITHIN OKLAHOMA. Within this state, depositions shall be taken before an officer authorized to administer oaths by the laws of the place where the examination is held, or before a person appointed by the court in which the action is pending. A person so appointed has power to administer oaths and take testimony.

The term officer as used in Sections [3230](#) through [3232](#) of this title includes a person appointed by the court or designated by the parties under Section [3229](#) of this title; except that on and after January 1, 1990, depositions taken within this state shall only be taken by an officer who is either a certified shorthand reporter (CSR) or a licensed shorthand reporter (LSR); provided however, on and after the effective date of this act, any person who was taking depositions by the steno-mask method of reporting within this state prior to January 1, 1990, may continue to take depositions within this state if the person provides to the State Board of Examiners of Official Shorthand

Reporters or successor entity of the Board a certification, signed by a judge of the district court and by an attorney licensed to practice law in this state, declaring that the person has taken depositions that were admitted into evidence in any court of this state. The certification shall be submitted within thirty (30) days of the effective date of this act to the State Board of Examiners of Official Shorthand Reporters or successor entity of the Board who shall issue said person a certificate as an acting court reporter permitting the person to take depositions or other sworn statements, subpoena witnesses for depositions, issue affidavits in respect to the regular duties of the person, and administer oaths and affirmations with authority equal to that of a notary public.

B. DEPOSITIONS TAKEN OUTSIDE OF OKLAHOMA. Depositions may be taken outside of Oklahoma:

1. On notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of this state; or
2. Before a person commissioned by the court, and a person so commissioned shall have the power by virtue of his commission to administer any necessary oath and take testimony; or
3. Pursuant to a letter rogatory.

A commission or a letter rogatory shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter rogatory that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter rogatory may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. Evidence obtained in response to a letter rogatory need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within this state.

C. DISQUALIFICATIONS FOR INTEREST. No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

Title 12. Civil Procedure

Chapter 41 - Discovery Code

Title 12, Section 3229 - Stipulations Regarding Discovery Procedure

Unless the court orders otherwise, the parties may by written stipulation:

1. Provide that depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions; and
2. Modify other procedures governing or limitations placed upon discovery, except that stipulations extending the time provided in Sections [3226](#), [3233](#), [3234](#) and [3236](#) of this title for responses to discovery may, if they would interfere with any time set for completion of discovery, be made only with the approval of the court. A person designated by the stipulation has the power by virtue of his designation to administer any necessary oath.

Title 12. Civil Procedure

Chapter 41 - Discovery Code

Title 12, Section 3230 - Depositions Upon Oral Examination

A. WHEN DEPOSITIONS MAY BE TAKEN; WHEN LEAVE REQUIRED.

1. A party may take the testimony of any person, including a party, by deposition upon oral examination without leave of court except as provided in paragraph 2 of this subsection. The attendance of witnesses may be compelled by subpoena as provided in [Section 2004.1](#) of this title.
2. a. A party shall obtain leave of court, if the person to be examined is confined in prison, or if, without the written stipulation of the parties:
 - (1) the person to be examined already has been deposed in the case, or
 - (2) a party seeks to take a deposition prior to the expiration of thirty (30) days after service of the summons and petition upon any defendant unless the notice contains a certification, with supporting facts, that the person to be examined is expected to leave this state and will be unavailable for examination in this state unless deposed before that time.
- b. A request for leave of court shall include a statement that the requesting party has in good faith conferred or attempted to confer either in person or by telephone with the opposing parties to obtain a written stipulation.
3. Unless otherwise agreed by the parties or ordered by the court, a deposition upon oral examination shall not last more than six (6) hours and shall be taken only between the hours of 8:00 a.m. and 5:00 p.m. on a day other than a Saturday or Sunday and on a date other than a holiday designated in [Section 82.1](#) of Title 25 of the Oklahoma Statutes. The court may grant an extension of these time limits if the court finds that the witness or counsel has been obstructive or uncooperative or if the court finds it to be in the interest of justice.

B. PLACE WHERE WITNESS OR PARTY IS REQUIRED TO ATTEND TAKING OF DEPOSITIONS.

1. A witness shall be obligated to attend to give a deposition only in the county of his or her residence, a county adjoining the county of his or her residence or the county where he or she is located when the subpoena is served.

2. A party, in addition to the places where a witness may be deposed, may be deposed in the county where the action is pending or the county where he or she is located when the notice is served.

C. NOTICE OF EXAMINATION; GENERAL REQUIREMENTS; SPECIAL NOTICE; NONSTENOGRAPHIC RECORDING; PRODUCTION OF DOCUMENTS AND THINGS; DEPOSITION OF ORGANIZATION; DEPOSITION BY TELEPHONE.

1. A party desiring to take the deposition of any person upon oral examination shall give notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and shall state the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice shall be served in order to allow the adverse party sufficient time, by the usual route of travel, to attend, and three (3) days for preparation, exclusive of the day of service of the notice.

If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced, as set forth in the subpoena, shall be attached to or included in the notice.

2. The court may for cause shown enlarge or shorten the time for taking the deposition and for notice of taking the deposition.

3. a. The parties may stipulate in writing or the court may upon motion order that the testimony at a deposition be recorded by other than stenographic means. Unless good cause is shown to the contrary, such motions shall be freely granted. The stipulation or order shall designate the person before whom the deposition shall be taken, the manner of recording, preserving, and filing the deposition, and may include other provisions to assure that the recorded testimony will be accurate and trustworthy. If the deposition is recorded by other than stenographic means, the party taking the deposition shall upon request by any party or the witness furnish a copy of the deposition to the witness. The party taking the deposition may furnish either a stenographic copy of the deposition or a copy of the deposition as recorded by other than stenographic means.

b. Any recording of testimony other than by stenographic means shall begin with an on-the-record statement that shall include: the recording officer's name and business address; the date, time and place of the deposition; the deponent's name; and the identity of all persons present at the deposition. The recording shall also include the administration of the oath or affirmation to the

deponent. The appearance or demeanor of the deponent and attorneys shall not be distorted through recording techniques.

c. Any objections under subsection D of this section, any changes made by the witness, the signature of the witness identifying the deposition as his or her own or the statement of the officer that is required if the witness does not sign, as provided in subsection F of this section, and the certification of the officer required by subsection G of this section shall be set forth in a writing to accompany a deposition recorded by nonstenographic means.

d. Any party may designate in a notice of deposition, or in a counter-notice of deposition, another method for recording the testimony in addition to stenographic means. The party designating another method of recording shall bear the expense of the additional record unless the court orders otherwise.

4. The notice to a party deponent may be accompanied by a request made in compliance with [Section 3234](#) of this title for the production of documents and tangible things at the taking of the deposition. The procedure of [Section 3234](#) of this title shall apply to the request.

5. A party may in the notice and in a subpoena name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which that person will testify. Such designation of persons to testify and the subject of the testimony shall be delivered to the other party or parties prior to or at the commencement of the taking of the deposition of the organization. A subpoena shall advise a nonparty organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization.

This paragraph does not preclude taking a deposition by any other procedure authorized in the Oklahoma Discovery Code.

6. The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or other remote electronic means. For the purposes of this section, subsection A of [Section 3228](#), and paragraphs 1 of subsections A and B of [Section 3237](#) of this title, a deposition taken by such means is taken in the county and state and at the place where the deponent is to answer questions.

D. EXAMINATION AND CROSS-EXAMINATION; RECORD OF EXAMINATION; OATH; OBJECTIONS. Examination and cross-examination of witnesses may proceed as permitted at the trial under the provisions of [Section 2101](#) et seq. of this title except [Section 2104](#). The officer before whom the deposition is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under his or her direction and in his or her presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other method authorized by paragraph 3 of subsection C of this section.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, to the manner of taking it, to the evidence presented, to the conduct of any party, or to any other aspect of the proceedings shall be noted by the officer upon the record of the deposition; however, the examination shall proceed, with the testimony being taken subject to the objections.

In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the depositions and that party shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

E. MOTION TO TERMINATE OR LIMIT EXAMINATION.

1. Any objection to evidence during a deposition shall be stated concisely and in a nonargumentative and nonsuggestive manner. A party may instruct a deponent not to answer only when necessary to preserve a privilege or work product protection, to enforce a limitation on evidence directed by the court, to present a motion under paragraph 2 of this subsection, or to move for a protective order under subsection C of [Section 3226](#) of this title. If the court finds a person has engaged in conduct which has frustrated the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorney fees incurred by any parties as a result thereof.

2. At any time during the taking of the deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass or oppress the deponent or party, the court in which the action is pending or the court in the county where the deposition is being taken may order the officer conducting the examination to cease taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subsection C of [Section 3226](#) of this title. If the order entered terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for the order provided for in this section. The provisions of paragraph 4 of subsection A of [Section 3237](#) of this title apply to the award of expenses incurred in relation to the motion.

F. REVIEW BY WITNESS; CHANGES; SIGNING. The deponent shall have the opportunity to review the transcript of the deposition unless such examination and reading are waived by the deponent and by the parties. After being notified by the officer that the transcript is available, the deponent shall have thirty (30) days in which to review it and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by paragraph 1 of subsection G of this section whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

G. CERTIFICATION AND FILING BY OFFICER; EXHIBITS; COPIES; NOTICE OF FILING.

1. The officer shall certify on any stenographic deposition:

- a. the qualification of the officer to administer oaths, including the officer's certificate number,
- b. that the witness was duly sworn by the officer,
- c. that the deposition is a true record of the testimony given by the witness, and
- d. that the officer is not a relative or employee or attorney or counsel of any of the parties, or a relative or employee of the attorney or counsel, and is not financially interested in the action.

Except on order of the court or unless a deposition is attached to a motion response thereto, is needed for use in a trial or hearing, or the parties stipulate otherwise, depositions shall not be filed with the court clerk. The officer shall securely seal any stenographic deposition in an envelope endorsed with the title of the action and marked "Deposition of (here insert name of witness)" and send it to the attorney who arranged for the deposition, who shall store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

Documents and things produced for inspection during the examination of the witness shall, upon the request of a party, be marked for identification and annexed to the deposition and may be inspected and copied by any party. If the person producing the materials desires to retain them he may:

- a. Offer copies to be marked for identification and annexed to the deposition and to serve as originals if he affords to all parties fair opportunity to verify the copies by comparison with the originals, or
- b. Offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

2. Each attorney who takes the deposition of a witness or of a party shall bear all expenses thereof, including the cost of transcription, and shall furnish upon request to the adverse party or parties, free of charge, one copy of the transcribed deposition. If the party taking the deposition recorded it on videotape or by other nonstenographic means, that party shall also furnish upon request to the adverse party or parties, free of charge, one copy of the videotape or other recording of the deposition.

H. FAILURE TO ATTEND OR TO SERVE SUBPOENA; EXPENSES.

1. If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the

party giving the notice to pay to the other party the reasonable expenses incurred by the attending party and his or her attorney in attending, including reasonable attorney fees.

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

I. WITNESS FEES.

1. The attendance and travel fees for a witness shall be paid as provided in [Section 400](#) of this title.

2. A party deponent must attend the taking of a deposition without the payment or tender of attendance or travel fees.

J. TAXING OF COSTS OF DEPOSITIONS. The cost of transcription of a deposition, as verified by the statement of the certified court reporter, the fees of the sheriff for serving the notice to take depositions and fees of witnesses shall each constitute an item of costs to be taxed in the case in the manner provided by law. The court may upon motion of a party retax the costs if the court finds the deposition was unauthorized by statute or unnecessary for protection of the interest of the party taking the deposition.

Title 12. Civil Procedure

Chapter 41 - Discovery Code

Section 3232 – Use of depositions

A. USE OF DEPOSITIONS. At the trial or upon the hearing of a motion or an interlocutory proceeding, any part or all of a deposition, so far as admissible under the Oklahoma Evidence Code applied as though the witness were then present and testifying, may be used against any party who was present or who was represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

1. Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of deponent as a witness, or for any other purpose permitted by the Oklahoma Evidence Code;

2. The deposition of a party or of anyone who at the time of taking the deposition was an officer, director or managing agent, or a person designated under paragraph 6 of subsection C of Section 3230 or subsection A of Section 3231 of this title to testify on behalf of a public or private

corporation, partnership or association or governmental agency which is a party may be used for any purpose;

3. The deposition of a witness, whether or not a party may be used for any purpose if the court finds:

a. That the witness is dead, or

b. That the witness does not reside in the county where the action or proceeding is pending or is sent for trial by a change of venue or the witness is absent therefrom, unless it appears that the absence of the witness was procured by the party offering the deposition, or

c. That the witness is unable to attend or testify because of age, illness, infirmity or imprisonment, or

d. That the party offering the deposition has been unable to procure the attendance of the witness by subpoena, or

e. That the witness is an expert witness, who for purposes of this section is a person educated in a special art or profession or a person possessing special or peculiar knowledge acquired from practical experience, or

f. Upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court, to allow the deposition to be used.

Nothing in this paragraph shall be construed to limit the authority of the appropriate office to issue a subpoena to compel an expert witness to appear in the same manner as any other witness;

4. If only part of a deposition is offered in evidence by a party, an adverse party may require the introduction of any other part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

Substitution of parties pursuant to Section 1081, 1082, 1083 or 2025 of this title does not affect the right to use depositions previously taken. When an action has been brought in this state or in any court of the United States or of any other state and another action involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former action may be used in the latter as if originally taken therefor.

A deposition previously taken may also be used as permitted by the Oklahoma Evidence Code.

B. OBJECTIONS TO ADMISSIBILITY. Subject to the provisions of subsection B of Section 3228 of this title and paragraph 3 of subsection D of this section, objection may be made, at the trial or

hearing, to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

C. FORM OF PRESENTATION. Except as otherwise directed by the court, a party offering deposition testimony pursuant to this section may offer it in stenographic or nonstenographic form, but, if in nonstenographic form, the party shall also provide the court with a transcript of the portions so offered.

D. EFFECT OF ERRORS AND IRREGULARITIES IN DEPOSITIONS.

1. AS TO NOTICE. All errors and irregularities in the notice for taking a deposition are waived unless written objection is promptly served upon the party giving the notice.

2. AS TO DISQUALIFICATION OF OFFICER. Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

3. AS TO TAKING OF DEPOSITION.

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

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

c. Objections to the form of written questions submitted under Section 3231 of this title are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions or within five (5) days after service of the last questions authorized.

4. AS TO COMPLETION AND RETURN OF DEPOSITION. Errors and irregularities:

a. in the manner in which the testimony is transcribed or recorded, or

b. in the manner in which the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer under Sections 3230 and 3231 of this title are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained.

Title 20, Section 1513 - Court Reporter Contracts

B. A court reporter or owner of a court reporting firm shall not:

1. Enter into any contract or relationship that compromises the impartiality of court reporters or that may result in the appearance that the impartiality of a court reporter has been compromised;
2. Enter into a blanket contract, other than with a court or governmental agency, under which the court reporter or owner of a court reporting firm agrees to perform all court reporting services in two or more cases at a rate of compensation fixed in the contract;
3. Enter into a contract that requires a court reporter to provide any service that is not available to all parties to an action; or
4. Enter into a contract that gives or appears to give an exclusive advantage to any party to an action.

C. A violation of this section shall be grounds for the State Board of Examiners of Certified Shorthand Reporters to refuse to renew the enrollment of a certified or licensed court reporter. A willful violation of this section shall be grounds for the Board to suspend, cancel, or revoke the enrollment of a certified or licensed court reporter.

PRACTICAL SUGGESTIONS FOR DEPOSITIONS

The following are miscellaneous practical suggestions for court reporters.

Transcript format for depositions or other statements should follow those prescribed by the Supreme Court and referenced in this guide.

Before a deposition begins, the reporter should ask whether the deposition is to be held pursuant to any stipulations and if it is by agreement or notice.

While the deposition is proceeding, nothing should be “off the record” unless both parties clearly agree. Simply because one side says “off the record” means nothing. Unless both sides agree, everything is to be on the record.

Any exhibits to the deposition should be attached to the back of the original as well as each copy. If the exhibits are too voluminous, they should be in a separate volume or envelope. Always ask if the original exhibits are to be included in the transcript or if they need the originals returned and copies substituted.

Under both Federal and Oklahoma state law, the witness may exercise the right to read and sign the deposition. They have 30 days to do this. The adverse lawyer will usually take responsibility for providing the copy at his/her expense to the witness. If they do not take responsibility for providing a copy of the deposition for the witness, the witness will need to come to your office and review the original. You should mail the copy of the deposition with the original signature and correction page to the adverse attorney with your standard letter giving them 30 days to read and sign. Most reporters calendar the matter for 30 days after the parties receive the deposition, and if you do not have the signature and correction pages back within 30 days of that date then seal the original with your certification that the witness failed to exercise their right and submit it to the deposing party.

If the right to read and sign has been exercised by the witness, the original signature and correction page should be inserted in the back of the original. A copy of the signature and correction page should then be mailed to the parties.

GRAND JURY

Title 22, Section 311 - Definition of Grand Jury

A grand jury is a body of men consisting of twelve jurors impaneled and sworn to inquire into and true presentment make of all public offenses against the state committed or triable within the county for which the court is holden.

Title 22, Section 340 - Grand Jury - Advice of Court or District Attorney - Who May be Present - Interpreter - Investigation of District Attorney's Office

A. The grand jury may at all reasonable times ask the advice of the court or of the district attorney. In no event shall the grand jury be advised as to the sufficiency or insufficiency of the evidence

necessary to return a true bill, in a matter under investigation before them. The district attorney, with or without a regularly appointed assistant district attorney individually or collectively, or if the district attorney and all of his or her assistants are disqualified for any reason, a district attorney or assistant district attorney from another district, appointed by the Attorney General of Oklahoma pursuant to Sections [215.9](#) and [215.13](#) of Title 19 of the Oklahoma Statutes, and where proper, the Attorney General, or an assistant attorney general, may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable before them and may interrogate witnesses before them whenever he or she thinks it necessary. A qualified court reporter shall be present and take the testimony of all witnesses.

B. Upon request a transcript of the testimony or any portion thereof shall be made available to an accused or the district attorney, at the expense of the requesting party or officer, and, in the event of an indigent accused, at the expense of the state. Any person who obtains a copy of a transcript shall not reproduce the transcript in whole or in part or otherwise disclose its contents to any person other than his or her attorney without leave of the court. Violation of this provision shall be punishable as contempt. Provided, nothing in this section shall prohibit the attorney for he accused, the district attorney or assistant district attorney from reproducing in whole or in part the transcribed testimony of a witness he or she anticipates calling to testify at trial and providing same to said witness for the sole purpose of preparing for trial.

C. No person is permitted to be present during sessions of the grand jury except the members of the grand jury, the witness actually under examination and one attorney representing such witness, except that an interpreter, when necessary, may be present during the interrogation of a witness provided that, no person, except the members of the grand jury, shall be permitted to be present during the expression of juror opinions or the giving of votes upon any matter before the grand jury; provided further that neither the district attorney, nor an assistant district attorney, may be present or participate in an official capacity, as herein provided, during an investigation by the grand jury of the district attorney's office, or of any person officially associated with said office.

The reporter will be excused by the state/government attorney or the foreperson when discussion or voting on action is to take place.

Upon the completion of the grand jury proceedings, all of the reporter's notes, exhibits, electronic recordings, writer diskettes, and everything pertaining to the official record are secured, to be accessed by the reporter only or such other procedure as the court may direct. Any personal notes made or materials with any information pertaining to the grand jury that is not a part of the official record are to be shredded and disposed of as required in a particular jurisdiction.

The reporter should maintain a high degree of professionalism at all times when dealing with a grand jury and should not divulge information concerning anything to anyone outside of the grand jury room.

Should any indictments be issued and the proceedings are made public, a court reporter is not to discuss any involvement or information received in the grand jury proceedings.

Pursuant to 21 O.S. § 583, any court reporter who, except when required by a court, willfully discloses any evidence adduced before the grand jury or anything which he himself or any member of the grand jury may have said, or in what manner any grand juror may have voted on a matter before him, is guilty of a misdemeanor. Such conduct may also result in disciplinary action by the Board.

Swearing should be:

Margaret Jones, having been duly sworn by the Foreperson (or whomever), was examined and testified as follows:

EXAMINATION BY: Use regular Q&A format except when a juror asks questions. Then use:

A GRAND JUROR: What do you mean late?

It was past midnight. (Do not designate which jurors ask questions).

Additional information on grand juries in Oklahoma may be found in Oklahoma Statutes, Title 21, Section 583, and Title 22, Section 311-363.

FORMS AND EXAMPLES

The forms and examples in this section are included as general resources and may be adapted for use in individual types of cases. They are presented for information purposes only and are not to scale. The margins are set by statute, 20 O.S. §106.4. Margins should be one-half inch (1/2") at the top, bottom and on the right side, and one and one-half inch (1 1/2") on the left, with no fewer than nine characters to the typed inch. There must be at least twenty five (25) lines per page.

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)
)
 Plaintiff,)
)
V.) Case No. CRF-88-000
)
HOMER MUDD,)
 Defendant.)

AFFIDAVIT

Comes now Karen S. Smith, Certified Shorthand Reporter and Official Court Reporter in the Revocation Hearing had in the above-styled case heard before the Honorable James M. Jones, and hereby states that no transcript has been prepared due to the failure of counsel to notify me prior to today's date, November 30, 2006, that any record has been requested. I have received no Designation of Record, telephone call, or any other form of notification.

At the request of Defendant's counsel, I hereby respectfully request the Court to grant an extension of time of thirty (30) days from November 30, 2006, in which to complete the transcript on appeal.

Karen S. Smith, CSR and Official
Court Reporter
Certificate No.

Subscribed and sworn to before me, the undersigned, this ____ day of November, 2006.

Notary Public

My Commission Expires: _____

EXAMPLE OF Q AND A:

(With all parties being present, the following proceedings were had in open court:)

THE COURT: All right, call your first witness on behalf of the Plaintiff.

DAVID CLARK

called as a witness on behalf of the plaintiff, after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DAVIS:

Q For the record, would you state your name.

A David Clark.

Q Okay. And, Mr. Clark, what is your occupation?

A I am the general manager for Kit Manufacturing in McPherson, Kansas.

Q I'm going to hand you what's been marked as Plaintiff's Exhibit 1 for identification. Would you please

identify that?

A It's a copy of the original invoice for the Smiths' house.

MR. DAVIS: Move that Plaintiff's Exhibit 1 be admitted into evidence.

MR. REECE: No objection, Your Honor.

THE COURT: Plaintiff's Exhibit 1 is admitted in evidence.

Q (By Mr. Davis) How were you to be paid for this mobile home?

A We had contacted Fred Stewart for wholesale financing. He was having a problem with his wholesale

flooring service at that time. Supposedly he had sent in the necessary paper work to Chrysler, another wholesale financing source, but the Smiths' house was ready to be shipped, and the Smiths were ready to

consummate the deal.

A We asked Mr. Stewart where the home was to be financed and retailed, and he told us that it was going

to be financed through American Finance Services, another financial institution out of Tulsa, Oklahoma.

EXAMPLE OF COLLOQUY FORMAT:

MR. McLANE: That, Your Honor, is objectionable partly because it's immaterial. The only materiality of any of this line is to see whether this is a serious purpose, to request the list of shares. And I think from the testimony to this point, that it is overwhelmingly established, and that their concern is not whether Mr. Smith is serious, but because he's serious.

We haven't objected to a lot of this testimony and sparring and all this, but at this point we want to object to anything that bears on the future strategies or intentions, the kinds of matters that one side would like to know about the other when you are in a takeover situation.

The cases that we submitted from the Delaware courts indicate that this is a common sort of thing that comes up in these cases. The Defendants, who are being taken over, use the occasion of the summary litigation that is necessary to get the stockholders' list to explore the strategies and intentions and financial capabilities of the parties who want to do the taking over.

It has no real purpose in the lawsuit, but it does give them a peek into the enemy camp, so to speak, to find out how much money can these folks really come up with, how much do they think this company is really worth.

EXAMPLE FOR TESTIMONY BY DEPOSITION

WILLIAM R. GOLD

After having been first duly sworn at 3:00 p.m., deposes and says in reply to the questions propounded as follows, to-wit:

DIRECT EXAMINATION

READ BY MR. BAILEY:

Q "State your name for the record, please.

A (Read by Ms. Odell) William R. Gold.

Q What is your occupation or profession?

A I am a police officer with the Oklahoma City Police Department.

Q How long have you been with the force?

A Seven and a half years.

Q Officer Gold, I understand that you're on a leave of absence from the Oklahoma City Police Department; is that correct?

A Yes, it is."

MR. BAILEY: Skip over to page 4 now, starting on line 7.

Q "Please tell us what kind of experience and training you have in working traffic accidents.

A I've been on the police department seven and a half years. I've worked approximately 4200 accidents,

went through five months of basic training."

MR. BAILEY: Page 7, line 8.

EXAMPLE FOR QUOTING TESTIMONY

Q Mr. Jones, do you recall your deposition back in February of 1987?

MR. SMITH: I would call counsel and the Court's attention to page 38, lines 10 through 12 and

22 through 25.

Q (By Mr. Smith) Mr. Jones, I'd like to ask if you recall these questions and these answers being given:

"Question: All right. Did you have some medical care from the doctor for that after the

hospital?

Answer: Just to take the wire out, I guess."

Down to line 22.

"Question: And you had some wire put in?

Answer: Yes, sir, just to stabilize my jaw.

Question: And they were taken out later?

Answer: Yes, sir."

Do you recall that testimony, Mr. Jones?

A Yes, sir.

EXAMPLE OF VOIR DIRE OF JURY

THE COURT: If selected as a juror, could you, without doing violence to your conscience, recommend the death penalty? If anyone feels like they could not or would not, please raise your hand and let us know at this time.

(Several jurors raise their hands.)

THE COURT: Mr. Kennedy?

JUROR KENNEDY: Yes. I just don't think that I -- it's one of those things that's so uncertain in my mind, whether I could pass, in complete conscience, the death penalty.

MR. HALL: We are hoping this case can be tried in one week. We're hoping that it will be able to go to a jury later this week, but we fully anticipate that it will take at least all five days this week. Will that cause any of you such personal or professional hardship that you could not give full time to this trial, full attention to this trial, during the five days this week? Do any of you have any problem with that?

(No response from jurors.)

MR. HALL: Have any of you had any personal contact with the District Attorney's Office?

JUROR BARKLEY: I think I might have.

PARENTHETICALS

Introduction

(The following proceedings were had in open court on March 7, 1987, all parties present with counsel:)

(All parties being present, the following proceedings were had in open court prior to commencement of voir dire:)

(A Jury of 12 having been impaneled and sworn and opening statements made, the following proceedings were had on the 4th day of February, 1988, Defendant present with counsel, counsel for the State present:)

(With voir dire proceedings in progress, the following transpired in chambers outside the hearing of the prospective jury panel, all counsel present:)

(On the 29th day of January, 1989, a 12-member jury was duly impaneled and sworn in the within cause and opening statements made by the respective parties, but the same were not stenographically reported and are not transcribed herein. Thereafter, the following transpired in open court:)

(A jury of 12 was impaneled and sworn and opening statements made by counsel.)

(On March 26, 1987, with all counsel present as indicated on the appearances, and after hearing testimony and evidence, the following ruling of the Court was made:)

(The following transcript contains only the testimony of Jane B. Doe, who testified on behalf of the Plaintiff, given during the jury trial of the aforesaid case on the 29th day of October, 1987. Said testimony commences during the Plaintiff's case in chief in open court:)

(The following is an excerpt of testimony from the jury trial in the aforesaid case:)

(The proceedings commenced with the court reporter being absent. After the court reporter was summoned into the courtroom, the following transpired:)

Jury Sworn

(Jury sworn.)

(The clerk administered the oath to the jurors.)

(The jury was here sworn by the court clerk.)

In-Camera Proceedings

(The following proceedings were had [in the Court's chambers] [in open court] outside the hearing of the jury, [with only the Court and counsel being present] [all parties being present]:)

(The following in-camera proceedings were had in the Court's chambers, Defendant present with counsel and counsel for the State present:)

(The following transpired in chambers outside the presence and hearing of the jury [and the Defendant]:)

(An in-camera hearing was had, after which the following proceedings were had in open court:)

(The following transpired in chambers, the jury having been dismissed for the evening recess:)

(Jury was dismissed, and the following proceedings had:)

Bench Conferences

(The following bench conference was had outside the hearing of the jury:)

(The following proceedings were had at the bench out of the hearing of the jury:)

(At bench, out of hearing of jury:)

(The following transpired outside the hearing of the jury:)

(The following transpired in open court:)

(The following transpired within the hearing of the jury:)

(The following proceedings were had in open court within the hearing of the jury:)

(Within hearing of the jury:)

Recesses

(A brief [the noon] recess was had. Thereafter, all parties [and the jury] being present, the following transpired in open court:)

([Noon] recess taken.)

(Following the recess, proceedings resumed as follows:)

(The noon recess was had, after which the following transpired in open court:)

(The overnight recess was had. Thereafter, on September 8, 1987, at 9:00 a.m., all parties [and the jury] being present, the following proceedings were had in open court:)

(Evening recess had. Proceedings had in open court on May 12, 1988, with same appearances heretofore noted:)

(After said night recess, the following proceedings were had in open court on the 26th day of September, 1987, the Defendant personally present with counsel, counsel for the State present, and the jury in the box [or outside the presence and hearing of the jury]:)

(Thereupon, court stood in recess until 9:00 a.m., June 24, 1987, at which time the following transpired in open court [in chambers outside the hearing of the jury]:)

(The evening recess was taken, after which the following proceedings were had on January 26, 1987, in open court:)

Off-The-Record

(Discussion off the record.)

(A brief conversation was had off-the-record [and outside the hearing of the jury].)

(A brief off-the-record discussion was had at the bench outside the hearing of the jury and court reporter.)

(A brief off the record discussion was had between the court and counsel [between counsel and the witness] outside the hearing of the jury and this reporter.)

(Counsel and witness confer.)

(A brief discussion ensued between counsel.)

Deliberations, Argument

(The instructions of the Court were read to the jury and closing arguments made by counsel, but the same were not requested to be stenographically reported and are not transcribed herein, after which the jury retired to deliberate at 10:05 a.m. and returned to open court at 12:25 p.m.)

(At this time closing arguments were presented. They are not part of this record, at the request of counsel.)

(Closing arguments were presented on the record by both counsel, but not made a part of this transcript.)

(The Court read the instructions and closing arguments were made by counsel.)

(The jury retired to begin their deliberations at 2:20 p.m.)

(The jury retired to deliberate at 11:35 a.m. and returned to open court at 12:45 p.m.)

(The jury retired to deliberate at 11:35 a.m., and at 12:45 p.m. the following transpired in chambers:)

(At this time the noon recess was had, and the jury returned and resumed deliberations at 1:30 p.m. At 5:15 p.m. the jury returned to open court.)

Multiple Volumes

(This concludes proceedings had on November 28, 1987. For further proceedings, see Volume ** of this transcription.)

(On January 5, 1988, all parties [and the jury] being present, the following transpired in open court. For prior proceedings, see Volume I of this transcript.)

(The proceedings were adjourned to the following day, September 26, 1987, contained in Volume II.)

(For further transcription, see Volume II.)

(For previous transcription, see Volume I.)

Reading Back

(The last question [and/or answer] was read by the reporter.)

(Whereupon, the reporter read the requested comment.)

(The court reporter read the indicated question [answer, comment, testimony, etc.])

Explanatory

(Indicated.) (Indicated on diagram.) (Demonstrated.)

Select one of the following parts and be consistent throughout your transcripts:

1. (Witness nodded head.) (Witness shook head.)
2. (Witness nods head.) (Witness shakes head.)
3. (Nodded head.) (Shook head.)
4. (Nodded head up and down.) (Shook head from side to side.)
5. (Nods head up and down.) (Shakes head back and forth.)

(Witness shrugged shoulders.)

(Witness complied.)

(Witness made noise.)

(Witness walked to the chalkboard.)

(Witness stepped down from witness stand to address jury.)

(Witness assumed position at exhibit, blackboard, etc.)

(Witness returned to the witness stand.) (Witness resumed stand.)

(No response.) [Used only when there is very long pause.]

Miscellaneous

(Information read to jury.)

(Jurors answered "yes" collectively.)

(All jurors answered in the affirmative.)

(Jury signifies.)

(At this time the deposition of John Doe was read in its entirety.)

(Testimony of the following witness, Jane Doe, has been previously transcribed and filed of record in this case.)

(At this time the videotape deposition of Dr. James Smith was shown to the jury.)

(State's Exhibit Number 1 marked.)

(The proceedings were concluded.)

(Exhibits filed under separate cover.)

Reported by:

Jane B. Doe, CSR, RPR/CP

Certificate No.

100 Oklahoma County Courthouse

Oklahoma City, Oklahoma

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

JOHN SMITH,)
)
 Plaintiff,)
)
 VS.) No. CJ-2006-000
)
 MARTIN DOE,)
)
 Defendant.)

PARTIAL TRANSCRIPT OF PROCEEDINGS

HAD BEFORE THE HONORABLE JOHN JONES,

ON THE 5TH DAY OF JUNE, 2006.

Appearances:

Mr. Harvey Rockford, Attorney at Law, 114 Main, Seminole, Oklahoma, appearing on behalf of the Plaintiff.

Mr. Robert Page, Attorney at Law, 100 Northwest 89th Wewoka, Oklahoma, appearing on behalf of the Defendant.

REPORTED BY:

Richard Lee, C.S.R., R.P.R.
Certificate No.
Official Court Reporter
100 County Courthouse
Wewoka, Oklahoma

MR. DANIEL SMITH, Attorney at Law, 1538 North Rockway, Suite 605, Pauls Valley, Oklahoma,
appearing on behalf of the Defendant.

Reported by:
Joan Doe, CSR, CP, CM
Certificate No.
305 County Courthouse
Pauls Valley, Oklahoma

BEFORE THE WORKERS' COMPENSATION COURT
OF THE STATE OF OKLAHOMA

KENNETH F. JONES,)
)
 Claimant,)
-vs) No. 2006-19188-0
)
 ACME WIDGET COMPANY,)
 Respondent.)
)
 OWN RISK,)
)
 Insurance Carrier.)

TRANSCRIPT OF PROCEEDINGS

ON FEBRUARY 21, 2006

IN TULSA, OKLAHOMA

HONORABLE JOHN A. ADAMS, JUDGE

APPEARANCES:

Mr. Arthur Cook, Attorney at Law, Suite 180, 4200 E. Bridge Drive, Chaucer, Oklahoma 74155

Appearing on behalf of Claimant

Mr. R. H. Alexander, Jr., Attorney at Law, P.O. Office Box 1168, Altus, Oklahoma 74355.

Appearing on behalf of Respondent

Reported By:

Jane Doe, C.S.R., R.P.R.
Certificate No.
Official Reporter
Workers' Compensation Court

CERTIFICATE

STATE OF OKLAHOMA)
) SS.
COUNTY OF TULSA)

I, Peter Doe, Certified Shorthand Reporter, within and for the State of Oklahoma, do hereby certify that the above and foregoing transcript in Case No. 2006-0000 is a true, correct and complete transcript of my machine shorthand notes taken in the above styled and numbered cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of this 19th day of September, 2006.

Peter Doe
Certified Shorthand Reporter No.

CERTIFICATE

STATE OF OKLAHOMA)
) **SS.**
COUNTY OF LINCOLN)

I, Joe White, hereby certify that I am duly appointed, qualified and acting Official District Court Reporter for the 23rd Judicial District Sitting in Lincoln County, Oklahoma.

I further certify that the foregoing 105 pages is a true and correct transcript of the proceedings had in the above-styled case on Friday, March 14, 2006; and that said transcript is a true and correct transcription of my stenographic notes; and that I am not related to nor attorney for either of said parties nor otherwise interested in the event of said action.

WITNESS my hand and seal this _____ day of May, 2006.

JOE WHITE, CSR, RPR-CP
Certificate No.
District Court Reporter

CERTIFICATE

STATE OF OKLAHOMA)
) SS.
COUNTY OF TULSA)

I, KATHIE SMITH, a Certified Shorthand Reporter in and for the State of Oklahoma, do hereby

certify that the foregoing is a true and correct partial record of my notes taken in Case No. CJ-88-000, heard on

the 28th day of April 2006.

I further certify that I am not related to nor attorney for either of said parties nor otherwise interested

in said action.

WITNESS MY HAND AND SEAL this ____ day of May, 2006.

Kathie Smith, CSR, CP-RPR,CM
Certificate No.
Official District Reporter

BEFORE THE WORKERS' COMPENSATION COURT
OF THE STATE OF OKLAHOMA

KENNETH F. DOE,)	
)	
CLAIMANT,)	
)	
VS.)	NO. 2006-0000-A
)	
B. GOOD COMPANY,)	
)	
RESPONDENT,)	
)	
MY RISK,)	
INSURANCE CARRIER.))	

CERTIFICATE OF COURT REPORTER

I, Barbara Black, a Certified Shorthand Reporter, and one of the official court reporters in and for the Workers' Compensation Court of the State of Oklahoma, do hereby certify that the within and foregoing is a full, true, correct and complete transcript of my stenographic notes of the trial proceedings had and heard in the above-styled and numbered cause on the 21st day of February, 2006, in Tulsa, Oklahoma, before Judge Samuel Tuttle.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 16th day of April, 2006.

BARBARA BLACK, C.S.R. within
and for the State of Oklahoma
Certificate No.

IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

RICHARD WHITE,)
Plaintiff,)
vs) No. CJ-2006-001
AB INSURANCE,)
Defendant.)

NOTICE OF FILING

There is hereby filed this ____ day of _____, 2006, with the Deputy Court Clerk named below, an original and two copies of motion hearings had on September 2 and 6, 2006, consisting of 30 pages each, along with a manila envelope containing Plaintiff's Exhibits 1 and 2, for purposes of appeal in the above-styled cause.

Jane B. Doe, CSR
Official Court Reporter
Certificate No.

Deputy Court Clerk

IN THE DISTRICT COURT OF LINCOLN COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)
)
 Plaintiff,)
)
VS) CF-2008-000
)
RON JONES,)
)
 Defendant.)

NOTICE OF FILING

There is hereby filed with the Deputy Court Clerk named below an original and THREE copies, Volumes, I, II and III, each copy consisting of 541 pages (8 index), of the Transcript of Trial Proceedings had on the 16th, 17th and 18th days of January, 2006, before the Honorable John R. Jones and a jury, along with the exhibits as per the attached sheet and two notes from the jury, for appeal in the above-styled case.

Dated this ____ day of _____, 2012.

Jane B. Doe, CSR
Certificate No.
Official Court Reporter

Filed By: _____
Deputy Court Clerk

EXHIBITS

State's Exhibits:

1. Drawing
2. Latent print card
3. Latent print card
5. Rolled print card
6. Rolled print card
7. Rolled print card
8. Enlarged fingerprint chart
9. Rolled print card
10. Photo lineup
- * 11. Photograph
12. Rape kit
13. Clothes
14. Illustration
15. X-ray film
16. X-ray film
17. X-ray film
18. Photograph
19. J & S
20. J & S
21. Photograph
- * 22. (no exhibit)
23. Photograph

Filed:

- Manila envelope #1
- Manila envelope #1
- Manila envelope #1
- Manila envelope #1
- Manila envelope #1
- Manila envelope #1
- Separately
- Manila envelope #1
- Manila envelope #1
- Withdrawn, not filed
- Manila envelope #1
- Large box
- Separately
- Manila envelope #2
- Manila envelope #2
- Manila envelope #2
- Manila envelope #2
- Manila envelope #2
- Manila envelope #2
- Manila envelope #2
-
- Manila envelope #2

Also filed:

Two notes from the jury

Manila envelope #2

*These exhibits are not filed in the case.

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION)
OF ARKANSAS RED RIVER UTILITY)
CO., A CORPORATION, FOR APPROVAL)
OF AN APPROPRIATE PURCHASED GAS)
ADJUSTMENT CLAUSE.)

CAUSE NO. 00000
ORDER NO. 000000

IN THE MATTER OF THE APPLICATION)
OF ARKANSAS RED RIVER UTILITY GAS)
CO., A DOMESTICATED CORPORATION,)
FOR AN ADJUSTMENT IN ITS RATES)
AND CHARGES FOR GAS UTILITY)
SERVICE IN THE STATE OF OKLAHOMA)

CAUSE NO. 00000
ORDER NO. 000000

TRANSCRIPT OF TESTIMONY

Official Reporters:

Mary Doe

Janet Black

Vicky White

Bertha Smith

APPEARANCES

FOR THE STATE:

Mr. Ryan James
Assistant District Attorney
505 County Office Building
Oklahoma City, Oklahoma

FOR THE DEFENDANT CAREY:

Ms. Catherine Smith
Assistant Public Defender
611 County Office Building
Oklahoma City, Oklahoma

FOR THE DEFENDANT JONES:

Mr. Ronald Black
Attorney at Law
2827 Northwest 63rd
Oklahoma City, Oklahoma

APPEARANCES

WILLIAM L. WHITE, Attorney, Oklahoma City, appeared for the Applicant, Arkansas Red River Utility Company;

GLENN C. BLACK, Oklahoma City, appeared Pro Se and for Falling Rock Gas Company;

WALTON J. JONES, Attorney, Washington, D.C., appeared for the Department of Defense and other affected Federal Agencies;

JOHN J. GREEN, U.S. District Attorney of the Western District of Oklahoma, appeared with Walton J. Jones;

H. HAROLD DOE and VAL P. DOE, Attorneys, appeared for Sunset Oil Company of Nebraska;

ALLEN A. SMITH, CHARLES C. DOE, RICHARD R. RICH and STEPHEN S. JONES, Attorneys from the Office of the Attorney General, appeared for the rate payers;

LEE L. BLACK, General Counsel and JULIA BROWN, Assistant General Counsel, appeared for the Commission Staff.

This Cause Gen. 00000 came on for hearing on the 6th day of July, 2006, before Harold Doe, Referee for the Corporation Commission of the State of Oklahoma pursuant to Notice and Order Referring and Setting Cause for Hearing before the Referee for the purpose of taking testimony and reporting thereon to the Commission.

or

The Cause was called for hearing and the following proceedings were had:

INDEX

Evidence On Behalf Of The Plaintiff:

Page

MARK CLARK testifies:

Direct Examination by Mr. Jones _____	2
Cross-Examination by Ms. Smith _____	14
Redirect Examination by Mr. Jones _____	17

DAVID S. MORGAN, II, testifies:

Direct Examination by Mr. Jones _____	19
Cross-Examination by Ms. Smith _____	24
Redirect Examination by Mr. Jones _____	27

Plaintiff rests _____ 28

Defendant demurs _____ 28

Evidence On Behalf Of The Defendant:

JOAN HARRIS testifies:

Direct Examination by Ms. Smith _____	30
Cross Examination by Mr. Jones _____	33

Defendant rests _____ 35

Ruling of the Court _____ 35

Certificate of the court reporter _____ 37

* * * * *

	Identified	Offered	Ruled
Plaintiff's Exhibits:			
1. Invoice	6	6	6
2. Invoice	7	7	7
Defendants' Exhibits:			
1. Contract	24	25	25
2. Checks	---	31	32
3. Deposit slip	---	31	32
4. Receipt	32	32	32 *

*Exhibit not admitted in evidence. (All exhibits filed under separate cover.)

I N D E X

Volume I

	PAGE
Hearing on motions _____	2
Voir dire examination of jurors _____	14
Voir dire examination of alternate jurors _____	235
Overnight recess _____	
_____ 250 _____	

I N D E X

Volume II

Stage One

Page

Hearing in chambers	_____	252
State's opening statement by Mr. Jones	_____	291

EVIDENCE ON BEHALF OF THE STATE:

MARK CLARK testifies:

Direct Examination by Mr. Jones	_____	295
Cross-Examination by Ms. Smith	_____	309
Redirect Examination by Mr. Jones	_____	325

ALFRED MORGAN testifies:

Direct Examination by Mr. Jones	_____	313
Cross-Examination by Ms. Smith	_____	319
Redirect Examination by Mr. Jones	_____	325

MARSHA EVERETT testifies:

Direct Examination by Mr. Jones	_____	327
Cross-Examination by Ms. Smith	_____	334
Redirect Examination by Mr. Jones	_____	340

Hearing in chambers	_____	342
---------------------	-------	-----

PAUL HALL testifies (in chambers):

Direct Examination by Mr. Jones	_____	343
---------------------------------	-------	-----

Cross-Examination by Ms. Smith _____	345
PAUL HALL testifies (in open court):	
Direct Examination by Mr. Jones _____	348
Cross-Examination by Ms. Smith _____	353
Redirect Examination by Mr. Jones _____	377
Recross Examination by Ms. Smith _____	378
HARRY McDANIEL testifies:	
Direct Examination by Mr. Jones _____	380
Cross-Examination by Ms. Smith _____	384
Redirect Examination by Mr. Jones _____	388
JOE PETERSON testifies:	
Direct Examination by Mr. Jones _____	390
Cross-Examination by Ms. Smith _____	395
State rests _____	400
Defendant demurs and rests _____	400
Hearing in chambers on instructions _____	402
State's closing argument by Mr. Jones _____	405
Defendant's closing argument by Ms. Smith _____	424
State's final closing argument by Mr. Jones _____	430
Hearing in chambers on jury question _____	432
Verdicts _____	436
Jury polled _____	437
Overnight recess _____	441

* * * * *

	Identified	Offered	Ruled
State's Exhibits:			
1. Photograph	300	300	300
2. Photograph	308	309	310
3. Chart	329	329	329
4. Photograph	350	351	351
5. Shirt	352	352	352
6. (No exhibit)			
7. Photograph	364	365	365
8. Rope	366	380	380
9. Jeans	372	380	380
10. Photograph	375	380	380
11. Photograph	376	380	380 *
12. Bullets	383	383	383
13. Photograph	384	384	385
Defendants' Exhibits:			
1. Diagram	310	310	311
2. Photograph	335	338	338
3. Police report	346	---	---

*Exhibit not in evidence.

(All exhibits filed under separate cover.)

I N D E X

Volume III

Stage Two

	Page
Hearing in chambers _____	443
State's opening statement by Mr. Smith _____	451

EVIDENCE ON BEHALF OF THE STATE:

KENNETH WHITE testifies:

Direct Examination by Mr. Smith _____	455
Cross-Examination by Ms. Jones _____	464
Redirect Examination by Mr. Smith _____	471
Recross Examination by Ms. Jones _____	472
Redirect Examination by Mr. Smith _____	473
Recross Examination by Ms. Jones _____	474

KRISTY BLACK testifies:

Direct Examination by Mr. Jones _____	475
Cross-Examination by Ms. Smith _____	479

THOMAS C. SMITH testifies:

Direct Examination by Mr. Jones _____	480
---------------------------------------	-----

ANNIE A. DOE testifies:

Direct Examination by Mr. Jones _____	483
Cross-Examination by Ms. Smith _____	498

KENNETH B. GREEN testifies:

Direct Examination by Mr. Jones _____	499
---------------------------------------	-----

Hearing in chambers _____	506
---------------------------	-----

THOMAS A. JONES testifies (in chambers):

Direct Examination by Mr. Jones _____	507
Cross-Examination by Ms. Smith _____	509

THOMAS A. JONES testified (in open court):

Direct Examination by Mr. Jones _____	519
Cross-Examination by Ms. Smith _____	521
Redirect Examination by Mr. Jones _____	524

State rests _____	528
-------------------	-----

Defendant's opening statement by Ms. Smith _____	528
--	-----

EVIDENCE ON BEHALF OF THE DEFENDANT:

DEBRA ANDERSON testifies:

Direct Examination by Ms. Smith _____	531
Cross-Examination by Mr. Jones _____	534

NANCY WARNER testifies:

Direct Examination by Ms. Smith _____ 539

DEAN DRUMMOND testifies:

Direct Examination by Ms. Smith _____ 539

Cross-Examination by Mr. Jones _____ 541

LOYD HODGES testifies:

Direct Examination by Ms. Smith _____ 542

Cross-Examination by Mr. Jones _____ 543

Redirect Examination by Ms. Smith _____ 544

Recross Examination by Mr. Jones _____ 545

Defendant rests _____ 550

Hearing in chambers on instructions _____ 553

State's closing argument by Mr. Jones _____ 560

Defendant's closing argument by Ms. Smith _____ 575

State's final closing argument by Mr. Jones _____ 590

Hearing in chambers on jury question _____ 597

Verdicts _____ 598

Jury polled _____ 599

Certificate of the court reporter _____ 603

(Index of exhibits in Volume II.)

TABLE OF CONTENTS

WITNESS PRESENTED ON BEHALF OF CLAIMANT:

KENNETH MILES:

Direct Examination	Page 4
Cross-Examination	Page 10
Redirect Examination	Page 12

EXHIBITS

	<u>Offered</u>	<u>Admitted</u>
Claimant's Exhibit No. 1	13	14
Respondent's Exhibit No. 1	14	15

CERTIFIED QUESTIONS FOR THE COURT

Page No.	Line No.	Question by Mr. Jones:
5	12	“Did you believe this was reasonably safe?”

JURAT

I, [WITNESS NAME], do hereby state under oath that I have read the above and foregoing deposition in its entirety and that the same is a full, true and correct transcription of my testimony so given at said time and place, except for the corrections noted.

{WITNESS NAME}

Subscribed and sworn to before me, the undersigned Notary Public in and for the State of Oklahoma, on this, the _____ day of _____, 2012.

Notary Public

My Commission Expires: _____

My Commission Number: _____

STATE OF OKLAHOMA

COUNTY OF TULSA

JOHN DOE, as surviving spouse of Jane Doe,))
Deceased))
))
Plaintiff,))
))
VS) Case No. CJ-84-1877
))
CITY OF TULSA,))
))
Defendant.))

THE DEPOSITION OF JOHN HALE, taken on behalf of the Plaintiff, pursuant to notice, on Thursday, January 14, 1985, at 441 East Eighth Place, Suite 600, Tulsa, Oklahoma, before me, Jane Doe, Certified Shorthand Reporter in and for the State of Oklahoma

APPEARANCES

For the Plaintiff: Mr. Steve Halfind and Mr. Joe Schmoe
Halfind, Loggins & Musian
441 East Eighth Place
Tulsa, OK 78778

For the Defendant: Mr. Paul Daidson
Assistant City Attorney
City Hall Building
400 Civic Center
Tulsa, OK 78333

EXAMPLE OF STIPULATIONS

It is stipulated and agreed by and between the parties hereto that the taking of this deposition is pursuant to Notice and that the same may be taken at this time and place.

It is stipulated and agreed by and between the parties hereto that the notice for the taking of this deposition is waived and that the same may be taken at this time and place.

It is further stipulated and agreed that all objections, except as to the form of the questions, are reserved to the time of trial with the same force and effect as if made at the taking of the deposition.

It is further stipulated that all objections shall be made at the time of the taking of the deposition and ruled on by the Court at the time the deposition is offered in evidence.

VOCABULARY

ABEYANCE: Temporary inactivity; suspension. 2. *Property.* A lapse in succession during which no person is vested with title.

AB INITIO: From the beginning.

ACQUITTAL: 1. The legal certification, usually by jury verdict, that an accused person is not guilty of the charged offense.

AD HOC: Formed for a particular purpose.

ADJUDICATION: 1. The legal process of resolving a dispute; the process of judicially deciding a case. 2. Judgment.

AD LITEM: For the purposes of the suit; pending the suit.

AD VALOREM: (Of a tax) proportional to the value of the thing taxed.

AFFIANT: One who makes an affidavit.

AFFIDAVIT: A voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths, such as a notary public.

AMICUS CURIAE: [Latin “friend of the court”] A person who is not a party to a lawsuit but who petitions the court or is requested by the court to file a brief in the action because that person has a strong interest in the subject matter.

APPELLANT: A party who appeals a lower court’s decision, usually seeking reversal of the decision.

APPELLEE: A party against whom an appeal is taken and whose role is to respond to that appeal, usually seeking affirmance of the lower court’s decision.

APPURTENANT: Annexed to a more important thing.

ARM’S-LENGTH: Of or relating to dealings between two parties who are not related or not on close terms and who are presumed to have roughly equal bargaining power; not involving a confidential relationship.

BATES STAMP: *n.* 1. A self-advancing stamp machine used for affixing an identifying mark, usually a number, to a document or to the individual pages of a document. 2. Bates-stamp number.

BATES-STAMP: *vb.* To affix a mark, usually a number, to a document or to the individual pages of a document for the purpose of identifying and distinguishing it in a series of documents.

BONA FIDE: [Latin “in good faith”] 1. Made in good faith; without fraud or deceit. 2. Sincere; genuine.

CANON: A rule or principle, especially one accepted as fundamental.

CAVEAT EMPTOR: [Latin “let the buyer beware”] A doctrine holding that purchasers buy at their own risk.

CEDE: 1. To surrender or relinquish. 2. To assign or grant.

CERTIORARI: An extraordinary writ issued by an appellate court, at its discretion, directing a lower court to deliver the record in the case for review.

CODICIL: A supplement or addition to a will, not necessarily disposing of the entire estate but modifying, explaining, or otherwise qualifying the will in some way.

COGNIZANCE: 1. A court's right and power to try and to determine cases; jurisdiction. 2. The taking of judicial or authoritative notice. 3. Acknowledgment or admission of an alleged fact. 4. *Common-law pleading.* In a replevin action, a plea by the defendant that the goods are held in bailment for another.

COLLATERAL ESTOPPEL: The binding effect of a judgment as to matters actually litigated and determined in one action on later controversies between the parties involving a different claim from that on which the original judgment was based. 2. A doctrine barring a party from relitigating an issue determined against that party in an earlier action, even if the second action differs significantly from the first one.

COMITY: A practice among political entities (as nations, states, or courts of different jurisdiction), involving esp. mutual recognition of legislative, executive, and judicial acts.

COMPOS MENTIS: Of sound mind; having use of and control over one's own mental faculties.

CONSANGUINITY: The relationship of persons of the same blood or origin.

CONSORTIUM: The benefits that one person, esp. a spouse, is entitled to receive from another, including companionship, cooperation, affection aid, financial support, and (between spouses) sexual relations.

CORAM NOBIS: [Latin “before us”] *hist.* 1. A writ of error taken from a judgment of the King's Bench. 2. A writ of error directed to a court for review of its own judgment and predicated on alleged errors of fact.

CORAM VOBIS: [Latin “before you”] *hist.* 1. A writ of error directed to a court other than the King’s Bench, esp. the Court of Common Pleas, to review its judgment. 2. A writ of error sent by an appellate court to a trial court to review the trial court’s judgment based on an error of fact.

CORPUS DELICTI: [Latin “body of the crime”] 1. The fact of a transgression. 2. Loosely, the material substance on which a crime has been committed; the physical evidence of a crime, such as the corpse of a murdered person.

CORPUS JURIS: [Latin “body of law”] The law as the sum or collection of laws.

DAUBERT HEARING: A hearing conducted by federal courts, usually before trial, to determine whether proposed expert testimony meets the requirements for relevance and reliability.

DEFALCATION: 1. Embezzlement. 2. Loosely, the failure to meet an obligation; a non-fraudulent default. 3. *Archaic.* A deduction; a set-off.

DEMUR: *vb.* 1. To file a demurrer. 2. To object to the legal sufficiency of a claim alleged in a pleading without admitting or denying the truth of the facts stated.

DEMURRER: A pleading stating that although the facts alleged in a complaint may be true, they are insufficient for the plaintiff to state a claim for relief and for the defendant to frame an answer.

DICTUM: 1. A statement of opinion or belief considered authoritative because of the dignity of the person making it. 2. A familiar rule; a maxim.

EGRESS: 1. The act of going out or leaving. 2. The right or ability to leave; a way of exit.

EMINENT DOMAIN: The inherent power of a governmental entity to take privately owned property, esp. land, and convert it to public use, subject to reasonable compensation for the taking.

EXECUTOR: 1. One who performs or carries out some act. 2. A person named by a testator to carry out the provisions in the testator’s will.

EXECUTORY: 1. Taking full effect at a future time. 2. To be performed at a future time; yet to be completed.

EX PARTE: On or from one party only, usually without notice to or argument from the adverse party.

EX POST FACTO: After the fact; retroactively.

EXTRAJUDICIAL: Outside court; outside the functioning of the court system. Also termed out-of-court.

EXTRINSIC: From outside sources; of or relating to outside matters. Also termed extraneous.

FEASANCE: The doing or execution of an act, condition, or obligation.

FELONY: A serious crime usually punishable by imprisonment for more than one year or by death.

GARNISHMENT: 1. A judicial proceeding in which a creditor (or potential creditor) asks the court to order a third party who is indebted to or is bailee for the debtor to turn over to the creditor any of the debtor's property (such as wages or bank accounts) held by that third party.

GUARDIAN AD LITEM: A guardian, usually a lawyer, appointed by the court to appear in a lawsuit on behalf of an incompetent or minor party.

HABEAS CORPUS: A writ employed to bring a person before a court, most frequently to ensure that the party's imprisonment or detention is not illegal. In addition to being used to test the legality of an arrest or commitment, the writ may be used to obtain review of (1) the regularity of the extradition process, (2) the right to or amount of bail, or (3) the jurisdiction of a court that has imposed a criminal sentence.

HEARSAY: Traditionally, testimony that is given by a witness who relates not what he or she knows personally, but what others have said, and that is therefore dependent on the credibility of someone other than the witness.

HOLOGRAPH: A document (such as a will or deed) that is entirely handwritten by its author.

I.E.: *abbr.* That is.

ILLUSORY: Deceptive; based on a false impression.

INGRESS: 1. The act of entering. 2. The right or ability to enter; access.

IN FORMA PAUPERIS: [Latin "in the manner of a pauper"] In the manner of an indigent who is permitted to disregard filing fees and court costs.

IN LIMINE: *adv.* [Latin "at the outset"] Preliminarily; presented to only the judge, before or during trial.

IN-LIMINE: *adj.* (Of a motion or order) raised preliminarily, esp. because of an issue about the admissibility of evidence believed by the movant to be prejudicial. <in-limine motion>.

IN LOCO PARENTIS: [Latin "in the place of a parent"] Of, relating to, or acting as a temporary guardian or caretaker of a child, taking on all or some of the responsibilities of a parent.

IN PARI DELICTO: [Latin "in equal fault"] Equally at fault.

IN PERSONAM: [Latin "against a person"] 1. Involving or determining the personal rights and obligations of the parties. 2. (Of a legal action) brought against a person rather than property.

IN REM: [Latin “against a thing”] Involving or determining the status of a thing, and therefore the rights of persons generally with respect to that thing.

INTER ALIA: Among other things.

INTER ALIOS: Among other persons.

INTER VIVOS: [Latin “between the living”] Of or relating to property conveyed not by will or in contemplation of an imminent death, but during the conveyer’s lifetime.

INTERLOCUTORY: (Of an order, judgment, appeal, etc) interim or temporary, not constituting a final resolution of the whole controversy.

INTERLOPER: 1. One who interferes without justification. 2. One who trades illegally.

INTERPLEADER: A suit to determine a right to property held by a usually disinterested third party (called a stakeholder) who is in doubt about ownership and who therefore deposits the property with the court to permit interested parties to litigate ownership.

INTERROGATORY: A written question (usually in a set of questions) submitted to an opposing party in a lawsuit as part of discovery.

INTRA VIRES: Of or referring to an action taken within a corporation’s or person’s scope of authority.

INTRINSIC EVIDENCE: 1. Evidence brought out by the examination of the witness testifying. 2. Evidence existing within a writing.

IPSO FACTO: [Latin “by the fact itself”] By the very nature of the situation.

JACKSON-DENNO HEARING: A court proceeding held outside the jury’s presence, to determine whether the defendant’s confession was voluntary and therefore admissible as evidence.

JOINDER: The uniting of parties or claims in a single lawsuit.

JURAT: A certification added to an affidavit or deposition stating when and before what authority the affidavit or deposition was made.

JURISPRUDENCE: 1. Originally (in the 18th century), the study of the first principles of the law of nature, the civil law and the law of nations. 2. More modernly, the study of the general or fundamental elements of a particular legal system, as opposed to its practical and concrete details. 3. The study of legal systems in general. 4. Judicial precedents considered collectively. 5. In German literature, the whole of legal knowledge. 6. A system, body, or division of law. 7. Caselaw.

LACHES: 1. Unreasonable delay in pursuing a right or claim – almost always an equitable one – in a way that prejudices the party against whom relief is sought. 2. The equitable doctrine by which

a court denies relief to a claimant who has unreasonably delayed in asserting the claim, when that delay has prejudiced the party against whom relief is sought.

LEASEHOLD: A tenant's possessory estate in land or premises, the four types being the tenancy for years, the periodic tenancy, the tenancy at will, and the tenancy at sufferance. Although a leasehold has some of the characteristics of real property, it has historically been classified as a chattel real.

LIS PENDENS: 1. A pending lawsuit. 2. The jurisdiction, power, or control acquired by a court over property while a legal action is pending. 3. A notice, recorded in the chain of title to real property, required or permitted in some jurisdictions to warn all persons that certain property is the subject matter of litigation, and that any interests acquired during the pendency of the suit are subject to its outcome.

MALFEASANCE: A wrongful or unlawful act; esp. wrongdoing or misconduct by a public official.

MANDAMUS: A writ issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.

MANDATE: 1. An order from an appellate court directing a lower court to take a specified action. 2. A judicial command directed to an officer of the court to enforce a court order.

MERITORIOUS: 1. (Of an act, etc) meriting esteem or reward. 2. (Of a case, etc.) meriting a legal victory; having legal worth.

METES AND BOUNDS: The territorial limits of real property as measured by distances and angles from designated landmarks and in relation to adjoining properties.

MISDEMEANOR: A crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement in a place other than prison (such as a county jail).

MISNOMER: A mistake in naming a person, place, or thing, esp. in a legal instrument.

MITIGATION: Reduction of damages or punishment by reason of extenuating facts.

MODUS OPERANDI: [Latin "a manner of operating"] A method of operating or a manner of procedure; esp. a pattern of criminal behavior so distinctive that investigators attribute it to the work of the same person.

MOOT: *adj.* 1. *Archaic.* Open to argument; debatable. 2. Having no practical significance; hypothetical or academic. *vb.* 1. *Archaic.* To raise or bring forward (a point or question) for discussion. 2. To render (a question) moot or of no practical significance.

MOTION IN LIMINE: A pretrial request that certain inadmissible evidence not be referred to or offered at trial.

NEGLIGENCE: The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below the legal standard established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregarding of others' rights.

NOLO CONTENDERE: [Latin "I do not wish to contend"} No contest.

NON SEQUITUR: {Latin "it does not follow"} 1. An inference or conclusion that does not logically follow from the premises. 2. A remark or response that does not logically follow from what was previously said.

NUNC PRO TUNC: [Latin "now for then"} Having retroactive legal effect through a court's inherent power.

PERJURY: The act or an instance of a person's deliberately making material false or misleading statements while under oath.

PER DIEM: *adj.* Based on or calculated by the day. *adv.* By the day; for each day. *n.* 1. A monetary daily allowance, usually to cover expenses. 2. A daily fee.

PER SE: 1. Of, in, or by itself; standing alone, without reference to additional facts. 2. As a matter of law.

PER STIRPES: [Latin "by roots or stocks"} Proportionately divided between beneficiaries according to their deceased ancestor's share.

POSTMORTEM: Done or occurring after death.

PREEMPTION: 1. The right to buy before others. 2. The purchase of something under this right. 3. An earlier seizure or appropriation 4. The occupation of public land so as to establish a preemptive title. 5. The principle (derived from the Supremacy Clause) that a federal law can supersede or supplant any inconsistent state law or regulation.

PRIMA FACIE: *adj.* Sufficient to establish a fact or raise a presumption unless disproved or rebutted. *adv.* At first sight; on first appearance but subject to further evidence or information.

PROBATE: 1. To admit (a will) to proof. 2. To administer (a decedent's estate). 3. To grant probation to (a criminal); to reduce (a sentence) by means of probation.

PRO BONO: [Latin *pro bono publico* "for the public good"} Being or involving uncompensated legal services performed esp. for the public good.

PRO HAC VICE: For this occasion or particular purpose.

PRO FORMA: [Latin “for form”] 1. Made or done as a formality. 2. (Of an invoice or financial statement) provided in advance to describe items, predict results, or secure approval.

PRO SE: *adv. & adj.* For oneself; on one’s own behalf; without a lawyer. *n.* One who represents oneself in a court proceeding without the assistance of a lawyer.

PROXIMATE: 1. Immediately before or after. 2. Very near or close in time or space.

QUANTUM MERUIT: [Latin “as much as he has deserved”] 1. The reasonable value of services; damages awarded in an amount considered reasonable to compensate a person who has rendered services in a quasi-contractual relationship. 2. A claim or right or action for the reasonable value or services rendered. 3. At common law, a count in an assumpsit action to recover payment for services rendered to another person.

QUASH: 1. To annul or make void; to terminate. 2. To suppress or subdue; to crush.

QUASI: [Latin “as if”] Seemingly but not actually; in some sense; resembling; nearly.

QUID PRO QUO: [Latin “something for something”] An action or thing that is exchanged for another action or thing of more or less equal value; a substitute.

RECEIVER: A disinterested person appointed by a court, or by a corporation or other person, for the protection or collection of property that is the subject of diverse claims.

RECEIVERSHIP: 1. The state or condition of being in the control of a receiver. 2. The position or function of being a receiver appointed by a court or under a statute. 3. A proceeding in which a court appoints a receiver.

RECOGNIZANCE: A bond or obligation, made in court, by which a person promises to perform some act or observe some condition, such as to appear when called, to pay a debt, or to keep the peace; specifically an in-court acknowledgment of an obligation in a penal sum, conditioned on the performance or nonperformance of a particular act.

REMAND: 1. The act or an instance of sending something (such as a case, claim, or person) back for further action. 2. An order remanding a case, claim, or person.

REMITTITUR: 1. An order awarding a new trial, or a damages amount lower than that awarded by the jury, and requiring the plaintiff to choose between those alternatives. 2. The process by which a court requires either that the case be retried, or that the damages awarded by the jury be reduced.

REPLEVIN: 1. An action for the repossession of personal property wrongfully taken or detained by the defendant, whereby the plaintiff gives security for and holds the property until the court decides who owns it. 2. A writ obtained from a court authorizing the retaking of personal property wrongfully taken or detained.

RES: [Latin “thing”] 1. An object, interest, or status, as opposed to a person. 2. The subject matter of a trust; *CORPUS*.

RES GESTAE: [Latin “things done”] The events at issue, or other events contemporaneous with them.

RES IPSA LOQUITUR: [Latin “the thing speaks for itself”] *Torts*. The doctrine providing that, in some circumstances, the mere fact of an accident’s occurrence raises an inference of negligence so as to establish a prima facie case.

RES JUDICATA: [Latin “a thing adjudicated”] 1. An issue that has been definitively settled by judicial decision. 2. An affirmative defense barring the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the same transaction or series of transactions and that could have been – but was not – raised in the first suit.

RESPONDEAT SUPERIOR: [Law Latin “let the superior make answer”] *Torts*. The doctrine holding an employer or principal liable for the employee’s or agent’s wrongful acts committed within the scope of the employment or agency.

SCIENTER: [Latin “knowingly”] 1. A degree of knowledge that makes a person legally responsible for the consequences of his or her act or omission; the fact of an act’s having been done knowingly, esp. as a ground for civil damages or criminal punishment. 2. A mental state consisting in an intent to deceive, manipulate, or defraud.

SCINTILLA: A spark or trace.

SEQUESTER: *n.* 1. An across-the-board cut in government spending. 2. A person with whom litigants deposit property being contested until the case has concluded; a sequestrator. *vb.* 1. To seize (property) by a writ of sequestration. 2. To segregate or isolate (a jury or witness) during trial. 3. *Eccles. Law.* To ex-communicate.

SERIATIM: *adj.* Occurring in a series. *adv.* One after another; in a series; successively.

SS: *abbr.* 1. Sections. 2. *Subscripti* (i.e., signed below). 3. Sans (i.e., without). 4 (Erroneously) scilicet.

STATUS QUO: The situation that currently exists.

SUA SPONTE: [Latin “of one’s own accord; voluntarily”] Without prompting or suggesting; on its own motion.

SUBPOENA: FORM; ISSUANCE.

1. Every subpoena shall:
 - a. state the name of the court from which it is issued and the title of the action, and
 - b. command each person to whom it is directed to attend and give testimony or to produce and

permit inspection, copying, testing or sampling of designated books, documents, electronically stored information or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified. A subpoena may specify the form or forms in which electronically stored information is to be produced.

SUBPOENA DUCES TECUM: A subpoena ordering the witness to appear and to bring specified documents, records, or things.

SUBROGATION: The substitution of one party for another whose debt the party pays, entitling the paying party to rights, remedies, or securities that would otherwise belong to the debtor. 2. The equitable remedy by which such a substitution takes place. 3. The principle under which an insurer that has paid a loss under an insurance policy is entitled to all the rights and remedies belonging to the insured against a third party with respect to any loss covered by the policy.

SUBORN: 1. To induce (a person) to commit an unlawful or wrongful act, esp. in a secret or underhanded manner. 2. To induce (a person) to commit perjury. 3. To obtain (perjured testimony) from another.

SUMMARY JUDGMENT: A judgment granted on a claim or defense about which there is no genuine issue of material fact and upon which the movant is entitled to prevail as a matter of law.

SUPERSEDEAS: [Latin “you shall desist”] 1. A writ or bond that suspends a judgment creditor’s power to levy execution, usually pending appeal.

TESTAMENTARY: 1. Of or relating to a will or testament. 2. Provided for or appointed by a will. 3. Created by a will.

TESTATE: Having left a will at death.

TORT: 1. A civil wrong, other than breach of contract, for which a remedy may be obtained, usually in the form of damages; a breach of a duty that the law imposes on persons who stand in a particular relation to one another. 2. The branch of law dealing with such wrongs.

TORTFEASOR: One who commits a tort; a wrongdoer.

TORTIOUS: 1. Constituting a tort; wrongful. 2. In the nature of a tort..

UNJUST ENRICHMENT: 1. The retention of a benefit conferred by another, without offering compensation, in circumstances where compensation is reasonably expected. 2. A benefit obtained from another, not intended as a gift and not legally justifiable, for which the beneficiary must make restitution or recompense. 3. The area of law dealing with unjustifiable benefits of this kind.

VENUE: 1. The proper or a possible place for a lawsuit to proceed, usually because the place has some connection either with the events that gave rise to the lawsuit or with the plaintiff or defendant. 2. The county or other territory over which a trial court has jurisdiction. 3. Loosely, the place where a conference or meeting is being held. 4. In a pleading, the statement establishing the place for trial. 5. In an affidavit, the designation of the place where it was made.

VOIR DIRE: [Law French “to speak the truth”] 1. A preliminary examination of a prospective juror by a judge or lawyer to decide whether the prospect is qualified and suitable to serve on a jury. 2. A preliminary examination to test the competence of a witness or evidence. 3. *Hist.* An oath administered to a witness requiring that witness to answer truthfully in response to questions.

WRIT: A court’s written order, in the name of a state or other competent legal authority, commanding the addressee to do or refrain from doing some specified act.