

# ARKANSAS COURT REPORTERS HANDBOOK

SIXTH EDITION

2010

PREPARED BY  
ARKANSAS COURT REPORTERS ASSOCIATION

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## PREFACE

It has long been said by lawyers and judges that no two transcript formats are alike, that they are as different as night and day. This handbook has been prepared as a "guideline" for both new and old court reporters in Arkansas. Court reporters around the state provided samples of the various "ingredients" that go into the construction of a transcript. The results are a combination of the many forms used throughout Arkansas.

There are three major divisions in the handbook:

- \*           depositions
- \*           official court transcripts
- \*           arbitration transcripts

Depositions are the record of pretrial interrogatories taken in oral form by attorneys. Official transcripts are the official record of court hearings, trials, arbitrations, etc.

On July 7, 1986, the Arkansas Supreme Court issued a Per Curiam Order setting forth a uniform set of standards for transcripts prepared for use in Arkansas state courts. These rules provide some regulation as to size of type, margins, etc. Transcripts prepared in federal courts and arbitration cases follow the federal rules for transcript preparation. However, there are many other questions for which no answers can be found. Hopefully, this handbook will provide some of

those answers.

Certification of court reporters in the State of Arkansas was established by Per Curiam Order dated July 5, 1983. The Board of Certified Court Reporter Examiners was established by said Per Curiam.

Rules and regulations governing certification, continuing education requirements, schedule for retention of records for official reporters, and many other requirements are contained in the Rule Providing for Certification of Court Reporters and Regulations of the Board of Certified Court Reporter Examiners.

The Board, through a Memorandum dated October 1, 1999, points out that the directives of Arkansas Rule of Civil Procedure 28(d) are not being adhered to by all certified court reporters. Rule 28(d) states as follows:

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.

Although it was previously felt that this requirement could be waived by stipulation of the parties, Judge Smitherman, writing for the Board, states:

Nothing in either Rule 28(d) or Section 22 (of the Regulations of the Board of Certified Court Reporter Examiners) provides for a waiver of these provisions, and,

upon formal complaint and pursuant to the Board's authority to conduct hearings regarding violations of the Court's orders, these directives will be strictly enforced.

Arkansas Code of Judicial Conduct gives guidance for conduct of duties as a court reporter, both in and out of the courtroom. A court reporter must always be cognizant of the requirements of propriety of action, impartiality of treatment, and balance in approach and should dress in a manner that is consistent with the dignity of the proceedings. To that end, you should familiarize yourself with the Rule Providing for Certification of Court Reporters, the Regulations of the Board of Certified Court Reporter Examiners, and the Arkansas Code of Judicial Conduct.

**RULE PROVIDING FOR CERTIFICATION OF COURT REPORTERS****Section 1. Members of the board.**

A. The Board of Certified Court Reporters Examiners hereafter referred to as the "Board", shall be composed of seven members who shall be appointed by this Court. Four of the members shall be judges of the Circuit or Appellate Courts and shall be

B. appointed for terms of three years. Initially, one of the four shall be appointed for a term of one year, one

C. for a term of two years, and two for a term of three years. Three of the Board members shall have been court reporters in and citizens of Arkansas for at least

D. five years prior to their appointment. Of the court reporters appointed to the board, at least one shall be a machine shorthand writer, at least one shall be a mask dictation/voice writer, at least one shall be an official

E. court reporter, and at least one shall be a freelance court reporter. Initially, one of the three shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Members of the Board shall serve without compensation but shall be reimbursed for their travel and other expenses in the performance of their duties.

F. Members shall be appointed to serve a three year

term and may be reappointed to a second three year term. A member whose term has expired shall continue to serve until a successor is appointed and qualified. The Court shall fill any vacancy by appointing a member for the duration of an unexpired term and may remove any member for cause. A member who has been appointed to complete an unexpired term shall be eligible for reappointment to serve two terms of three years each.

G. Each member shall take an oath that he will fairly and impartially and to the best of his ability administer this Rule.

**Section 2. Officers of the board; meetings.**

At the first meeting of the Board, the Board will organize by electing one of its members as chairman and one as secretary, each of whom shall serve for one year and until his successor is elected. The Clerk of this Court shall serve as treasurer. The Board shall meet at least twice a year at such time and places as the Board shall designate.

**Section 3. Duties of the board.**

The Board is charged with the duty and invested with the power and authority:

A. To determine the eligibility of applicants for certification.

B. To determine the content of examinations to be given to applicants for certification as certified court

reporters.

C. To determine the applicant's ability to make a verbatim record of court proceedings by any recognized system designated by the Board.

D. To issue certificates to those found qualified as certified court reporters.

E. To set a fee to be paid by each applicant at the time the application is filed and an annual license fee.

F. To develop a records retention schedule for official court reporters of state trial courts.

G. To develop, implement, and enforce a continuing education requirement for court reporters certified pursuant to this Rule.

H. To promulgate, amend and revise regulations relevant to the above duties and to implement this Rule. Such regulations are to be consistent with the provisions of this Rule and shall not be effective until approved by this Court.

I. To provide a system and procedure for receiving complaints against court reporters, investigating such complaints, filing formal disciplinary complaints against reporters, and for hearing, consideration, and determination of validity of charges and appropriate sanctions to be imposed upon any reporter.

**Section 4. Application for certification.**

Every applicant for examination for certification as a certified court reporter shall file with the clerk of this court a written application in the form prescribed by the Board. Upon request, the clerk of this court shall forward to any interested person application forms together with the text of this rule and a copy of the regulations promulgated by the Board under the provisions of Rule 3E.

**Section 5. Eligibility for certification.**

Applicants shall:

- a. be at least 18 years of age
- b. be of good moral character.
- c. not be a convicted felon, and
- d. not have been adjudicated or found guilty, or entered a plea of guilty or nolo contendere to any felony or to any misdemeanor that reflects adversely on the applicant's honesty, trustworthiness or fitness as a reporter in other respects, or to 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 felony.

**Section 6. Admission without examination.**

Upon application and payment of the fee within four months

of the effective date of the rule, any court reporter serving in that capacity on or before July 5, 1983, shall be issued a certificate without examination, provided the application and fee are accompanied by letters of recommendation from either a Circuit, Chancery, or Court of Appeals Judge and two attorneys who are licensed to practice law in the State of Arkansas, who certify that the applicant was a practicing court reporter on or before July 5, 1983.

### **Section 7. Discipline**

(a) Sanctions. For violating any of the provisions of Sections 19 or 22 of the "Regulations of the Board of Certified Court Reporter Examiners," the Board for good cause shown, and by a majority of four (4) votes from the Board concurring, after a public hearing by the Board, may sanction a reporter by ordering a public admonition, or by suspending or revoking any certificate issued by the Board. The Board, with four (4) votes concurring, may sanction a reporter for minor or lesser misconduct with a private, non-public admonition by discipline by consent, as set out in Section 8 of these Rules.

(b) Definitions.

1. "Revoke a certificate" means to unconditionally prohibit the conduct authorized by the certificate. If a reporter's certificate is revoked, the reporter is not eligible to apply for a new reporter's certificate for a

period of five (5) years after the date the revocation order becomes effective after final Board action or after final action by the Supreme Court of Arkansas, if there is an appeal.

2. "Suspend a certificate" means to prohibit, whether absolutely or subject to conditions which are reasonably related to the grounds for suspension, for a defined period of time, the conduct authorized by the certificate. No suspension shall be for less than one (1) month nor for more than sixty (60) months.

3. "Admonition" means a written order or opinion of the Board stating the specific misconduct or failure to perform duties by the reporter. The admonition shall be designated as being private or public by the Board. A private admonition shall be a confidential document known and available only to the Board and the reporter.

4. "Special Prosecutor" refers to an individual, who is charged with the duties of investigating complaints presented to the Board, which pertain to alleged violations of the Rules and Regulations; drafting proposed Complaints for the Board's review, which outline the alleged violations of the Rules and Regulations; serving as a prosecutorial officer before and during any hearing or proceeding, which result from the investigation and/or filing of the complaint; and performing additional tasks as assigned by

the Board.

(c) Subpoenas. The Board has the authority to issue subpoenas for any witness(es), and for the production of papers, books, accounts, documents, records, or other evidence and testimony relevant to a hearing held pursuant to Section 7 upon the request of any party. Such process shall be issued by and under the seal of the Board and be signed by the Chair or the Executive Secretary. The subpoenas shall be served in any manner provided by the Arkansas Rules of Civil Procedure for service of process. The Board shall provide for its use a seal of such design as it may deem appropriate. The Circuit Court of Pulaski County shall have the power to enforce process.

(d) Special Prosecutor.

(1) When requested in writing by the Board to so serve, the Executive Director of the Arkansas Supreme Court Office of Professional Conduct ("Office") may, if time, work demands, and resources of that office permit, act as the investigating, charging, and prosecutorial officer for Complaints of this Board. Any expenses of that Office attributed to handling a Complaint from this Board shall be paid to the Bar of Arkansas account from funds available to this Board after review and approval by the Chairperson of this Board of any such expense claims. By agreement between this Board and the Office, reasonable reimbursement for

attorney time may be made by the Board to the Office.

(2.) The Board may employ on contract, from funds within its budget, such attorneys as it deems necessary for the investigation, charging, and prosecution of Complaints before the Board.

(e) Immunity.

The Board, its individual members, and any employees and agents of the Board, including the Executive Director and staff of the Office of Professional Conduct when acting for the Board, are absolutely immune from suit or action for their activities in discharge of their duties hereunder to the full extent of judicial immunity in Arkansas.

(f) Confidentiality. Subject to the exceptions listed in (4) below in this subsection:

(1) All communications, Complaints, formal Complaints, testimony, and evidence filed with, given to or given before the Board, or filed with or given to any of its employees and agents during the performance of their duties, that are based upon a Complaint charging a reporter with violation of the Board Rules, shall be absolutely privileged and confidential; and

(2) All actions and activities arising from or in connection with an alleged violation of the Board Rules by a reporter certified by the Board are absolutely privileged and confidential.

(3) These provisions of privilege and confidentiality shall apply to complainants.

(4) Exceptions.

(i) Except as expressly provided in these Rules, disciplinary proceedings under these Rules are not subject to the Arkansas Rules of Civil Procedure regarding discovery.

(ii.) The records of public hearings conducted by the Board are public information.

(iii) In the case of revocation, the Board is authorized to release any information that it deems necessary for that purpose.

(iv) The Board is authorized to release information:

- (a) For statistical data purposes;
- (b) To a corresponding reporter disciplinary authority or an authorized agency or body of a foreign jurisdiction engaged in the regulation of reporters;
- (c) To the Commission on Judicial Discipline and Disability;
- (d) To any other committee, commission, agency or body within the State empowered to investigate, regulate, or adjudicate matters incident to the legal profession when such information will assist in the performance of those duties; and
- (e) To any agency, body or office of the federal

government or this State charged with responsibility for investigation and evaluation of a reporter's qualifications for appointment to a governmental position of trust and responsibility.

(5) Any reporter against whom a formal complaint is pending shall have disclosure of all information in the possession of the Board and its agents concerning that Complaint, including any record of prior Complaints about that reporter, but excepting "attorney work product" materials.

(6) The reporter about whom a Complaint is made may waive in writing, the confidentiality of the information.

(g) Procedure.

(1) Standard of Proof. Formal charges of misconduct, petitions for reinstatement, and petitions for transfer to or from inactive status shall be established by a preponderance of the evidence.

(2) Burden of Proof. The burden of proof in proceedings seeking discipline is on the Board or its special prosecutor. The burden of proof in proceedings seeking reinstatement is on the reporter seeking such action.

(3) Limitations on Actions. The institution of disciplinary actions pursuant to these Procedures shall be exempt from all statutes of limitation.

(4) Evidence and Procedures. Except as noted in these

Rules, the Arkansas Rules of Evidence and the Arkansas Rules of Civil Procedure shall not generally apply to discipline proceedings before the Board.

(5) Pleadings. All pleadings filed before the Board shall be captioned "Before the Supreme Court Board of Certified Court Reporter Examiners" and be styled "In re \_\_\_\_\_" to reflect the name of the respondent reporter.

(h) Ex Parte Communication.

(1) Members of the Board shall not communicate "ex parte" with any complainant, attorney acting as Board prosecutor, the Executive Director, or the staff of the Office of Professional Conduct, or the respondent reporter or his or her counsel regarding a pending or impending investigation or disciplinary matter except as explicitly provided for by law or these Rules, or for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits of the case or Complaint.

(2) A violation of this rule may be cause for removal of any member from the Board before which a matter is pending.

(i) Probable cause determination. Before a formal Complaint may be prepared on any reporter, the written approval of four (4) members of the Board shall be given to the complaint as filed. Before any formal Complaint may be

served on a reporter, it shall be approved by the signature of the Board Chair.

(j) The Complaint to be served upon a reporter shall state with reasonable specificity each Board Rule alleged to have been violated by the reporter and summarize the conduct or omission by the reporter that supports the Rule violation. Affidavits of those persons having knowledge of the facts and court records and documents may be attached as exhibits to the Complaint.

(k) Service of Complaint. The Complaint shall be served by one of the following methods:

(1) By certified, restricted delivery, return receipt mail to the reporter at the address of record for the reporter currently on file with the Board,

(2) By personal service as provided by the Arkansas Rules of Civil Procedure or an Investigator with the Office of Professional Conduct; or,

(3) When reasonable attempts to accomplish service by (k) (1) and (k) (2) have been unsuccessful, then a warning order, in such form as prescribed by the Board, shall be published weekly for two consecutive weeks in a newspaper of general circulation within this State or within the locale of the respondent reporter's address of record. In addition, a copy of the formal Complaint and warning order shall be sent to the respondent reporter's address of record by

regular mail.

(4) A reporter's failure to provide an accurate, current mailing address to the Board or the failure or refusal to receipt certified mailing of a formal Complaint, shall be deemed a waiver of confidentiality for the purposes of the issuance of a warning order.

(5) Unless good cause is shown for a reporter's non-receipt of a certified mailing of a formal Complaint, the reporter shall be liable for the actual costs and expenses for service or the attempted service of a formal Complaint, to include all expenses associated with the effectuation of service. Such sums will be due and payable to the Board before any response to a formal Complaint will be accepted or considered by the Board.

(6) After service has been effected by any of the aforementioned means, subsequent mailings by the Board to the respondent reporter may be by regular mail to the reporter's address of record, to the address at which service was accomplished, to any counsel for the reporter, or to such address as may have been furnished by the reporter, as the appropriate circumstance may dictate, except that notices of hearings and letters or orders of admonition, suspension, or revocation shall also be sent by certified, return receipt mail or be served upon the reporter in a manner authorized in Section 7(k)(2).

(7) Service on a non-resident reporter may be accomplished pursuant to any option available herein, or in any manner prescribed by the law of the jurisdiction to which the service is directed.

(1) Time and Manner of Response; Rebuttal.

(1) Upon service of a formal Complaint, pursuant to Section 7(k) or after the date of the first publication, pursuant to Section 7(k)(3), the respondent reporter shall have twenty (20) days in which to file a written response in affidavit form with the Board of Certified Court Reporters Examiners by filing the response at the Office of the Clerk of the Arkansas Supreme Court, 625 Marshall Street, Little Rock, AR 72201, except when service is upon a non-resident of this State, in which event the respondent reporter shall have thirty (30) days within which to file a response. In the event that a response has not been filed with the Board of Certified Court Reporters Examiners within twenty (20) days or within thirty (30) days, as the appropriate case may be, following the date of service, and an extension of time has not been granted, the Executive Secretary shall proceed to issue the Complaint to the Board by mail as a "failed to respond" case.

(2) At the written request of a reporter, the Board Chair is authorized to grant an extension of reasonable length for the filing of a response.

(3) The Executive Secretary shall provide a copy of the reporter's response to the complainant within seven (7) calendar days of receiving it and advise that the complainant has ten (10) calendar days in which to rebut or refute any allegations or information contained in the reporter's response. The Executive Secretary shall include any rebuttal made by the complainant as a part of the material submitted to the Board for decision and any such rebuttal shall be provided to the respondent reporter for informational purposes only, with no response required. If any rebuttal submitted contains allegations of violations of Board Rules not previously alleged, a supplemental or amended Complaint may be prepared and served on the respondent reporter, who shall be permitted surrebuttal in the manner prescribed herein for filing a response to a Complaint.

(4) The calculation of the time limitations specified herein shall commence on the day following service upon the respondent reporter. If the due date of a response, rebuttal, or surrebuttal falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next regular business day.

(m) Failure to Respond; Reconsideration.

(1) A reporter's failure to provide, in the prescribed time and manner, a written response to a formal

Complaint served in compliance with Section 7(k) shall constitute separate and distinct grounds for the imposition of sanctions notwithstanding the merits of the underlying, substantive allegations of the Complaint; or,

(2) May be considered for enhancement of sanctions imposed upon a finding of violation of the Rules.

(3) The separate imposition or the enhancement of sanctions for failure to respond may be accomplished by the Board's notation of such failure in the appropriate sanction order and shall not require any separate or additional notice to the respondent reporter.

(4) Failure to timely respond to a formal Complaint shall constitute an admission of all factual allegations of the Complaint and an admission of all alleged violations of Rules and Regulations in the Complaint.

(5) Failure to timely respond to a formal Complaint shall extinguish a respondent reporter's right to a public hearing on the formal Complaint.

(6) Reconsideration:

(a) Provided, however, that in a case where a timely response was not filed by a respondent reporter, within ten (10) calendar days after receiving a written notice from the Board setting the case for hearing, the respondent reporter may file with the Board, through the Office of the Clerk of the Arkansas Supreme Court, a petition for reconsideration

in affidavit form, stating under oath clear, compelling, and cogent evidence of unavoidable circumstances sufficient to excuse or justify the failure to file a timely response to the Complaint.

(b) Upon the filing of a petition for reconsideration for failure to timely file a response to a Complaint, the Executive Secretary of the Board shall provide each member of the Board a copy of the petition for reconsideration for a vote by written ballot on granting or denying the petition, the ballot to be marked and returned to the Executive Secretary within a reasonable time.

(c) If four (4) members of the Board, upon a finding of clear and convincing evidence, vote to grant the petition for reconsideration, the Board shall permit the reporter to submit a belated affidavit of response to the substantive allegations of the formal Complaint and the matter shall proceed as though the response had been made timely.

(d) If four (4) Board members vote to deny the petition for reconsideration, the case shall be placed on the agenda at the next meeting of the Board, and the Board shall determine the appropriate sanction from a review of the file, without giving consideration or weight to any response that may have been untimely filed.

(n) Pretrial procedure.

(1) The Board Chair may set and conduct such pretrial

conferences as the Chair deems needed for the case. The Board Chair shall also issue an order setting any Complaint for hearing before the Board.

(2) The Board Chair shall hear and decide all pretrial matters and all motions, including any motion to dismiss the Complaint or any part thereof.

(o) Hearings.

(1) Hearings shall be conducted at such times and places as the Board may designate.

(2) A hearing shall not be conducted unless at least five

(5) Board members are present.

(3) After hearing all the testimony and receiving all the evidence in a case, the Board shall deliberate in private and reach a decision on the Complaint. At least four (4) votes are required to find a Rule or Regulation violation and to order a sanction. The same four (4) Board members are not required to vote for both the rule violation(s) and the sanction.

(4) If at least four (4) Board members agree on the Rule or Regulation violated by the reporter, and on a sanction, an Order consistent with such vote shall be prepared and provided to the Board Chair for review and approval. Upon approval, such Order shall be filed with the Clerk of the Arkansas Supreme Court and a filed copy shall be promptly provided to the respondent reporter and any counsel for the

reporter.

(5) In addition to any available disciplinary sanction, the Board may also order a reporter to pay:

(a) The costs of the investigation and hearing, excluding any attorney's fees,

(b) A fine not to exceed \$1,000.00 and

(c) Full restitution to any person or entity which has suffered a financial loss due to the reporter's violation of any Board Rule or Regulation, but only to the extent of the costs of any reporter's transcript and fees and expenses associated with a transcript of any court proceeding or deposition.

(6) Once a public hearing has commenced, a private, confidential admonition is not an available sanction.

**Section 8. Surrender of Certificate - Discipline by Consent.**

(a) Surrender of Certificate. A reporter may surrender his or her certificate upon the conditions agreed to by the reporter and the Board:

(1) In lieu of disciplinary proceedings where serious misconduct by the reporter is admitted by the reporter to exist, or

(2) On a voluntary surrender basis of his or her certificate at any time where there is no pending Complaint against the reporter.

(3) No petition to the Supreme Court for voluntary

surrender of a certificate by a reporter shall be granted until referred to and approved by the Board and the recommendations of the Board are received by the Supreme Court.

(4) If the Supreme Court accepts any form of surrender of a reporter's certificate, it will do so by per curiam order.

(b) Discipline by Consent.

(1) A reporter against whom a formal Complaint has been served may, at any stage of the proceedings not less than ten (10) business days prior to the commencement of a public hearing tender a written conditional acknowledgment and admission of violation of some or all of the Rules and Regulations alleged, in exchange for a stated disciplinary sanction in accordance with the following:

(2) With service of a Complaint, the respondent reporter shall be advised in writing that if a negotiated disposition by consent is contemplated that the respondent reporter should contact the Board Chair or the Board's special prosecutor to undertake good faith discussion of a proposed disposition. All discipline by consent proposals must be approved in writing by the Board Chair, or by the Board's special prosecutor before the consent proposal can be submitted to the Board.

(3) Upon a proposed disposition acceptable to the

respondent reporter and the Board Chair or representative, the respondent reporter shall execute and submit a consent proposal on a document prepared by the Board setting out the necessary factual circumstances, admissions of violation of the Board Rules and Regulations, and the terms of the proposed sanction.

(4) The consent proposal, along with copies of the formal Complaint, and the recommendations of the Board Chair or representative, shall be presented to the Board by written ballot to either accept or reject the proposed disposition. The respondent reporter will be notified immediately in writing of the Board's decision. Rejection will result in the continuation of the formal Complaint process.

(5) No appeal is available from a disciplinary sanction entered by the consent process.

(6) The Board shall file written evidence of the terms of any public sanction discipline by consent, in the form of an order, with the Clerk of the Supreme Court.

(c) Serious Misconduct. If the discipline by consent involves allegations of serious misconduct, for which a suspension or revocation of the certificate is to be imposed, the Supreme Court shall also approve any sanction.

(1) The Board shall present to the Supreme Court, under such procedures as the Supreme Court may direct, any

discipline by consent proposal involving serious misconduct, which the agreed consent proposal and any Board has reached with a respondent reporter.

(2) If the Supreme Court does not approve the proposed discipline by consent or the voluntary surrender of the certificate, the matter shall be referred back to the Board which shall resume the proceedings at the stage at which they were suspended when the consent proposal was made and submitted to the Supreme Court.

### **Section 9. Appeal**

(a) Within thirty (30) days of receipt of written findings of the Board issuing an admonition, or suspending or revoking a certificate, the aggrieved court reporter may appeal said findings to the Supreme Court of Arkansas for review de novo upon the record. Such appeal shall be prosecuted by filing a written notice of appeal with the Clerk of the Supreme Court of Arkansas with a copy thereof to the Chair of the Board. The notice of appeal shall specify the party taking the appeal; shall designate the order of the Board from which appeal is sought; and, shall designate the contents of the record on appeal. The notice shall also contain a statement that the transcript, or specific portions thereof, have been requested.

(b) The Executive Secretary of the Board shall prepare the record for appeal consisting of the pleadings, orders, and

other documents of the case, and include therein the transcript of proceedings that is provided by the respondent reporter. The Chair of the Board shall certify the record prepared by the Executive Secretary.

(c) The respondent reporter shall be responsible for obtaining the transcript of any case proceedings and hearings and for timely providing same to the Executive Secretary of the Board. It shall be the responsibility of the appellant to transmit such record to the Supreme Court Clerk. The record on appeal shall be filed with the Supreme Court Clerk within ninety (90) days from filing of the first notice of appeal, unless the time is extended by timely filed order of the Board. In no event shall the time be extended more than seven (7) months from the date of entry of the initial order of the Board. Such appeals shall be processed in accord with pertinent portions of the Rules of the Supreme Court and Court of Appeals of the State of Arkansas.

**Section 10 Funds - Disbursement Of**

All fees and other monies accruing under the Rule shall be deposited by the Clerk of this Court in an account called, "Certified Court Reporters Fund." All expenses incurred by the Board shall be paid out of this fund as authorized and directed by the Board. Travel and other necessary expenses of the members of the Board shall be paid from said fund.

**Section 11. Scope.**

(a) After the effective date of this Rule, all transcripts taken in court proceedings, depositions, or before any grand jury will be accepted only if they are certified by a court reporter who holds a valid certificate under this Rule.

Provided, however, that depositions taken outside this state for use in this state are acceptable if they comply with the Arkansas Rules of Civil Procedure.

(b) Disciplinary Authority. An Arkansas certified court reporter is subject to the disciplinary authority of this jurisdiction, regardless of where the court reporter's conduct occurs. A court reporter not certified in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the court reporter provides or offers to provide any court reporter services in this jurisdiction. A court reporter may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

**Section 12. Effective date.**

The effective date of this Rule is February 1, 1984.

**Section 13. Continuing education requirement.**

Reporters certified pursuant to this rule must acquire thirty (30) continuing education credits every three years through activities approved by the Board or a committee of the Board. Such three year period shall be known as the

"reporting period." Each reporting period shall begin on January 1 and extend through December 31 three years hence. The reporting period for reporters newly certified pursuant to this Rule shall begin January 1 following certification by the Board. If a reporter acquires, during such reporting period, approved continuing education in excess of (30) thirty hours, the excess credit may be carried forward and applied to the education requirement for the succeeding reporting period only. The maximum number of continuing education hours one may carry forward is ten (10).

A continuing education credit is presumed to be 60 minutes in length. However, the Board in its discretion may grant greater or lesser credits per hour of education as each individual program may warrant. Court reporters certified pursuant to this rule who maintain a residence address outside the State of Arkansas are subject to this requirement. However, continuing education activities approved by the appropriate authority in their resident jurisdiction shall be applicable to this requirement. To establish compliance with this continuing education requirement the Board may accept continuing education hours acquired to meet the continuing education requirements of the National Court Reporters Association or the National Verbatim Reporters Association.

Exceptions to Requirement:

In cases where extreme hardship or extenuating circumstances are shown, the Board may grant a waiver of the continuing education requirement or extensions of time within which to fulfill the requirements. Such waivers or extensions shall be considered only upon written request from the certificate holder. As a condition of any waiver or extension, the Board may set such terms and conditions as may be appropriate under the circumstances.

Any reporter certified pursuant to this rule who attains age 65 or 30 years of certification, during any reporting period, is exempt from all requirements of this rule for that reporting period as well as all subsequent reporting periods.

At any time during a reporting period a reporter may take inactive status as it pertains to the continuing education requirement of this rule. Inactive status means that a reporter will not practice court reporting until such time as the reporter returns to active status. Election of inactive status must be in writing. Election of inactive status must be annually renewed and the Board shall provide a form for renewal of inactive status. Such annual renewal shall be filed with the Board on or before March 31 of each year subsequent to the year of election of inactive status. For the purpose of this paragraph court reporting means "verbatim reporting" as defined in Section 1 of the

"Regulations of the Board of Certified Court Reporter Examiners" and, verbatim reporting regardless of the context, including administrative or regulatory proceedings and non-judicial proceedings. A reporter may return to active status at any time upon written notice to the Board. In such case the reporter shall be subject to the thirty hour requirement of this rule for the reporting period beginning the following January 1.

Continuing Education Activities Content:

Continuing education credit may be obtained by attending or participating in Board approved seminars, conventions, or workshops, or other activities approved by the Board. To be approved for continuing education credit the activity must: be presented by individuals who have the necessary experience or academic skills to present the activity; include quality written materials; and, the course must be subject to evaluation. The continuing education activity must contribute directly to the competence and professionalism of court reporters. The Board is authorized to approve continuing education activities which include but are not limited to the following subject areas: language; academic knowledge; statutes and regulations; reporting technology and business practice; and, ethical practices-professionalism.

Administrative Procedures:

The Board shall be the authority for approval of continuing education programs. Such authority may be delegated by the Board to a committee. It is presumed that program approval will be sought and determined well in advance of the educational activity. However, the Board or its committee may approve an educational activity after the event.

The Board is authorized to develop appropriate forms and other administrative procedures as necessary to efficiently administer this continuing education requirement.

The Board shall require that reporters certified pursuant to this rule maintain and provide such records as necessary to establish compliance with this continuing education requirement. The Board may also require that sponsors provide evidence of attendance at programs in such form as the Board may direct.

On or before January 31 after the conclusion of the immediately preceding reporting period, the Board shall provide a final report by first class mail to reporters whose reporting period concluded the preceding December 31. The number of continuing education credits stated on the final report shall be presumed correct unless the reporter notifies the Board otherwise. In the event the final report shows that the reporter has failed to acquire 30 continuing education credits for the applicable reporting period, the reporter shall be in noncompliance with the requirements of

this rule.

In the event of noncompliance, the certificate of the affected reporter shall be subject to suspension as set forth in the following section. Prior to initiation of suspension proceedings, the Board shall provide notice to allow the reporter to achieve compliance. Board approved continuing education credits obtained subsequent to the relevant reporting period and prior to a vote of suspension shall be accepted in order to cure noncompliance. However, such hours will be subject to a late filing fee in an amount not to exceed \$100.00.

Suspension of License - Reinstatement.

Section 7 of this rule - Discipline and Section 19 of the "Regulations of the Board of Certified Court Reporter Examiners" shall govern suspension or revocation proceedings for failure to comply with the continuing education requirements set out in Section 13 of this rule.

After a Board vote of suspension or revocation of a certificate, the Board shall notify the affected reporter by way of certified mail, restricted delivery, return receipt requested. In addition, the Board shall file the order of suspension with the Clerk of this Court and provide such other notice as the Board may consider appropriate.

A reporter whose certificate has been suspended pursuant to this Section who desires reinstatement shall file a petition

for reinstatement with the Board. The petition shall be properly acknowledged by a notary public or an official authorized to take oaths. It shall be in such form as the Board may direct. The petitioner may request a hearing before the Board. Upon appropriate notice and hearing, the Board may take action on the petition for reinstatement. In the event the certificate is reinstated, the Board may set additional educational requirements, including successful completion of a certification examination, as a condition of reinstatement and may assess reinstatement fees in an amount not to exceed \$250.00.

**REGULATIONS OF THE BOARD OF CERTIFIED COURT REPORTER****EXAMINERS**

## SECTION 1

The following definitions are set forth:

The word "Section" refers to sections of the per curiam of July 5, 1983. "Board" hereinafter referred to, is the Certified Court Reporter Examiners Board. "Certified Court Reporter", or its abbreviation, "CCR", means any person holding a valid regular or temporary certificate in one of the methods approved herein as a certified verbatim reporter. The Certificate shall reflect the method of certification according to the system tested. "Verbatim Reporting" means the making of a verbatim record of court proceedings, depositions, or proceedings before any grand jury by means of manual or machine shorthand or mask dictation. No system of direct electrical recording shall be considered a means of verbatim reporting.

## SECTION 2

Any court reporter serving in that capacity on or before January 1, 1983 may be issued a certificate as a Certified Court Reporter without examination provided the application is made prior to May 1, 1984 and is accompanied by a recommendation of a Circuit, Chancery or Court of Appeals Judge and two attorneys licensed to practice law in this state who certify that the applicant was a practicing

court reporter on or before January 1, 1983.

### SECTION 3

The Board shall set the following fees for the administration of these regulations:

a. \$75.00 application fee for in-state applicants;  
\$150.00 application fee for out-of-state applicants;

b. \$50.00 certificate renewal fee.

c. \$100.00 penalty fee for failure to timely remit certificate renewal fee as set forth in Section 9 of these regulations

### SECTION 4

Applicants, other than those certified without examination pursuant to Section 6, shall file not later than 30 days prior to the next examination date, a written application in the form prescribed by the Court, together with an application fee as set forth in Section 3 of these Regulations, with the Clerk of the Supreme Court. Said application fee shall not be refunded in the event the applicant decides not to take the examination or fails the examination. Said application shall state by which method the applicant will test, and certification will be issued solely in that method if the applicant successfully passes the examination.

### SECTION 5

Applicants and/or applications shall be screened by the

Board and those deemed eligible to take the examination will be advised of the time and place the test will be conducted. Any applicant whose application is denied shall be promptly notified of the action of the Board and the application fee shall be refunded.

#### SECTION 6

Applicants for certification, deemed eligible by the Board, shall receive certification upon submitting the application, paying the application fee, and successfully passing the certification examination. Certification shall be issued solely in the method by which the applicant successfully tested.

#### SECTION 7

Examinations for certification shall be held at least semi-annually at times and places set by the Board.

#### SECTION 8

Certification granted by the Board shall remain in effect upon payment of the annual certificate renewal fees to the Clerk of the Supreme Court on or before January 1 of each year, unless suspended or revoked pursuant to Section 7 of the Rules of the Board of Certified Court Reporter Examiners.

#### SECTION 9

All certificate renewal fee payments must be postmarked on or before January 1. The Clerk of the Supreme Court shall

provide a list of those reporters in violation of the January 1 deadline not later than January 15 to the Executive Secretary of the Board. The Executive Secretary shall thereafter cause a certified letter to be sent to each reporter in violation of the January 1 deadline. The letter shall inform the reporters in violation that their certificate shall be suspended on a date not to exceed 21 calendar days from the certified delivery date of the letter unless all delinquent renewal fees and a \$100.00 penalty fee are received by the Clerk of the Supreme Court within the 21 calendar days. If all delinquent renewal and penalty fees are not received within the 21 calendar days, the certificate shall be suspended but may be reinstated during the remainder of the calendar year in which the certificate expired for failure to timely renew, if the Board finds, based on a sworn affidavit(s) or other credible evidence, that the applicant has retained the professional skills required for original certification and has paid all delinquent renewal and penalty fees. After December 31 of the calendar year in which the certificate expired, an expired certificate shall not be subject to renewal without examination.

#### SECTION 10

Each certified reporter shall procure a seal upon which shall be engraved the name, certificate number of the

reporter, and the words "Arkansas Supreme Court-Certified Court Reporter", said seal to be included with signature, on all transcript certificates, to ensure compliance with Section 9.

#### SECTION 11

At the discretion of the trial judge, Section 9 may be waived with regard to depositions taken outside this state for use in this state, provided the court reporter is authorized to take verbatim testimony in the state where the deposition was taken

#### SECTION 12

This Section is hereby repealed.

#### SECTION 13

In the event of an emergency where no Certified Court Reporter is immediately available, a judge of a circuit court may, in his or her discretion, grant a one hundred twenty calendar day, non-renewable emergency certificate in order to continue the conduct of the court's business; provided a copy of the one hundred twenty day emergency certificate shall be forthwith filed with the Clerk of the Arkansas Supreme Court and Secretary of this Board. A circuit judge shall not grant an emergency certificate to a court reporter whose court reporter board certification is at the time of the issuance of the emergency certificate revoked or suspended in Arkansas or

any other state.

#### SECTION 14

The tests shall be as follows:

a. A written knowledge test consisting of spelling, vocabulary, punctuation, general knowledge, and rules governing preparation of transcripts (Rules of the Supreme Court and Court of Appeals 3-1, 3-2, 3-3 and 3-4) with a minimum of 75% accuracy.

b. (1) Five minutes of one-voice dictation of literacy at 180 words per minute.(2) Five minutes of one-voice dictation of jury charge at 200 words per minute.(3) Five minutes of two-voice dictation of Q and A at 225 words per minute.

c. Applicants shall be required to transcribe each dictation test with 95% accuracy.

d. If an applicant shall pass one or more parts of the test but fail one or more parts, the applicant will not be required to take the part or parts passed at the next successive examination given, but only the part or parts failed. If the applicant does not pass the previously failed part or parts at the next successive examination, the applicant shall be required to retake the entire examination.

e. For in-state applicants, a new application and application fee of \$75.00 will be required for all

subsequent testing. For out-of-state applicants, a new application and application fee of \$150.00 will be required for all subsequent testing.

f. Certification will be restricted to the method of reporting used by the applicant at the time of testing, and said method will be reflected on the certificate issued to the applicant upon successfully passing the certification examination.

g. Each individual successfully passing the certification examination shall, prior to receiving certification from the Board, participate in an orientation session at a time and place set by the Board.

#### SECTION 15

Applicants for testing must furnish their own equipment and supplies for reporting and transcribing dictation test. No applicant is permitted to use an open microphone or other backup recording device during testing.

#### SECTION 16

The content and depth of this examination shall be a continuing subject of review by the Board, and may be altered by amendments to these regulations.

#### SECTION 17

The Executive Secretary of the Board will forward the files containing the names and pertinent information for all individuals who have passed the certification test to

the Supreme Court Clerk's office where said files will be maintained and stored.

The Executive Secretary will maintain and store all other files pertaining to test results, including all verbatim notes or records, transcripts, and other papers used in connection with testing for a period of two years following the date of testing, at which time the Executive Secretary may dispose of said files.

It shall be the responsibility of the certified court reporter to provide the Office of the Supreme Court Clerk with written notification of any change of address within fourteen (14) working days.

For the purposes of these regulations, written notification by certified or first class mail to the most recent address provided to the Office of the Clerk shall be deemed sufficient.

#### SECTION 18

Any person desiring to file a grievance against a Certified Court Reporter may file a written statement on a form provided by the Board, attaching any pertinent documentary evidence thereto, with the Board of Certified Court Reporters Examiners through the Office of the Clerk of the Arkansas Supreme Court, for delivery to the Executive Secretary of the Board for investigation and determination of probable cause for a formal Complaint.

## SECTION 19

Pursuant to Section 7 of the Rule Providing for Certification of Court Reporters, the Board may issue an admonition or revoke or suspend any certificate issued after proper notice and hearing, on the following grounds:

- a. Conviction of any felony, or having been adjudicated or found guilty, or entered a plea of guilty or nolo contendere to, any felony, or to any misdemeanor that reflects adversely on the reporter's honesty, trustworthiness, or fitness as a reporter in other respects, or to 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 felony.
- b. misrepresentation or omission of material facts in obtaining certification.
- c. any intentional violation of, noncompliance with or gross negligence in complying with any rule or directive of the Supreme Court of Arkansas, any other court of record within this State, or this Board.
- d. fraud, dishonesty, gross incompetence or habitual neglect of duty.
- e. unprofessional conduct, which shall include, but not be

limited to:

1. failing to deliver a transcript to a client or court in a timely manner as determined by statute, court order, or agreement;
2. intentionally producing an inaccurate transcript;
3. producing an incomplete transcript except upon order of a court, agreement of the parties, or request of a party;
4. failing to disclose as soon as practical to the parties or their attorneys existing or past financial, business, professional or family relationships, including contracts for court reporting services, which might reasonably create an appearance of partiality;
5. advertising or representing falsely the qualifications of a certified court reporter or that an unlicensed individual is a certified court reporter;
6. failing to charge all parties or their attorneys to an action the same price for an original transcript and failing to charge all parties or their attorneys the same price for a copy of a transcript or for like services performed in an action;
7. failing to disclose upon request an itemization in writing of all rates and charges to all parties in an action or their attorneys;
8. reporting of any proceeding by any person, who is a relative of a party or their attorney, unless the

relationship is disclosed and any objection thereto is waived on the record by all parties;

9. reporting of any proceeding by any person, who is financially interested in the action, or who is associated with a firm, which is financially interested in the action;

10. failing to notify all parties, or their attorneys, of a request for a deposition transcript, or any part thereof, in sufficient time for copies to be prepared and delivered simultaneously with the original;

11. going "off the record" during a deposition when not agreed to by all parties or their attorneys unless otherwise ordered by the court;

12. giving, directly or indirectly, benefitting from or being employed as a result of any gift, incentive, reward or anything of value to attorneys, clients, or their representatives or agents, except for nominal items that do not exceed \$100 in the aggregate for each recipient each year; and

13. charging an unreasonable rate for a copy of an original deposition transcript, or an official reporter charging fees in violation of Ark. Code Ann. Section 16-13-506.

#### SECTION 20

No persons shall use the title "Certified Court Reporter", or its abbreviation "CCR", in conjunction with their names to indicate they are qualified verbatim reporters in this

state, without having a valid temporary or regular certificate issued by the Board.

## SECTION 21. OFFICIAL COURT REPORTER RECORDS RETENTION

### SCHEDULE

#### Part 1. Scope.

a. This records retention schedule applies to all official court reporters in the State of Arkansas. "Official court reporter" as used in this retention schedule means a court reporter, certified by the Arkansas Board of Certified Court Reporter Examiners, who is regularly employed by a circuit judge, or a "substitute court reporter," who serves in the absence of the regularly employed court reporter.

b. The term "records" as used in this retention schedule refers to any and all verbatim records produced by an official court reporter and all physical exhibits received or proffered in evidence in any court hearing, trial, or proceeding.

#### Part 2. Court Ordered Retention of Specific Records.

Upon the motion of any party demonstrating good cause or upon the court's own motion, the trial judge may enter an order directing that the records be retained for an additional period beyond the time established in PART 6. At the end of each additional court-ordered retention period, the judge may enter a new order extending the retention period.

Part 3. Responsibility for Storage; Sanctions.

a. During the period which the records are required to be retained, it shall be the responsibility of the official court reporter to maintain his or her records in an orderly, secure, and identifiable manner. It is highly recommended that space be provided in the county courthouse in the county where the official court reporter maintains an office or resides. If that is not feasible, it shall be the responsibility of the official court reporter to provide adequate space for the records.

b. When physical exhibits include firearms, contraband, or other similar items, such items may be transferred to the sheriff or other appropriate governmental agency for storage and safekeeping. The sheriff or governmental agency shall sign a receipt for such items and shall acknowledge that the items shall not be disposed of until authorized by subsequent court order. Other items of physical evidence which present storage problems may be transferred to the attorney of record for storage and safekeeping subject to approval of the trial court and upon appropriate documentation. Forms of orders and receipts for the transfer and disposal of exhibits are appended to Regulation 21.

c. If an official court reporter leaves his or her position for any reason other than his or her death, the reporter shall, within thirty (30) days, deliver or cause to

be delivered, those records as defined in PART 1, to the trial court and retained by the court until a subsequent official court reporter is employed or retained, at which time the records shall be transferred to that reporter. A former official court reporter who maintains Arkansas certification may, with the court's permission, temporarily retrieve his or her former records necessary to prepare an appeal transcript or other documents which a party may request.

d. If an official court reporter dies while still in possession of those records subject to retention as defined in PART 1, the trial court shall take possession of those records within thirty (30) days of the official court reporter's death. The trial court shall retain possession of the records until a subsequent official court reporter is employed or retained. At that time the records shall be transferred to the possession of the subsequent official court reporter who shall safely maintain the records subject to the direction of the trial court.e. Any person who fails to comply with or who interferes with these transfer provisions may be ordered to appear and show cause why he or she should not be held in contempt of court.

#### Part 4. Methods of Disposal of Records.

a. Paper records may be disposed of by burning or shredding.

b. Tapes may be erased and reused or may be dismantled to prevent their replaying.

c. Upon their written request, physical exhibits, other than weapons or contraband shall be returned to the party or attorney who proffered same. If no request is made within the time period for retention, the court reporter may dispose of the exhibit.

d. Exhibits such as weapons or contraband shall be disposed of in the following manner:

(1) weapons, in whatever form, unless otherwise ordered by the trial court, shall be transferred to the sheriff, or his or her designee, in the county where the case was tried, for disposal pursuant to law;

(2) contraband, in whatever form, shall be transferred to the sheriff, or his or her designee, in the county where the case was tried, for disposal pursuant to law.

#### Part 5. Log of Records, Sanctions.

a. Each official court reporter shall maintain an accurate, orderly log of his or her records which also notes the date and method of destruction of each record listed. Any work papers maintained by the reporter for the purpose of identifying the record of court proceedings shall suffice, as long as they are legible. When an official court reporter leaves his or her position for whatever reason, the

trial court shall take possession of the log no later than the date he or she takes possession of the records as set out in PART 3. When a subsequent official court reporter is employed or retained, the log shall be transferred to the possession of the subsequent official court reporter who shall safely maintain the log subject to the direction of the trial court.

b. Any person who fails to comply with or who interferes with this Section may be ordered to appear and show cause why he or she should not be held in contempt of court.

Part 6. Official Court Reporter Retention Schedule.

Part 6 of the Per Curiam dated Oct. 16, 1995, set out the Official Court Reporter Retention Schedule:

| <u>TYPE OF CASE</u>                                           | <u>PERIOD OF RETENTION</u>                 |
|---------------------------------------------------------------|--------------------------------------------|
| Criminal Cases                                                | Permanently                                |
| Death Penalty                                                 | Permanently                                |
| Life in Prison w/o Parole                                     | Permanently                                |
| Other Felonies<br>(transcript lodged<br>with appellate court) | 90 days after Mandate issues               |
| Other Felonies<br>or (no transcript prepared)                 | 5 years from date of verdict<br>sentencing |
| Misdemeanors                                                  | 2 years from date of sentencing            |

Grand Jury Proceedings 1 year subsequent to  
adjournment

Civil Circuit

All Cases 90 days after Mandate issues  
(transcript lodged  
with appellate court)

All Cases 2 years from date of final order  
(no transcript prepared) of trial court

Juvenile Division

All Cases  
(transcript lodged with 90 days after Mandate issues  
appellate court)  
(cases where no transcript  
is Prepared;)

Delinquency 3 years from date of final order of  
trial court or on date of expungement order, whichever,  
occurs first

Families in Need of Services (FINS) 3 years from date of  
final order of trial court

Dependent/Neglect 7 years from date of final  
order of trial court

Part 7. Effective Date.

This Official Court Reporter Records Retention  
Schedule is effective immediately upon publication. It

applies to records of cases already tried and those to be tried.

## SECTION 22

a. The purpose of this rule is to ensure the integrity of the record and to avoid the appearance or potential for deferential treatment of parties to an action. Court reporters serve as officers of the court and both the appearance and existence of impartiality are no less important for officers who take depositions than for judicial officers and other persons whose responsibilities are integral to the administration of justice.

b. The court reporter taking the deposition, or the firm or any other person or entity with whom such court reporter has a principal and agency relationship or is otherwise associated, shall not enter into a contractual or financial agreement, arrangement or relationship for court reporting services, whether written or oral, with any attorney, party to an action, insurance company, third-party administrator, or any other person or entity that has a financial interest in an action, which gives the appearance that the impartiality and independence of the court reporter has been compromised. Specific examples of arrangements that are prohibited include ones that:

1. establish rates and terms for court reporting services that extend beyond a single case, action, or

proceeding;

2. include a court reporter on any list of preferred providers of court reporting services after exchanging information and reaching an agreement specifying the prices or other terms upon which future court reporting services will be provided, whether or not the services actually are ever ordered;

3. allow the format of the transcript to be manipulated to affect pricing;

4. require the court reporter taking the deposition to relinquish control of an original deposition transcript and copies of the transcript before it is certified;

5. fail to offer comparable services, in both quality and price, to all parties or otherwise require the court reporter to provide special financial terms or other services that are not offered at the same time and on the same terms to all other parties in the litigation;

6. allow the court reporter to communicate directly with a party of interest, other than a pro se party, except to provide invoices; and

7. base the compensation of the court reporter on the outcome or otherwise give the court reporter a financial interest in the action.

c. These prohibitions do not apply to situations

where fees or special services may be negotiated, provided that they are the same for all parties and are negotiated on a case-by-case basis. Also, these prohibitions do not extend to governmental entities, if they are required by law to obtain court reporting services on a long-term basis through competitive bidding.

d. Any violation of these prohibitions shall be enforceable by the court in which the underlying action is pending. Without otherwise limiting the inherent powers and discretion of the court, a deposition taken in violation of these prohibitions shall constitute a violation of Rule 28(d) of the Arkansas Rules of Civil Procedure (disqualification for interest), and be subject to all sanctions for such a violation under the Rules of Civil Procedure. In addition, any court reporter, firm, attorney, or party that willfully violates these prohibitions may be subject to fine or sanction by the court, and a court reporter may be subject to disciplinary proceedings before the Board of Certified Court Reporter Examiners.

e. These rules shall be applicable to all court reporting services provided on or after February 21, 2008.

#### SECTION 23

A Certified Court Reporter may administer oaths to witnesses in court proceedings, depositions, grand jury proceedings, or as otherwise authorized by a court of

record.

**RULES FOR PREPARATION OF TRANSCRIPTS IN ALL ARKANSAS CASES**

Rules 3-1, 3-2, 3-3, and 3-4 of the Rules of Supreme Court govern the preparation of the official record on appeal as well as the preparation of depositions, dictating the paper size, binding of transcripts, margins, line spacing, pitch, spacing for colloquy, quoted material, parentheticals and exhibit markings. You will need to familiarize yourself with these rules so that you will not come into violation. As an official reporter, you would run the risk of having an entire transcript sent back if, for instance, your margins were not correct. As a freelance reporter, most of the depositions you take will probably not be introduced into evidence and, therefore, will not become a part of any appeal record. However, there is always the chance that a deposition you take may be introduced into evidence at trial and, as a result, would be included in the record if that case went up on appeal. In that case, the entire record could be returned to the official reporter, and you might find yourself the subject of a malpractice suit!

With respect to transcripts in appellate proceedings, Rule 4-2(D)(5) of the Rules of Supreme Court provides that ". . . For ease of abstracting, the court reporter shall provide the attorney, at cost, not to exceed five (5) dollars, a copy of the transcript in an electronic form, e.g., a

computer diskette, so that material may be electronically copied and placed in the abstract. (If the court reporter does not have the requisite equipment, then this requirement shall not apply.)"

See Rules 3-1, 3-2, 3-3, and 3-4 of the Rules of Supreme Court.

#### ARTICLE III: THE RECORD

##### **Rule 3-1. Preparation of the record.**

(a) Generally. All records shall begin with the style of the court in which the controversy was heard, the name of the judge presiding when the decree, judgment or order was rendered and its date, the names of all the parties litigant, and the nature of the suit or motion. For example: Trial before A.B., judge of the circuit court on the \_\_\_\_\_ day of \_\_\_\_\_,

John Doe, Plaintiff

vs. Action on Promissory Note"

Jane Doe, Defendant

(b) Dates. Whenever an order of the court is mentioned, the date shall be specifically stated, rather than by reference to the day and year "aforesaid."

(c) Duplications. No part of the record shall be copied more than once. When a particular record occurs, a reference should be made to pages in the preceding part of the record.

(d) Depositions. When depositions are taken on interrogatories and included in the record, the answers must be placed immediately after the questions to which they are responsive.

(e) Record on second appeal. When a cause has been once before the Court and a record is again required (for the purpose of correcting error which occurred on retrial), the second record shall begin where the former ended; that is, with the judgment of the appellate court, which should be entered of record in the circuit court, omitting the opinion of the appellate court. The appeal or supersedeas bond should be the last entry included.

(f) Table of contents. Every record shall include a table of contents, which refers to pages in the record where the matter identified is copied. For example:

|                                            |        |
|--------------------------------------------|--------|
| Complaint . . . . .                        | Page 1 |
| Exhibit A (note of J.B. to C.F.) . . . . . | Page 3 |
| Answer . . . . .                           | Page 4 |
| Exhibit B (deed from A to B) . . . . .     | Page 5 |
| Decree (or judgment) . . . . .             | Page 6 |

(g) Fee for index. Clerks may add to their fee for the record a reasonable charge for these items where no charge is fixed by statute.

(h) Record fee and costs certified. The fee for the production of the record must be certified in all cases; in

addition, all costs in the circuit court must be reported, and by whom paid.

(i) Clerk's record and reporter's transcript - paper size and preparation. The transcript must be prepared in plain typewriting or computer or word processor printing of the first impression, not copies, on 8-1/2" x 11" paper. The record, as defined in paragraph (m) [paragraph (n)] of this Rule, shall be fastened on the left of the page. All transcripts shall be prepared by certified court reporters and comport with the following rules:

- (1) No fewer than 25 typed lines on standard 8-1/2" x 11" paper;
- (2) No fewer than 9 or 10 characters to the typed inch;
- (3) Left-hand margins to be set at no more than 1-3/4";
- (4) Right-hand margins to be set at no more than 3/8";
- (5) Each question and answer to begin on a separate line;
- (6) Each question and answer to begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;
- (7) Carry-over "Q" and "A" lines to begin at the left-hand margin;
- (8) Colloquy material, quoted material, parentheticals

and exhibit markings to begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;

(9) All transcripts to be prepared in the lower case;

(10) All depositions prepared for use as evidence in any court to comply with these Rules, except that the left-hand margin is to be set at no more than 1 3/4" and bound on the left.

(j) Exhibits. Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical exhibits other than documents shall not be transmitted by the clerk of the circuit court except by order of the Court.

(k) Folding of Record. Records must be transmitted to the Clerk without being folded or creased.

(l) Surveys. Real property surveys which form a part of the record shall not be fastened to the record.

(m) Record in Volumes. Where the record is too large to be conveniently bound in one volume, it shall be divided into separate volumes of convenient size and numbered sequentially.

(n) Definition of Record. The term "record" in civil cases, and as used in these Rules, refers only to the pleadings, judgment, decree, order appealed, transcript,

exhibits, and certificates.

**Rule 3-2. Items to be omitted from the record.**

(a) Generally. The clerks of the circuit courts in making records to be transmitted to the Court, shall, unless excepted by the provisions of this Rule, include all matters in the record as required by Rule 3-1(n).

(b) Summons. In cases where the defendant has appeared, the clerk shall not set out any summons or other writ of process for appearance or the return thereof, but shall state: "Summons issued", (showing date) "and served", (showing date).

(c) Amended pleadings. In case of an amendment to the pleadings by substitution, the clerks shall treat the amended pleading as the only one and shall refrain from copying into the records any pleadings withdrawn, waived or superseded by amendment, unless it is expressly called for by a party's designation of the record.

(d) Incidental matters. Clerks shall not insert in the record any matter concerning the organization or adjournment of court, the impaneling or swearing of the jury, the names of jurors, including any motion, affidavit, or order or ruling in reference thereto, any continuance or commission to take testimony or the return thereto, any notice to take depositions or the caption or certificate of the officer before whom such depositions are taken, or any other

incidental matter, unless it is expressly called for by a party's designation of the record.

(Amended June 7, 2001, effective July 1, 2001.)

**Rule 3-3. Record in civil cases.**

Not all records in civil cases will have the same contents.

To the extent possible, items will be arranged in the following sequence:

1. The Complaint;
2. Plaintiff's exhibits which accompany the Complaint
3. Statement regarding summons, set out in Rule 32(b);
4. Answer;
5. Defendant's exhibits which accompany the Answer;
6. Subsequent pleadings and orders in chronological order;
7. Final judgment, decree, or order appealed;
8. Post-judgment decree, order or motion (e.g., motions for new trial);
9. Orders granting or denying post-judgment motions;
10. Notice of appeal and designation of record;
11. Statement of points to be relied upon if abbreviated record designated;
12. Extensions of time to file record on appeal;
13. Stipulations to abbreviated records;
14. Narrative of testimony upon stipulations;

15. Depositions introduced;
16. Reporters' transcription of testimony;
17. Supersedeas bond;
18. Certificate, duly acknowledged;
19. Certificate of costs, indicating payor.

**Rule 3-4. Record in criminal cases.**

(a) Order of record. In all criminal cases, after the caption set forth in Rule 3-1, the record shall be organized in the following sequence:

1. Return of the indictment or information;
2. Defendant's pleadings;
3. Subsequent pleadings and orders in chronological order;
4. Final judgment and commitment or order appealed
5. Motion for new trial, to set aside, amend, etc.;
6. Order granting or denying above motions;
7. Notice of appeal and designation of record;
8. Extensions of time to file record on appeal;
9. Reporters' transcription of testimony;
10. Appeal bond;
11. Certificate, duly acknowledged.

(b) Record of jury matters. The record shall not include the impaneling or swearing of the jury, the names of the jurors, or any motion, affidavit, orders or ruling in reference thereto unless expressly called for by a party's

designation of the record.

(c) Exhibits. Photographs, charts, drawings and other documents that can be inserted into the record shall be included. Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical evidence, other than documents, shall not be transmitted unless directed by an order of the Court.

(Amended June 7, 2001, effective July 1, 2001.)

**FEDERAL AND ARKANSAS STATE COURTS RULES OF CIVIL PROCEDURE**

Pertinent sections concerning the taking of depositions in both federal and state cases are similar, but there are some differences. Read them carefully. You might consider making copies of these and keeping them in your briefcase for easy reference.

See copies of these Arkansas and Federal Rules of Civil Procedure.

**FEDERAL RULES OF CIVIL PROCEDURE****Rule 27-Depositions Before Action or Pending Appeal**

(a) Before Action.

(1) Petition. A person who desires to perpetuate testimony regarding any matter that may be cognizable in any court of the United States may file a verified petition in the United States district court in the district of the residence of any expected adverse party. The petition shall be entitled in the name of the petitioner and shall show:

- 1,           that the petitioner expects to be a party to an action cognizable in a court of the United States but is presently unable to bring it or cause it to be brought,
- 2,           the subject matter of the expected action and the petitioner's interest therein,
- 3,           the facts which the petitioner desires to establish by the proposed testimony and the reasons for desiring to perpetuate it,

4, the names or a description of the persons the petitioner expects will be adverse parties and their addresses so far as known, and

5, the names and addresses of the persons to be examined and the substance of the testimony which the petitioner expects to elicit from each, and shall ask for an order authorizing the petitioner to take the depositions of the persons to be examined named in the petition, for the purpose of perpetuating their testimony.

(2) Notice and Service. The petitioner shall thereafter serve a notice upon each person named 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 20 days before the date of hearing the notice shall be served either within or without the district or state in the manner provided in Rule 4(d) for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the petition, the court may make such order as is just for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 4(d), an attorney who shall represent them, and, in case they are not otherwise represented, shall cross-examine the deponent. If any expected adverse party is a minor or incompetent the

provisions of Rule 17(c) apply.

(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 make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 34 and 35. For the purpose of applying these rules to depositions for perpetuating testimony, each reference therein 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 these rules or if, although not so taken, it would be admissible in evidence in the courts of the state in which it is taken, it may be used in any action involving the same subject matter subsequently brought in a United States district court, in accordance with the provisions of Rule 32(a).

(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 the party expects to elicit from each;

(2) the reasons for perpetuating their testimony. If the court finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, it may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 34 and 35, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in actions pending in the district court.

(c) Perpetuation by Action. This rule does not limit the power of a court to entertain an action to perpetuate testimony.

[As amended Dec. 27, 1946, eff. Mar. 19, 1948; Dec. 29, 1948, eff. Oct. 20, 1949; Mar. 1, 1971, eff. July 1, 1971;

Mar. 2, 1987, eff. Aug. 1, 1987.]

**Rule 28- Persons Before Whom Depositions May be Taken**

(a) Within the United States. Within the United States or within a territory or insular possession subject to the jurisdiction of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or 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 Rules 30, 31 and 32 includes a person appointed by the court or designated by the parties under Rule 29.

(b) In Foreign Countries. Depositions may be taken in a foreign country

(1) pursuant to any applicable treaty or convention,  
or

(2) pursuant to a letter of request (whether or not captioned a letter rogatory), or

(3) on notice before a person authorized to administer oaths in the place where the examination is held, either by the law thereof or by the law of the United States, or

(4) before a person commissioned by the court, and a person so commissioned shall have the power by virtue of the commission to administer any necessary oath and take

testimony.

A commission or a letter of request 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 of request that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter of request 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. A letter of request may be addressed "To the Appropriate Authority in [here name the country]." When a letter of request or any other device is used pursuant to any applicable treaty or convention, it shall be captioned in the form prescribed by that treaty or convention. Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States under these rules.

(c) Disqualification 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.

[As amended Dec. 27, 1946, eff. Mar. 19, 1948; Jan. 21, 1963, eff. July 1, 1963; Apr. 29, 1980, eff. Aug. 1, 1980; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993.]

**Rule 29 - Stipulations Regarding Discovery Procedure**

Unless otherwise directed by the court, the parties may be 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 Rules 33, 34, and 36 for responses to discovery may, if they would interfere with any time set for completion of discovery, for hearing of a motion, or for trial, be made only with the approval of the court.

[As amended Mar. 30, 1970, eff. July 1, 1970; Apr. 22, 1993, eff. Dec. 1, 1993.]

**Rule 30 - 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 depositions upon oral examination without leave of court except as provided in paragraph (2). The attendance of witnesses may be compelled by subpoena as

provided in Rule 45.

(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties,

(A) a proposed deposition would result in more than ten depositions being taken under this rule or Rule 31 by the plaintiffs, or by the defendants, or by third-party defendants;

(B) the person to be examined already has been deposed in the case; or

(C) a party seeks to take a deposition before the time specified in Rule 26(d) unless the notice contains a certification, with supporting facts, that the person to be examined is expected to leave the United States and be unavailable for examination in this country unless deposed before that time.

(b) Notice of Examination: General Requirements; special Notice; Method of 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 reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and

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. 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 party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the court orders otherwise, it may be recorded by sound, sound-and-visual, or stenographic means, and the party taking the deposition shall bear the cost of the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by non-stenographic means.

(3) With prior notice to the deponent and other parties, any party may designate another method to record the deponent's testimony in addition to the method specified by the person taking the deposition. The additional record or transcript shall be made at that party's expense unless the court otherwise orders.

(4) Unless otherwise agreed by the parties, a deposition shall be conducted before an officer appointed or designated under Rule 28 and shall begin with a statement on the record

by the officer that includes

(A) the officer's name and business address

(B) the date, time, and place of the deposition

(C) the name of the deponent;

(D) the administration of the oath or affirmation to the deponent; and

(E) an identification of all persons present.

If the deposition is recorded other than stenographically, the officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.

(5) The notice to a party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request.

(6) A party may in the party's 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 the person will testify. A subpoena shall advise a non-party 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 subdivision (b)(6) does not preclude taking a deposition by any other procedure authorized in these rules.

(7) 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 rule and Rules 28(a), 37(a)(1), and 37(b)(1), a deposition taken by such means is taken in the district and at the place where the deponent is to answer questions.

(c) 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 the Federal Rules of Evidence except Rules 103 and 615. 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 the officer's direction and in the officer's presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other method authorized by subdivision (b)(2) of this rule. 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; but 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 deposition and the party taking the deposition shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) Schedule and Duration; Motion to Terminate or Limit Examination.

(1) Any objection to evidence during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion under paragraph (3).

(2) By order or local rule, the court may limit the time

permitted for the conduct of a deposition, but shall allow additional time consistent with Rule 26(b)(2) if needed for a fair examination of the deponent or if the deponent or another party impedes or delays the examination. If the court finds such an impediment, delay, or other conduct that has frustrated the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorney's fees incurred by any parties as a result thereof.

(3) At any time during a 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 district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in Rule 26(c). If the order made 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 an order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording 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 subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

(f) Certification and Filing by Officer; Exhibits; Copies; Notice of Filing.

(1) The officer shall certify that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. This certificate shall be in writing and accompany the record of the deposition. Unless otherwise ordered by the court, the officer shall securely seal the deposition in an envelope or package endorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the court in which the action is pending or send it to the attorney who arranged for the transcript or recording, 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, except that if the person producing the materials desires to retain them, the person may

(A) offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals if the person 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) Unless otherwise ordered by the court or agreed by the parties, the officer shall retain stenographic notes of any deposition taken stenographically or a copy of the recording of any deposition taken by another method. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the transcript or other recording of the deposition to any party or to the deponent.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties.

(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 such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's 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 that party 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 that party's attorney in attending, including reasonable attorney's fees.

[As amended Jan. 21, 1963, eff. July 1, 1963; Mar. 30, 1970, eff. July 1, 1970; Mar. 1, 1971, eff. July 1, 1971; Nov. 20, 1972, eff. July 1, 1975; Apr. 29, 1980, eff. Aug. 1, 1980; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993.]

**Rule 31- Depositions Upon Written Questions**

(a) Serving Questions; Notice.

(1) A party may take the testimony of any person, including a party, by deposition upon written questions without leave of court except as provided in paragraph (2). The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45.

(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties,

(A) a proposed deposition would result in more than ten depositions being taken under this rule or Rule 30 by the plaintiffs, or by the defendants, or by third-party defendants;

(B) the person to be examined has already been deposed in the case; or

(C) a party seeks to take a deposition before the time specified in Rule 26(d).

(3) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, 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, and (2) the name or descriptive title and address of the officer

before whom the deposition is to be taken.

A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Rule 30(b)(6).

(4) Within 14 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 7 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 7 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) Officer to Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 30(c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by the officer.

(c) Notice of Filing. When the deposition is filed the party taking it shall promptly give notice thereof to all other parties.

[As amended Mar. 30, 1970, eff. July 1, 1970; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993.]

**Rule 32- Use of Depositions in Court Proceedings**

(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 rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or 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 Federal Rules of Evidence.

(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 Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party may be used by an adverse party for any purpose.

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

(A) that the witness is dead; or

(B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of the United States, 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) 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.

A deposition taken without leave of court pursuant to a notice under Rule 30(a)(2)(C) shall not be used against a party who demonstrates that, when served with the notice, it was unable through the exercise of diligence to obtain counsel to represent it at the taking of the deposition; nor shall a deposition be used against a party who, having received less than 11 days notice of a deposition, has promptly upon receiving such notice filed a motion for a protective order under Rule 26(c)(2) requesting that the deposition not be held or be held at a different time or

place and such motion is pending at the time the deposition is held.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the offeror to introduce 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 Rule 25 does not affect the right to use depositions previously taken; and, when an action has been brought in any court of the United States or of any 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 Federal Rules of Evidence.

(b) Objections to Admissibility. Subject to the provisions of Rule 28(b) and subdivision (d)(3) of this rule, 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 rule may offer it in stenographic or non-stenographic form, but, if in non-stenographic form, the party shall also provide the court with a transcript of the portions so offered. On request of any party in a case tried before a jury, deposition testimony offered other than for impeachment purposes shall be presented in non-stenographic form, if available, unless the court for good cause orders otherwise.

(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 at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any 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 Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(4) As to Completion and Return of Deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the officer under Rules 30 and 31 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.

[As amended Mar. 30, 1970, eff. July 1, 1970; Nov. 20, 1972, eff. July 1, 1975; Apr. 29, 1980, eff. Aug. 1, 1980; Mar. 2,

1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993.]

**ARKANSAS RULES OF CIVIL PROCEDURE****Rule 28. Persons before whom depositions may be taken.**

(a) Within this State and Elsewhere in the United States.

Within this state and elsewhere in the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of this State or 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.

(b) In Foreign States or Countries. In a foreign state or country, depositions may be taken (1) on notice before a person authorized to administer oaths in the place where the examination is held, either by the law thereof or by the law of the United States, 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 any applicable treaty or convention or pursuant to a letter of request, whether or not captioned a letter rogatory. A commission or a letter of request 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 of request that the

taking of the deposition in any other manner is impractical or inconvenient, and both a commission and a letter of request 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. A letter of request may be addressed "To The Appropriate Authority in (name of the country)." When a letter of request or any other device is used pursuant to any applicable treaty or convention, it shall be captioned in the form prescribed by that treaty or convention. Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath, or because of any similar departure from the requirements for depositions taken within the United States under these rules.

(c) For Use in Foreign Countries. A party desiring to take a deposition or have a document or other thing produced for examination in this state, for use in a judicial proceeding in a foreign country, may produce to a judge of the circuit, chancery or probate court in the county where the witness or person in possession of the document or thing to be examined resides or may be found, letter rogatory, appropriately authenticated, authorizing the taking of such deposition or production of such document or thing on notice

duly served; whereupon it shall be the duty of the court to issue a subpoena requiring the witness to attend at a specified time and place for examination. In case of failure of the witness to attend or refusal to be sworn or to testify or to produce the document or thing requested, the court may find the witness in contempt.

(d) Disqualification 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.

**Rule 29. 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 any other depositions; and (2) modify the procedures provided by these rules for other methods of discovery.

**Rule 30. Depositions upon oral examination.**

(a) When Depositions May Be Taken. After commencement of the action, any party may take the testimony of any person, including a party, by deposition upon oral examination. Leave of court, granted with or without notice, must be obtained only if the plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the

summons and complaint upon any defendant or service made under Rule 4(e), except that leave is not required (1) if a defendant has served a notice of taking deposition or otherwise sought discovery, or (2) if special notice is given as provided in subdivision (b)(2) of this rule. The attendance of a witness may be compelled by subpoena as provided in Rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(b) Notice of Examination; General Requirements; Special Notice; Method of Recording; Production of Documents and Things; Deposition of Organization.

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and 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 him or the particular class or group to which he belongs. 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) Leave of court is not required for the taking of a deposition by plaintiff under subdivision (a) if the notice

(A) states that the person to be examined is about to go out of this state, or is about to go out of the United States, and will be unavailable for examination unless his deposition is taken before expiration of the 30 day period, and (B) sets forth facts to support the statement. The plaintiff's attorney shall sign the notice and his signature constitutes a certification by him that to the best of his knowledge, information and belief, the statement and supporting facts are true. The sanctions provided by Rule 11 are applicable to the certification.

(3) The party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the court orders otherwise, it may be recorded by sound, sound and-visual, or stenographic means, and the party taking the deposition shall bear the cost of the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by non-stenographic means.

With prior notice to the deponent and other parties, any party may designate another method to record the deponent's testimony in addition to the method specified by the person taking the deposition. The additional record or transcript shall be made at that party's expense unless the court otherwise orders.

(4) Unless otherwise agreed by the parties, a

deposition shall be conducted before an officer appointed or designated under Rule 28 and shall begin with a statement on the record by the officer that includes: (A) the officer's name and business address; (B) the date, time, and place of the deposition; (C) the name of the deponent; (D) the administration of the oath or affirmation to the deponent; and (E) an identification of all persons present. If the deposition is recorded other than stenographically, the officer shall repeat items (A) through (C) at the beginning of each unit of recorded tape or other recording medium. The appearance or demeanor of deponents or attorneys shall not be distorted through camera or sound-recording techniques. At the end of the deposition, the officer shall state on the record that the deposition is complete and shall set forth any stipulations made by counsel concerning the custody of the transcript or recording and the exhibits, or concerning other pertinent matters.

(5) The notice to a party deponent may be accompanied by a request made in compliance with Rule 34 for the production of documents and tangible things at the taking of the deposition. The procedure of Rule 34 shall apply to the request. The court may on motion, with or without notice, allow a shorter or longer time.

(6) A party may in his notice and in the 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 he will testify. A subpoena shall advise a non-party 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 subdivision (b) (6) does not preclude taking a deposition by any other procedure authorized by these rules.

(7) 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 purposes of these rules, a deposition by such means is taken at the place where the deponent is to answer questions.

(c) 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 the Arkansas Rules of Evidence, except Rule 103. 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 direction and in

his presence, record the testimony of the witness. The testimony shall be taken stenographically or recorded by any other method authorized by subdivision (b)(3) of this rule. 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; but 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 either the party taking the deposition in which event he shall (1) transmit such questions to the office, or (2) directly upon the officer, who shall propound them to the witness and record the answers verbatim.

(d) Schedule and Duration; Motion to Terminate or Limit Examination.

(1) Any objection to evidence during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner. Absent exceptional circumstances, a party or a lawyer for a party may instruct a deponent not to answer only when necessary to preserve a reasonable, good faith claim of privilege, to enforce a limitation on evidence imposed by the court, or to present a motion under

paragraph(3).

(2) The court may by order limit the time permitted for the conduct of a deposition, but shall allow additional time if needed for a fair examination of the deponent or if the deponent or another party impedes or delays the examination. If the court finds that an impediment, delay, or other conduct has frustrated the fair examination of the deponent, it may impose upon the persons responsible an immediate sanction, including the reasonable costs and attorneys' fees incurred by any parties as a result thereof.

(3) At any time during a 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 district in which the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition as provided in Rule 26 (c). If the order made 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 an order. The provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion.

(e) Review by Witness; Changes; Signing. If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording 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 subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

(f) Certification by Officer; Exhibits; Copies; Notice of Filing.

(1) The officer shall certify that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness. This certificate shall be in writing and accompany the record of the deposition. The officer shall place the deposition in an envelope or package endorsed with the title of the action and marked "Deposition of (name of witness)" and, if ordered by the court in which the action is pending pursuant to Rule 5(c), promptly file it with the clerk of that court. Otherwise, the officer shall send it to the attorney who arranged for the transcript or recording, 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 and returned with the deposition, and may be inspected and copied by any party, except that (A) the person producing the materials may substitute copies to be marked for identification, if he affords to all parties fair opportunity to verify the copies by comparison with the originals, and (B) if the person producing the materials requests their return, the officer shall mark them, give each party an opportunity to inspect and copy them, and return them to the person producing them and the materials may then be used in the same manner as if annexed to and returned with the deposition. Any party may move for an order that the original be annexed to the deposition if it is to be used at trial.

(2) Unless otherwise ordered by the court or agreed by the parties, the officer shall retain, for the period established for transcripts of court proceedings in the retention schedule for official court reporters, stenographic notes of any deposition taken stenographically or a copy of the recording of any deposition taken by another method. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the transcript or other recording of the deposition to any party or to the deponent;

provided that it shall be the duty of the party causing the deposition to be taken to furnish one copy to any opposing party, or in the event there is more than one opposing party, a copy may be filed with the clerk for the use of all opposing parties, and the party filing the deposition shall give prompt notice of its filing to all other parties.

(g) Failure to Attend or to Serve Subpoena; Expenses.

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by an attorney pursuant to the notice, the court may order the party giving the notice to pay such other party the reasonable expenses incurred by him and his attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon him and the witness because of such failure does not attend, and if another party attends in person or by an attorney because he 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 him and his attorney in attending, including reasonable attorney's fees.

**Rule 31. Depositions upon written questions.**

(a) Serving Questions; Notice.

(1) Any party may take the testimony of any person,

including a party, by deposition upon written questions without leave of court except as provided in paragraph (2). The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45. The deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes.

(2) A party must obtain leave of court if the person to be examined is confined or if, without the written stipulation of the parties, a plaintiff seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant or service made under Rule 4(e), except that leave is not required if a defendant has served a notice of taking deposition or otherwise sought discovery, or if special notice is given as provided in Rule 30(b)(2).

(3) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (A) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs, and (B) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental

agency in accordance with the provisions of Rule 30(b)(6).

(4) Within 14 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 7 days after being served with cross questions, a party may serve redirect questions upon all other parties. Within 7 days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(b) Officer to Take Responses and Prepare Record. A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rule 30(c), (e) and (1) to take the testimony of the witness in response to the questions and to prepare, certify and file or mail the deposition, attaching thereto the copy of the notice and the questions received by him.

(c) Copies; Notice of Filing. The party causing the deposition to be taken shall furnish one copy of the deposition to any opposing party, or if there is more than one opposing party, a copy may be filed with the clerk for the use of all opposing parties, and the party filing the deposition shall give prompt notice of its filing to all other parties.

**Rule 32. Use of depositions in court proceedings.**

(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 rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or 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 Arkansas Rules of Evidence.

(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 Rule 30(b)(6) or 31(a) to testify on behalf of a public or private corporation, partnership or association or governmental agency which is a party, may be used by an adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the court finds: (A) that the witness is dead; or (B) that the witness is at a greater distance than 100 miles from the place of trial or hearing, or is out of this state, unless it appears

that the absence of a 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) the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (E) 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. A deposition taken without leave of court pursuant to a notice under Rule 30(b)(2) shall not be used against a party who demonstrates that, when served with the notice, it was unable through the exercise of diligence to obtain counsel to represent it at the taking of the deposition; nor shall a deposition be used against a party who, having received less than 11 days notice of a deposition, has promptly upon receiving such notice filed a motion for a protective order under Rule 26(c)(2) requesting that the deposition not be held or be held at a different time or place and such motion is pending at the time the deposition is held.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce 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 Rule 25 does not affect the right to use depositions previously taken; and, when an action in any court of the United States or of any state has been dismissed 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 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 Arkansas Rules of Evidence.

(b)           Objections to Admissibility. Subject to the provisions of Rule 28(b) and subdivision (d)(3) of this rule, 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 rule may offer it in stenographic or non-stenographic form, but, if in non-stenographic form, the party shall also provide the court with a transcript of the portions so offered. The transcript must be prepared by a certified court reporter from the non-stenographic recording. On request of any party in a case tried before a

jury, deposition testimony offered other than for impeachment purposes shall be presented in non-stenographic form, if available, unless the court for good cause orders otherwise.

(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 at the oral examination in the manner of taking the deposition, in the

form of the questions or answers, in the oath or affirmation, or in the conduct of parties, and errors of any 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 Rule 31 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross or other questions and within 5 days after service of the last questions authorized.

(4) As To Completion And Return Of Deposition. Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed or otherwise dealt with by the officer under Rules 30 and 31 are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such is, or with due diligence might have been ascertained.

### TIPS AND SUGGESTIONS

The first thing you will need before you begin reporting is a court reporter's seal. While official reporters do not usually swear the witness (that is done by the judge or clerk), freelance reporters are required to swear the witness and that is done through your certification as a Certified Court Reporter. Your court reporter's seal should contain the following:

ARKANSAS SUPREME COURT

CERTIFIED COURT REPORTER

FINGERS R. FAST

CERTIFICATE NO. 000

Your court reporter's seal can be obtained from your local office supply house.

#### 1. **WORK SHEETS**

The purpose of a work sheet is to record all the information necessary to complete a transcript. Your work sheet should contain information such as who requested the deposition; name of witness; date, time and location of the deposition; style of case (court, docket number, names of parties); transcript due date; appearing attorneys and their respective clients. The information can be gathered at the time you confirm your appearance.

Other information to be gathered at or before the deposition begins should include: who gets the original (or whether you

need to file it with a court clerk); who gets the copies; will you or an attorney retain the exhibits; any stipulations; whether or not any of the parties require condensed transcripts and/or word indexing; and billing instructions.

Upon completion of the transcript, you may also want to show on your work sheet the total cost; cost of copies; date the transcript was delivered; and method of delivery (by hand, post office, UPS, Federal Express, etc.) See Forms.

2. **FORM LETTERS**

Examples of a transmittal letter and a statement for original transcript, and transmittal for copies appear in Forms. Examples of transmittal of original to court clerk for filing appears in Forms, and collection letters in Forms.

3. **BILLING**

ALWAYS ask for billing instructions when you take a deposition. In Arkansas cases, Rule 30(0(2) provides: Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent; provided that it shall be the duty of the party causing the deposition to be taken to furnish one copy to any opposing party, or in the event there is more than one opposing party, a copy may be filed with the clerk for the use of all opposing parties, and the party filing the

deposition shall give prompt notice of this filing to all other parties.

In federal cases, Rule 30(0(2) provides:

Upon payment of reasonable charges therefor, the officer shall furnish a copy of the deposition to any party or to the deponent.

As in most cases, there are exceptions to this rule. In some bankruptcy cases, for instance, the court may order a deposition as well as determine who shall pay the costs. In workers' comp cases with several respondents and attorneys for each party, they may share the total cost of the deposition.

Just remember, in Arkansas cases the deposing party usually gets the bill and provides copies to opposing counsel. In federal cases, the deposing party is billed for the original transcript; you must ask if the other attorneys present will order (and pay for) a copy. When taking depositions in out-of-state cases, be sure and ask if the attorneys are required to pay for their own copies since most other states follow the federal rules.

If you mail a transcript and statement within the first few days of the month and have not received payment by the end of the month, you might wish to send a reminder bill at the end of the month. If you have still not received payment at the end of the second month, send a collection letter along

with a copy of the original bill. Make sure this reaches the attorney's office two or three days before the 1st of the next month since many offices pay their bills between the 1st and 10th of the month.

Some attorneys forward your bill directly to their client and expect that client to pay you directly. The attorney may not know that your statement remains unpaid. Of course, YOUR client is the attorney who contacted you, and he is ultimately responsible for payment.

We now have a Supreme Court ruling in our favor.

R. S. McCullough v. Loretta Johnson, 307 Ark. 9 (1991). In circuit court a court reporter brought an action against an attorney to recover the cost of a transcript prepared for his client at the attorney's request. The circuit court judge held the attorney liable and the attorney appealed. The Supreme Court affirmed the circuit court's ruling, holding that attorneys are personally liable for debts to service providers incurred on behalf of clients unless there is a disclaimer of such responsibility.

If you have a really difficult time collecting fees from an in-state attorney, you may want to look up this case and send it along with your next bill. See Form C2e.

**OUT-OF-STATE CLIENTS:** You may be contacted by an out-of-state attorney to take a deposition. He or his secretary may inquire at that time exactly what your billing

practice is in such a situation. In addition to the normal practice of simply mailing the transcript along with your statement, there are other alternatives:

- 1) You may require that they bring a deposit check;
- 2) You may explain that upon completion of transcription you will send them a statement; and upon receipt of payment, you will forward the transcript; or
- 3) You may explain that you send out-of-state transcripts C.O.D.

For instance, if no prior understanding is reached and you send a transcript C.O.D., the attorney may not only be surprised but angry and insulted as well. As long as you tell them up front what your policy is, there should be no problems.

#### 4. **REFERENCE MATERIALS**

You will need a wealth of reference materials from medical and law dictionaries to telephone books, etc. A legal directory is almost a necessity. If you are just starting out, use the reference materials in your local library until you can acquire your own. Some suggestions are:

##### a. **ENGLISH DICTIONARIES:**

Webster's II, New Riverside University Dictionary Webster's Ninth New Collegiate Dictionary Webster's New World Thesaurus Dictionary of Synonyms and Antonyms, Warner Dictionary of American Slang, Pocket Books; New York

b.           **LEGAL DICTIONARIES:**

Black's Law Dictionary, West Publishing  
Cochran's Law Lexicon, Anderson Publishing

c.           **MEDICAL DICTIONARIES AND REFERENCE BOOKS:**

Webster 's Medical Desk Dictionary, Merriam- Webster  
Gray's Anatomy, Running Back Press  
Taber Cyclopedic Medical Dictionary, Davis Publishing  
Physician's Desk Reference (PDR)  
Medical Terminology for Court Reporters, NSRA Publishing  
AHA Guide, American Hospital Assn., lists health care  
institutions

Logan's Medical and Scientific Abbreviations, J. B.  
Lippincott Company

Prescriber 's Guide to Drug Interactions, 2d Edition,  
Medical Economics Books  
Diagnostic and Statistical Manual of Mental Disorders, 3d  
Ed., Revised, American Psychiatric Press, Inc.  
Medical Sound-Alikes, Career Publishing, Inc.

d.           **MISCELLANEOUS REFERENCES:**

IEEE Standard Dictionary of Electrical & Electronic Terms,  
John Wiley & Sons, Inc. Modern Dictionary of Electronics,  
6th Edition, Howard W. Sams & Co., Inc.

Zip Code Directory (available at the post office or  
bookstore)

Gregg Reference Manual, 6th Ed., McGraw Hill

The Complete Court Reporters Handbook, Mary Knapp, Wiley Publishing

Punctuation for Court Reporters, Nathaniel Weiss, NCRA

Grammar for Shorthand Reporters, Irwin Weiss, NCRA

NCRA Deposition Form Book, NCRA Publications

Federal Rules of Civil Procedure and Title 28, U.S. Code, Judiciary and Judicial Procedure, West Publishing

e. **INTERNET REFERENCE SITES.** A few helpful Internet sites are:

Dictionaries - General

[www.onelook.com/?d=all\\_gen](http://www.onelook.com/?d=all_gen)

Drug Manufacturers

[www.druginfonet.com/index.php?pageID=manufacturers.htm](http://www.druginfonet.com/index.php?pageID=manufacturers.htm)

Gang Slang

[www.velocity.nett-acekc/gangslang.htm](http://www.velocity.nett-acekc/gangslang.htm)

Law Dictionary, Glossary and Terms

[www.glossarist.com/glossaries/law-justice](http://www.glossarist.com/glossaries/law-justice)

Military Acronyms and Glossaries

[www.ulib.iupui.edu/subjectareas/gov/military.html](http://www.ulib.iupui.edu/subjectareas/gov/military.html)

National Drug Code Directory

[www.fda.gov/cder/ndc/database/default.htm](http://www.fda.gov/cder/ndc/database/default.htm)

Many reference materials are now available on CD-ROM or on-line computer services. Make use of directories, encyclopedias, telephone books. Another helpful reference book for anyone in the legal profession in Arkansas is The

Arkansas Legal Directory or the "Blue Book". This is the official directory of the state bar association. Federal and state officers and departments, their addresses and phone numbers are listed as well as service-related companies (i.e. court reporters, abstract officers, research companies, etc.) Information for purchasing advertising in The Arkansas Legal Directory can be obtained by writing: Legal Directories Publishing Company, Inc., P. O. Box 140200, Dallas, Texas 75214-0200.

### DEPOSITIONS

#### **BEFORE BEGINNING THE DEPOSITION**

Make sure you have all the information you need for the case: style, billing information, stipulations, etc. and make sure the attorneys are ready to begin. If you have not been introduced to the witness previously, now is the time to do it:

*My name is Whita Outa. I'm going to be your court reporter for this proceeding. Before we begin, I would like to caution you to answer out loud without nodding or shaking your head or saying um-hmm or uh-ugh so that when the attorneys receive your transcript there won't be any doubt about what your answers are. Okay?*

Of course, if the witness nods you may be in trouble.

#### **INTERRUPTING THE DEPOSITION PROCEEDINGS**

Although attorneys frown on this practice, it may be

necessary in order to prepare an accurate transcript.

Attorneys like even less receiving a transcript that is full of "indiscernible", "inaudible", or other such notations. If the witness has a very heavy accent, for instance, let the deposing attorney know: "If you don't understand the witness, I probably won't understand him either. Please make sure the answer is clear to you before you go on to the next question." Some attorneys actually think we can understand Vietnamese, Czechoslovakian or Chinese! Make sure you correct this idea.

You should not interrupt the deposition unless necessary to clarify an answer at that time. If you don't understand what is said, stop the witness and ask him to repeat the answer. You may also need to stop the proceedings to request that the witness answer out loud or say yes or no instead of nodding. Otherwise, wait until the deposition is concluded to check for spellings, answers, ages, etc.

**HELP. . . IT'S AVAILABLE!**

New reporters should feel free to call "seasoned" reporters for help. Arkansas Court Reporters Association prepares a directory of members each year. It contains members' names, certifications (CVR, RPR, CM), addresses, phone/fax numbers, reporting method, whether they are official or freelance, and if video services are provided. It's great for providing your attorney with a court reporter's name in

another part of the state or locating a reporter who will cover a job for you. You can contact ACRA Membership

Services: P. O. Box 65  
Warren, AR 71671  
Phone: (870) 219-0151  
Fax: (870) 226-5425  
buffyccr@suddenlink.net  
www.acraonline.us

for information on joining ACRA.

The **Maude Parkman Mentor Program** has been designed to match up new reporters with experienced reporters during their first year of reporting. Volunteer mentors will earn 10 Continuing Education Credits by completing the following:

- \* Allowed the new reporter to accompany you on 3 depositions. (Freelance)
- \* Allowed the new reporter to accompany you on 5 court proceedings. (Official)
- \* Discussed with the new reporter 8 to 10 topics provided to you on a checklist.
- \* Read behind the new reporter on their first transcript
- \* Remain available to answer any questions the mentored reporter may have for up to one year.

To request a mentor or to volunteer to be a mentor, contact ACRA Membership Services as shown above.

Attendance at the Arkansas Court Reporters Association meetings will bring you into contact with other court reporters as well as common - and uncommon - problems. Other helpful sources are the CR Forum and [www.nvra.org](http://www.nvra.org) where court reporters can ask questions and receive answers from court reporters all around the country.

### **TRANSCRIPTS**

There are many different transcript styles. When you see a new form, you copy it and then change it to suit your needs or preferences. Over the years you may change this form dozens of times until it no longer resembles the original style. The format for transcripts in federal cases (court and depositions) as well as arbitration hearings, follow Federal Rule 12. Shown are various styles for use with depositions, circuit, chancery, probate, workers' comp and federal cases (including bankruptcy court), and arbitration proceedings. You may wish to combine several features from different formats. There is no single, perfect style to use for a cover sheet, index or stipulations.

#### **1. Cover Sheets:**

Information listed on the first (title) sheet of your transcript shows the court, docket number, style of the case, name of the witness, and appearing parties. You may have numerous parties represented and therefore find it necessary to continue the appearances on page two. Your

title sheet can also show date and location of the deposition and whether or not a video record is being made. The title sheet should NOT be numbered. If the appearances run over to a second page, or if you go directly to your index, page numbering should start with "2" on that sheet. If a witness does not appear for a deposition, the attorney may make a record, in which case you would prepare it in transcript form just as you would have prepared the deposition. Occasionally, however, an attorney might only want you to prepare a Certificate of Non-attendance in such case.

(See Forms:)

- a. State Court Case Deposition
- b. Circuit Court Case Deposition
- c. Probate
- d. Workers' Compensation
- e. Federal Cases
- f. Certificate of Non-attendance

## **2. Index Sheets:**

Exhibits may be shown in several ways on the index sheet. One method is to show the identification of an exhibit (and description) as it falls in the testimony. See Forms.

## **3. Stipulations:**

Definition: "n. an agreement, usually on a procedural matter, between the attorneys for the two sides in a legal

action. Some stipulations are oral, but the courts often require that the stipulation be put in writing, signed and filed with the court." (from [www.dictionary.law.com](http://www.dictionary.law.com))

"Stipulation" is defined as an agreement. Therefore, unless stipulations are specifically stated at the deposition (preferably on the record), a court reporter should not automatically insert a stipulation page into the deposition transcript. One cannot assume that counsel agree to any certain terms unless it is so stated. *See the ACRA Handbook for various forms of stipulations.*

This sheet usually reflects how the deposition came to be taken (whether by notice, agreement, subpoena) as well as the beginning time, location of the deposition, your name as the reporting officer, whether the deposition is for discovery, evidentiary or all purposes, and then the agreement or stipulations of the parties. Pursuant to state and federal Rules of Civil Procedure, depositions are taken for all purposes unless the parties stipulate that it is specifically for discovery.

Doctors and other expert witnesses prefer to give depositions so they do not have to appear at trial. It is imperative to set out the stipulations correctly in these depositions. If an attorney tells you to use the standard stipulations, make sure all parties agree on what that actually means.

Standard stipulations generally means that all formalities are waived. Stipulations are the agreement by the parties that certain of the Rules of Civil Procedure will be waived. The rules most often waived include filing of notice of deposition, filing written objections, reading and signing by the witness, and filing the original with the clerk. Sometimes attorneys may "reserve all objections to the time of trial." Other times, they may "reserve all objections to the time of trial except as to form of the question, responsiveness of the answer, materiality of the testimony, competency of the witness" or any combination thereof. The following excerpt was taken from an article entitled "The Etiquette of Depositions" in the ABA News Bulletin (1988). The article was written by a subcommittee of the Arkansas Bar Association's Civil Procedures Committee chaired by Carolyn Witherspoon (Little Rock). Other members were David Manley (Fayetteville); Teresa Wineland (El Dorado); Paul McNeill (Jonesboro); and Professor Howard W. Brill (Fayetteville).

**THE ETIQUETTE OF DEPOSITIONS -HOW TO HANDLE THE USUAL  
STIPULATIONS, COPIES AND EXHIBITS**

STIPULATIONS: Rule 29 of the Arkansas Rules of Civil Procedure permits the parties, by written stipulations, to agree that depositions may be taken before any person, at any time or place, upon any notice and in any manner.

Numerous provisions may be included in a stipulation.

1. The deponent, if represented by counsel, waives signing of the deposition;
2. The deposition need not be filed with the court;
3. Objections going to the form of the question must be raised at the deposition; all other objections are reserved until trial;
4. The deposition may be signed before any notary, not just the one taking the deposition;
5. The party taking the deposition shall furnish one copy to the opposing party;
6. An objection made by one defendant shall be deemed to have been made by all;
7. Questions that have been withdrawn shall be removed from the transcript;
8. References to conferences with counsel shall be omitted from the transcript; and
9. Deposition costs shall be taxed against the losing party, regardless of whether the deposition was used at trial.

Attorneys at a deposition frequently speak of "the standard stipulations," without a clear understanding among the attorneys and the court reporter as to what such a stipulation covers. Any discussions of and arrangements for "the usual stipulations" should be clarified before going on

the record. The Committee recommends the following as a model standard stipulation:

*It is hereby stipulated and agreed by*

\_\_\_\_\_, attorney for Plaintiff, and

\_\_\_\_\_, attorney for Defendant, that the

deposition of \_\_\_\_\_ which is taken

pursuant to the Arkansas Rules of Civil Procedure for use as permitted by the Rules in the case of

\_\_\_\_\_ v. \_\_\_\_\_, shall be taken

before \_\_\_\_\_, Certified Court Reporter and

Notary Public, and shall be transcribed by him/ her. The

attorneys waive all formalities in the notifying, taking,

transcribing, certifying, forwarding, filing and notice of

filing, and signing of the deposition. The right to object

to the testimony of the witness on the grounds of

competency, relevancy and materiality is expressly reserved,

other than the form of the questions as propounded to the

witness. These objections may be asserted at the time of

trial without the necessity of noting the objection at the

taking of this deposition.

(See Forms.)

**COPIES:** The person taking the deposition should order from the court reporter an original and two copies: an original for the court, a copy for the attorney taking the deposition, and a copy for the attorney who produced the

witness. The attorney taking the deposition should pay all charges. Distribution should be made by the court reporter. A non-party witness with ties to neither side should be provided with a copy of his deposition by the attorney who scheduled the deposition. When additional copies of depositions are required (as in the case of multiple parties), costs should be shared by the other attorneys.

**EXHIBITS:** Documents should be marked by the court reporter and attached to the end of the deposition. If the exhibits are extensive, or at the request of the attorney, the reporter should place the exhibits in a separate binder.

#### **4. Telephone Depositions:**

On your title and stipulations pages, the location of the deposition is stated as the location of the witness, not your location. Some questions have recently been raised as to whether or not a court reporter in Arkansas can swear a witness over the telephone. Of course, the answer is that NO ONE can swear someone in over the phone. Would you notarize a signature on a deed or other legal instrument if it had not been signed in front of you, you did not know the person, and someone else was bringing it to you to notarize? Certainly not. Only one state allows, by statute, for the swearing of witness by a court reporter over the telephone. In many other states where this problem has arisen, court reporters have lost their notary license (and thus their

ability to freelance). The Secretary of State's office says there are two ways to solve this dilemma:

a. Request that a notary be present with the witness to swear the witness in. That notary should then prepare a certificate and mail it to you for attachment to the transcript. Attach this certificate directly in front of your certificate. You will need to change the language in your certificate to conform to these circumstances.

b. Request the attorney who contacted you to petition the court and get an order from the judge directing you (or any reporter) to take the deposition and specifying that you are here in Arkansas and that the witness is wherever he is. (See Form.)

#### **5. Swearing the Witness:**

It's pretty simple really: "Do you swear to tell the truth?" That's about the easiest, shortest oath you can give a witness. A lot of judges use that form. There is also a longer version which, it seems like, is used more by court reporters and clerks of the court:

*Do you swear or affirm that the testimony you're about to give in this matter will be the truth, the whole truth, and nothing but the truth?*

In preparing the transcript, some court reporters prefer to begin a new page and show the swearing as the actual beginning of the proceedings. See Form D5a. Others prefer to

show the swearing of the witness on the same page as and directly following the stipulations. See Form.

One of the most embarrassing things that can happen to a reporter when swearing a witness is to ask the witness to raise his right hand to be sworn and then realize he can't because he's injured or handicapped. Even though such circumstances are few and far between, they do happen. To avoid placing yourself in such a situation, be aware of the condition of your witness before swearing him/her in. If you are attentive enough to realize the problem beforehand, you can swear him verbally and omit asking him to raise his hand for the oath.

Another thing to watch for is a witness accidentally (or intentionally) raising his left hand to be sworn. If this happens, simply correct the witness.

Another uncommon occurrence is simply forgetting to swear the witness at all! We've all been in situations where we get rushed and the attorneys begin asking questions or there are several witnesses and you go from one witness right to the next. As soon as you realize that you failed to swear the witness, stop the proceedings by letting the deposing attorney know that you need to go off the record. Explain what has happened. You can ask for a stipulation from the attorneys to show the swearing as you usually do in the transcript. When you go back on the record, swear the

witness. The attorneys will probably ask the witness to affirm that everything he has previously stated was the truth.

#### 6. **Body of the Transcript:**

The spacing and margin rules are set out in the section covering Rules for Preparation of Transcripts.

We've all had witnesses who continue to nod or shake their head in response or who say uh-huh or huh-uh regardless of our requests to answer aloud with a yes or no. By the way Webster 's only gives "uh-huh" as a positive response; we could find no spelling listed for a negative response. Other responses we've seen are: urn-hmm or uh-hmm for yes and uh-ugh or ugh-ugh for no.

The correct way to "type" nods or shakes is:

(Witness nodding.) OR

(Witness nodding head up and down.)

(Witness shaking head.) OR

(Witness shaking head side to side.)

It is **INCORRECT** to show:

(Witness nodding yes.)

(Witness nodding in a positive response.)

(Witness shaking head no.)

(Witness shaking head in a negative response.)

A witness may be saying "um-hmm," and nodding up and down faster than you can count - but you can only type:

A. Um-hmm, (witness nodding).

- because anything else is your interpretation. And, unfortunately, those attorneys just do not want our interpretations in the transcript!

See Forms for samples of colloquy, parentheticals, quoted material and marking exhibits.

**Certifying a question.** We are occasionally requested to certify a question. Remember, you must show everything from the initial question that the witness refused to answer down through the attorney's instruction to you to certify the question. It can be anywhere from two lines to several pages. You may be requested to prepare the certified questions asap and provide them to the attorneys even before the transcript is complete. However, if you prepare the transcript for delivery at the same time as the certified questions, you should show on the certified question document the pages and line numbers of the transcript where the certified question begins.

See Forms.

#### **7. Exhibits:**

Some reporters prefer to attach each exhibit to a numbered page so they can be referenced in the index. See Form. Other reporters simply attach the exhibits to the back of the transcript and note only on the index that "Exhibits are attached." You can order binders that have a

two-hole-punched top flap on the back binder. This is actually to allow a transcript to be inserted into the court's file; however, many reporters use this flap to attach exhibits.

If the exhibits are voluminous, you may wish to bind them separately. In that case you would state at the bottom of your index sheet in the place where you normally list the exhibits and corresponding page numbers that: "Exhibits are bound under separate cover." If you do bind your exhibits separately, you will need:

- (1) a title sheet identical to the deposition except showing "Exhibits to the Deposition of (Name of Deponent)";
- (2) an index sheet giving a description of each exhibit; and
- (3) your certificate stating that the exhibits are true and correct originals or copies of the exhibits provided at the time of the deposition.

The parties may agree that one attorney keep the exhibits instead of attaching them to the deposition. You would then simply show the following at the bottom of your index sheet:  
*REPORTER'S NOTE: Exhibits were retained by Plaintiff's (or Defendant's) counsel.*

See Form.

If you provide condensed transcripts, you will need to find out if the attorneys want exhibits attached to the condensed

transcript as well.

Whether referenced documents are introduced as exhibits or not, try to get a copy of any document referenced during the proceedings. This will save you hours of looking through reference materials, etc.

#### **8. Signature Page and Errata Sheets:**

On those occasions where the reading and signing of a deposition by the witness is NOT waived, you will need to prepare a signature page and errata sheet. First of all, familiarize yourself with Rule 30(e) which states:

*"When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by him, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them."*

It is no longer considered good practice to mail or deliver an **original** transcript to a witness so that he can make changes directly on it. Although a witness is allowed to make ANY change he wishes in his answers, he is not allowed to obliterate or black out his original testimony or the question posed. Neither is a court reporter to "correct" the errors, retype the page, and insert the corrected sheet into the transcript in lieu of the original page. Rule 30(e)

continues:

*"The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4), the Court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part."*

The use of an errata sheet for the corrections is now accepted in both Arkansas and federal courts.

Therefore, send a **copy** of the deposition for the witness, along with the original errata and signature sheets.

Depending upon the circumstances, you may:

- (1) require the witness to come to your office for reading and signing;
- (2) send the copy transcript, original signature and errata sheets, instructions for reading and signing AND a stamped return envelope to the witness; or
- (3) send a copy of the transcript, signature and errata sheets to the attorney's office so the witness can go

there for reading and signing.

Again, **NEVER send your original transcript to a witness.** If an attorney requests that you do so, instruct them that it is not your practice to send original transcripts to a witness. What would you do if the witness didn't sign OR send the original back to you? If you are still doing your transcripts on a typewriter, you're in trouble! If an attorney insists that the witness read and sign the original, you may request that the witness come to your office to read and sign the transcript.

If a witness refuses or fails to sign the transcript within the allowed 30 days, you will prepare a Certificate in Lieu of Deponent's Signature or Certificate of Noncompliance. If you are under a time constraint, i.e. the trial is in 30 days and the witness lives in another town, you might request that the attorneys stipulate that the time for reading and signing be reduced to 15 days.

It is suggested that the following language be inserted into your certificate when a read and sign is requested: **"IN ACCORDANCE with Rule 30(e) of the Rules of Civil Procedure, review of the transcript was requested."**

For suggested Signature Sheet, see Forms. For suggested Errata Sheet, see Forms .

For suggested instructions to witness for reading and signing deposition, see Forms.

For suggested transmittal letter, see Form.

For suggested Certificate of Non-compliance or Certificate in Lieu of Signature, see Forms.

**9. Certificate:**

Your certificate should be the last page of the transcript.

The form adopted by the Board for use by freelance reporters pursuant to Memorandum dated October 1, 1999, as amended, appears as a Form.

As court reporters, when we certify a transcript, we are confirming or giving assurance that the foregoing transcript has been under our personal control and that no corrections or amendments have been made without our knowledge or direction. To sign blank certificate pages to be attached to transcripts is not only unwise but also a violation of the Rules of the Arkansas Board of Certified Court Reporter Examiners and should **NOT** be a practice of any court reporter. See the *ACRA Handbook for the Board-approved certificate form*.

**16-13-510. Complete record required - Waiver.**

(a) In all cases before the circuit, chancery, or probate courts of this state, a complete record of the proceedings shall be made by the official court reporter, or other reporter designated by the court. Upon the request of either party or the circuit, chancery, or probate judge, said record shall be transcribed, certified by the reporter as

true and correct, and filed with the clerk of the court in which the proceedings were had, not less than ten (10) days before the expiration of time allowed for appeal.

(b) Nothing contained in this section shall prevent the parties, with the permission of the circuit court, from waiving a complete record of the proceeding.

(c) The court reporter's duty to transcribe and certify the record may be conditioned upon the payment, when requested by the court reporter, of up to fifty percent (50%) of the estimated cost of the transcript.

History. Acts 1989, No. 844, §§ 1, 2; 1993, No. 812, § 1.

**16-13-506. Court reporters - Transcript fees.**

(a) (1) When required to make a transcript of court proceedings, each court reporter of the circuit courts shall be entitled to compensation at the rate of four dollars and ten cents (\$4.10) per page for the original and two (2) copies and at the rate of fifty cents (\$.50) per page for each additional copy.

(2) When required to prepare photocopied evidence as part of a transcript, each reporter shall be entitled to compensation at the rate of one dollar and fifty cents (\$1.50) per page, for an original and two (2) copies and at the rate of fifty cents (\$.50) per page for each additional copy thereafter, with the cost to be paid by the parties ordering transcripts.

(b) (1) (A) In indigent and in forma pauperis proceedings, the compensation to the court reporter for transcripts provided for in subsection (a) of this section shall be paid by the State of Arkansas.

(B) However, in such proceedings, the court reporters shall be entitled to compensation from the state only for the original and two (2) copies of the transcript.

(2) The payments shall be made only upon certification thereof by the presiding judge and shall be paid by the Auditor of State from funds appropriated out of the Court Reporter's Fund.

History. Acts 1981 (Ex. Sess.), No. 16, § 7; 1983, No. 868, § 2; A.S.A. 1947, § 22-367.4; Acts 1987, No. 581, § 1; 2003, No. 1185, § 90; 2005, No. 461, § 2.

**16-13-504. Initial annual salary of court reporters** - Salary implementation procedures.

(a) All court reporters appointed after March 28, 1983, shall receive an initial annual salary not to exceed that salary provided for in Step 1 of Grade 19 of the Uniform Classification and Compensation Plan unless the Legislative Council approves entrance at a greater salary, but in no instance shall court reporters enter at an annual salary greater than that provided in Step 5 of Grade 19.

(b) The following salary implementation procedures shall apply to all court reporters who were official court

reporters in the state on June 30, 1981:

(1) The beginning compensation of persons first appointed to a position of court reporter after June 30, 1981, shall not be made at greater than the first, or entrance, step unless a special entrance rate is requested through and approved by the Office of Personnel Management of the Division of Management Services of the Department of Finance and Administration with the advice of the Legislative Council;

(2) All subsequent step increases granted to court reporters shall be in conformance with the schedule provided in the compensation plan;

(3) Increase eligibility dates shall be determined from the dates of initial employment by the state:

(A) For those court reporters who are official court reporters in the state on June 30, 1981, the increase eligibility date shall be July 1, 1982.

(B) For those court reporters who are appointed after June 30, 1981, the increase eligibility date shall be determined by the date of appointment.

History. Acts 1981 (Ex. Sess.), No. 27, § 1; 1983, No. 868, § 1; A.S.A. 1947, §§ 22-366.4, 22-367.5; Acts 2003, No. 1185, § 89.

**16-13-509. Substitute court reporters.**

(a) (1) In the absence or unavailability of the

official court reporter, the circuit judge, chancery judge, or judge on assignment as authorized by § 16-10-101 is authorized to temporarily employ the services of a substitute court reporter if the temporary employment is necessary and essential to prevent a disruption of the business of the court.

(2) The substitute court reporter shall be a reporter duly certified by the Arkansas Supreme Court Board of Certified Court Reporter Examiners.

(b) (1) Whenever a circuit judge, chancery judge, or judge on assignment temporarily employs a substitute court reporter, the judge may certify to the Auditor of State, upon forms prepared by the Auditor of State, that he or she has temporarily employed the services of a substitute court reporter and that the temporary employment was necessary and essential to prevent a disruption of the business of his or her court.

(2) The judge shall further furnish to the Auditor of State the name, address, and social security number of the substitute court reporter and the number of days the substitute court reporter was temporarily employed, plus any other information concerning the employment requested by the Auditor of State.

(c) (1) The Auditor of State is authorized to pay the substitute court reporter for the court reporting services

furnished to the circuit judge from funds specifically appropriated for that purpose.

(2) The substitute court reporter will be paid at the rate of one hundred seventy-five dollars (\$175) per day.

(d) If any trial court administrative assistant employed pursuant to § 16-10-133 and also certified pursuant to subsection (a) of this section is authorized and appointed to act temporarily as a substitute court reporter, he or she shall not be entitled to be paid an additional salary, but shall be entitled to reimbursement for actual expenses incurred for meals, lodging, and transportation costs when attending court away from his official station, consistent with § 16-13-505.

(e) In any one (1) fiscal year, however, the Auditor of State will not pay for the services of a substitute court reporter or substitute court reporters for any one (1) circuit judge, chancery judge, or judge on assignment in excess of twenty (20) working days, unless approved and ordered by the Chief Justice of the Arkansas Supreme Court.

(f) Nothing contained in this section shall be construed to preclude or prohibit any circuit judge or chancery judge from obtaining payment for the services of a substitute court reporter from the county or counties comprising the judge's judicial district rather than from the Auditor of State.

History. Acts 1987, No. 373, §§ 1-4; 1989, No. 677, § 1; 1989, No. 762, § 1; 1997, No. 1169, § 1; 2001, No. 510, § 1; 2005, No. 461, § 3.

**16-13-505. Court reporters - Reimbursement for expenses.**

(a) (1) The official court reporters of the respective circuit courts shall be entitled to reimbursement for actual expenses incurred for meals, lodging, and transportation costs for attending court away from the reporter's official station.

(2) If the reporter uses a personal vehicle for transportation, he or she shall be entitled to reimbursement for mileage at the rate prescribed for state employees in the state travel regulations.

(b) Reimbursements for expenses shall be made monthly by the Auditor of State upon claims by the respective court reporters certified by the circuit judge.

History. Acts 1981 (Ex. Sess.), No. 16, § 6; 1985, No. 63, § 1; A.S.A. 1947, § 22-367.3; Acts 2003, No. 1185, § 89; 2005, No. 461, § 2.

**16-13-503. Appointment - Compensation - Leave.**

(a) Each judge of each circuit court may appoint one (1) or more court reporters as may be authorized by law.

(b) (1) The salaries of the reporters shall be prescribed by the General Assembly in accordance with the Uniform Classification and Compensation Act, § 21-5-201 et

seq.

(2) The salaries, together with such expenses as may be authorized by law for the court reporters to be paid from state funds, shall be paid with moneys appropriated therefor by the General Assembly from the Court Reporters' Fund.

(c) The official court reporters of the circuit courts in the state shall be subject to, and their attendance and leave time shall be governed by, the Uniform Attendance and Leave Policy Act, § 21-4-201 et seq. However, the judge of the court served by each reporter shall have the authority and responsibility to administer the Uniform Attendance and Leave Policy Act, § 21-4-201 et seq., as applied to the respective court reporters.

(d) (1) Rules for the regulation of the practice of court reporting in this state, including, but not limited to, certification, discipline, and provisions for the retention of court reporter records, shall be the responsibility of the Supreme Court.

(2) Provided, however, that nothing in this subsection shall permit the Supreme Court to require that counties or county officials provide space for the storage of court reporter records.

History. Acts 1981 (Ex. Sess.), No. 16, § 5; A.S.A. 1947, § 22-366.3; Acts 1995, No. 743, § 1; 2003, No. 1363, § 1.

**16-13-507. Liability for loss of records.**

Court reporters shall not be liable, criminally or civilly, for the unintentional loss, damage, or destruction of their official records which are more than five (5) years old.

History. Acts 1981, No. 154, § 1; A.S.A. 1947, § 22-366.2.

**16-13-508. Court Reporters' Fund established.**

There is created on the books of the Auditor of State, Treasurer of State, and Chief Fiscal Officer of the State a fund to be known as the Court Reporters' Fund, which fund shall be used exclusively for paying such salaries, transcript fees, and expenses of court reporters as may be provided by law to be paid from state funds.

History. Acts 1981 (Ex. Sess.), No. 16, § 4; A.S.A. 1947, § 22-157.

**16-13-512. Funding of official court reporters.**

(a) The state, rather than individual counties, shall bear the responsibility of funding the salaries and expenses of official state court reporters.

(b) Each county or counties within a judicial district shall continue to bear the responsibility of providing, at the county's expense, each official court reporter with appropriate office space and operating expenses, when approved in advance by the quorum court.

History. Acts 1997, No. 788, § 30; 1997, No. 1341, § 29.

**16-13-501. Court reporters made state employees.**

The official court reporters of the circuit and chancery

courts in this state are employees of the State of Arkansas. The court reporters shall be subject to, and their compensation shall be determined in accordance with, the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., and all laws amendatory thereto. History. Acts 1981 (Ex. Sess.), No. 16, § 5; A.S.A. 1947, § 22-366.3.

**OFFICIAL TRANSCRIPTS - STATE COURTS**

When cases are appealed, you will be required to prepare a transcript of the record of a case. Upon completion, you will deliver the transcript to the clerk who will include the additional pleadings and correspondence contained in the court's file. It should be noted that there are some judicial districts in which it has traditionally been the court reporter who prepares the entire record, the clerk's file and the transcript of all proceedings. Some municipal courts are now making official records, and the rules governing official transcripts apply.

Receipt of the notice of appeal sets in motion the preparation of official transcripts for appeal purposes. It will be important for you to know whether the appeal is from a final judgment or an interlocutory appeal as the time requirements for submission of the transcript vary by the type of appeal. Appeals from final judgments are due within 90 days of the date of the filing of the notice of appeal. Should you not be able to complete preparation of the transcript within that period of time, the statute provides that an extension of time for preparation may be granted by the presiding judge upon filing of a motion before expiration of the initial 90-day period from the file mark date of the notice of appeal. The order granting said extension must be file marked before expiration of the

initial 90-day period from the file mark date of the notice of appeal. The extension may be granted up to seven months from the file mark date of the final judgment. There are varying due dates for interlocutory appeals, depending upon the type of case and party appealing. You should clarify with the attorney filing the notice of appeal the exact time line you are to follow for an interlocutory appeal.

Rules 3-1, 3-2, 3-3 and 3-4 of Rules of the Supreme Court set forth the general rules to be followed in preparation of the official reporter's record. Rule 12 reads as follows:

**Rule 3-1. Preparation of the record.**

(a) *Generally.* All records shall begin with the style of the court in which the controversy was heard, the name of the judge presiding when the decree, judgment or order was rendered and its date, the names of all the parties litigant, and the nature of the suit or motion. For example:

Trial before A.B., judge of the circuit court on the  
 \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_;

John Doe, Plaintiff

vs. Action on Promissory Note

Jane Doe, Defendant

(b) *Dates.* Whenever an order of the court is mentioned, the date shall be specifically stated, rather than by reference to the day and year "aforesaid."

(c) *Duplications.* No part of the record shall be

copied more than once. When a particular record occurs, a reference should be made to pages in the preceding part of the record.

(d) *Depositions.* When depositions are taken on interrogatories and included in the record, the answers must be placed immediately after the questions to which they are responsive.

(e) *Record on second appeal.* When a cause has been once before the Court and a record is again required (for the purpose of correcting error which occurred on retrial), the second record shall begin where the former ended; that is, with the judgment of the appellate court, which should be entered of record in the circuit court, omitting the opinion of the appellate court. The appeal or supersedeas bond should be the last entry included.

(f) *Table of contents.* Every record shall include a table of contents, which refers to pages in the record where the matter identified is copied. For example:

|                                            |        |
|--------------------------------------------|--------|
| Complaint . . . . .                        | Page 1 |
| Exhibit A (note of J.B. to C.F.) . . . . . | Page 3 |
| Answer . . . . .                           | Page 4 |
| Exhibit B (deed from A to B) . . . . .     | Page 5 |
| Decree (or judgment) . . . . .             | Page 6 |

(g) *Fee for index.* Clerks may add to their fee for the record a reasonable charge for these items where no charge

is fixed by statute.

(h) *Record fee and costs certified.* The fee for the production of the record must be certified in all cases; in addition, all costs in the circuit court must be reported, and by whom paid.

(i) *Clerk's record and reporter 's transcript - paper size and preparation.* The transcript must be prepared in plain typewriting or computer or word processor printing of the first impression, not copies, on 8-1/2" x 11" paper. The record, as defined in paragraph (m) [paragraph (n)] of this Rule, shall be fastened on the left of the page. All transcripts shall be prepared by certified court reporters and comport with the following rules:

(1) No fewer than 25 typed lines on standard 8-1/2" x 11" paper;

(2) No fewer than 9 or 10 characters to the typed inch;

(3) Left-hand margins to be set at no more than 1-3/4";

(4) Right-hand margins to be set at no more than 3/8";

(5) Each question and answer to begin on a separate line;

(6) Each question and answer to begin at the left-hand margin with no more than 5 spaces from the "Q" and "A" to the text;

- (7) Carry-over "Q" and "A" lines to begin at the left-hand margin;
- (8) Colloquy material, quoted material, parentheticals and exhibit markings to begin no more than 15 spaces from the left-hand margin with carry-over lines to begin no more than 10 spaces from the left-hand margin;
- (9) All transcripts to be prepared in the lower case;
- (10) All depositions prepared for use as evidence in any court to comply with these Rules, except that the left-hand margin is to be set at no more than 1 3/4" and bound on the left.
- (j) *Exhibits.* Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical exhibits other than documents shall not be transmitted by the clerk of the circuit court except by order of the Court.
- (k) *Folding of Record.* Records must be transmitted to the Clerk without being folded or creased.
- (l) *Surveys.* Real property surveys which form a part of the record shall not be fastened to the record.
- (m) *Record in Volumes.* Where the record is too large to be conveniently bound in one volume, it shall be divided into separate volumes of convenient size and numbered sequentially.

(n) *Definition of Record.* The term "record" in civil cases, and as used in these Rules, refers only to the pleadings, judgment, decree, order appealed, transcript, exhibits, and certificates.

(Amended June 7, 2001, effective July 1, 2001).

**Rule 3-2. Items to be omitted from the record.**

(a) *Generally.* The clerks of the circuit courts in making records to be transmitted to the Court, shall, unless excepted by the provisions of this Rule, include all matters in the record as required by Rule 3-1(n).

(b) *Summons.* In cases where the defendant has appeared, the clerk shall not set out any summons or other writ of process for appearance or the return thereof, but shall state: "Summons issued", (showing date) "and served", (showing date).

(c) *Amended pleadings.* In case of an amendment to the pleadings by substitution, the clerks shall treat the amended pleading as the only one and shall refrain from copying into the records any pleadings withdrawn, waived or superseded by amendment, unless it is expressly called for by a party's designation of the record.

(d) *Incidental matters.* Clerks shall not insert in the record any matter concerning the organization or adjournment of court, the impaneling or swearing of the jury, the names of jurors, including any motion, affidavit, or order or

ruling in reference thereto, any continuance or commission to take testimony or the return thereto, any notice to take depositions or the caption or certificate of the officer before whom such depositions are taken, or any other incidental matter, unless it is expressly called for by a party's designation of the record.

(Amended June 7, 2001, effective July 1, 2001.)

**Rule 3-3. Record in civil cases.**

Not all records in civil cases will have the same contents. To the extent possible, items will be arranged in the following sequence:

1. The Complaint;
2. Plaintiff's exhibits which accompany the Complaint;
3. Statement regarding summons, set out in Rule 3-2(b);
4. Answer;
5. Defendant's exhibits which accompany the Answer;
6. Subsequent pleadings and orders in chronological order;
7. Final judgment, decree, or order appealed;
8. Post-judgment decree, order or motion (e.g., motions for new trial);
9. Orders granting or denying post judgment motions;
10. Notice of appeal and designation of record;

11. Statement of points to be relied upon if abbreviated record designated;
12. Extensions of time to file record on appeal;
13. Stipulations to abbreviated records;
14. Narrative of testimony upon stipulations;
15. Depositions introduced;
16. Reporters' transcription of testimony;
17. Supersedeas bond;
18. Certificate, duly acknowledged;
19. Certificate of costs, indicating payor.

**Rule 3-4. Record in criminal cases.**

(a) *Order of record.* In all criminal cases, after the caption set forth in Rule 3-1, the record shall be organized in the following sequence:

1. Return of the indictment or information;
2. Defendant's pleadings;
3. Subsequent pleadings and orders in chronological order;
4. Final judgment and commitment or order appealed;
5. Motion for new trial, to set aside, amend, etc.;
6. Order granting or denying above motions;
7. Notice of appeal and designation of record;
8. Extensions of time to file record on appeal;
9. Reporters' transcription of testimony;
10. Appeal bond;

11. Certificate, duly acknowledged.

(b) *Record of jury matters.* The record shall not include the impaneling or swearing of the jury, the names of the jurors, or any motion, affidavit, orders or ruling in reference thereto unless expressly called for by a party's designation of the record.

(c) *Exhibits.* Photographs, charts, drawings and other documents that can be inserted into the record shall be included. Documents of unusual bulk or weight shall not be transmitted by the clerk of the circuit court unless the clerk is directed to do so by a party or by the Clerk of the Court. Physical evidence, other than documents, shall not be transmitted unless directed by an order of the Court.

(Amended June 7, 2001, effective July 1, 2001.)

As a general rule, an official transcript would thus be put together in the following order: Cover sheet, index, clerk's record, certificate of circuit clerk, cover sheet of each individual hearing of transcript of reporter's record, transcript of reporter's record of each individual hearing, exhibits, certificate of court reporter.

This section deals only with the forms used in completion of the reporter's portion of the record.

1. **Cover Sheet:**

The cover sheet will show the court, case style, docket number, and name of the judge hearing the case. See Forms.

2. **Index:**

Your index will list all motions, hearings, testimony, introduction of evidence (exhibits), rulings, and your certificate, along with the corresponding page numbers. See Forms.

3. **Swearing the Witnesses:**

There is some variation for showing when the witnesses are sworn. You may have several different hearings before the trial in chief is held. The judge or clerk may swear all witnesses at the beginning of the hearing/ trial or may swear each witness before they testify. See Forms.

4. **Body of Transcript:**

The spacing and margin rules are set out earlier in this section on Rules for Preparation of Transcripts (Supreme Court Rule 12).

Colloquy - (See Forms for all.)

Objections

Voir dire Examination

In-Camera Proceedings

Return to Open Court

NOTE: In-camera proceedings are held outside the hearing of the jury. It is important to note in the record when these proceedings begin and end.

5. **Exhibits:**

Exhibits are attached to a numbered page so they can be

referenced in the Index. See Form. The accepted practice now is to attach all attachable exhibits, in order, at the end of the transcript rather than attaching them in the transcript as they are admitted.

If the exhibits are voluminous, you may wish to bind them separately. In that case you would state at the bottom of your index sheet in the place where you normally list the exhibits and corresponding page numbers that: "Exhibits are bound under separate cover." If you do bind your exhibits separately, you will need: (1) a cover sheet; (2) an index sheet giving a description of each exhibit; and (3) your certificate stating that the exhibits are true and correct originals or copies of the exhibits provided at the time of the proceedings.

You may have a material exhibit (gun, pitchfork, clothing, etc.) that cannot physically be attached to a transcript page nor copied. In that case you would state on your index sheet that:

(State's Exhibit 1 sent under separate cover.) - or -

(State's Exhibit 1 supplied with original transcript only.)

- or -

(State's Exhibit 1 retained in possession of the court reporter and available for inspection upon request.)

The Supreme Court Clerk asks that the appeal record be supplemented with photographs of the physical evidence (gun,

clothing, money, drugs, etc.) rather than the evidence itself as room to store these items does not exist at the Supreme Court Clerk's Office. Each individual judge would decide the procedure to be used by the individual reporter. You can prepare a full and complete list of the evidence, photograph each individual exhibit, label the photographs, and then have your list signed by the attorneys. If the sheriff or the attorneys are retaining the original evidence, you will need to have him/them sign a receipt for the items kept. Remember, you are the official keeper of all the evidence. If you don't have it, you better know where it is and have a receipt to that effect. (See Form.)

6.           **Certificate:**

The Certificate shown at Forms shall be used by all official reporters pursuant to Memorandum of the Board of Certified Court Reporter Examiners dated October 1, 1999, as amended.

(See Forms.)

**TRANSCRIPTS - FEDERAL COURTS**

The Court Reporters' Manual sets forth the general rules to be followed in preparation of the court reporter's record in federal court cases. In March 1983, a report of the Proceedings of the Judicial Conference of the United States, page 11, approved the contents of Chapter XVIII to be included in the Court Reporters' Manual in an attempt at standardization of all transcripts produced in federal court on the same basis, whether by official staff, contract, substitute reporters or transcription companies. If you routinely prepare federal court transcripts, you should have access to the Court Reporters' Manual. Some of the requirements adopted by the Conference are as follows:

1. Paper is to be 8 1/2 x 11 inches, white, at least 13 pounds for both originals and copies, of chemical wood or better quality; black ink is to be used.
2. The use of preprinted solid left and right marginal lines is required. Preprinted top and bottom marginal lines is optional. Text must begin at 1 3/4 inches from the left side of the page and ends 3/4 inch from the right side of the page.
3. Each page of transcription is to bear numbers indicating each line of transcription on the page.
4. July 4, 2000 letter character size is to be 10 letters to the inch. This provides for approximately 63

characters to each line. Type should be letter quality.

5. Each page of transcription is to contain 25 lines of text. The last page may contain fewer lines if it is less than a full page of transcription. Page numbers or notations cannot be considered part of the 25 lines of text. Lines are to be double spaced. Upper and lower case is preferred but all upper case may be used.

6. Words are to be properly hyphenated at the end of a line as necessary to limit the amount of blank space at the right margin.

7. "Q" and "A" begin at the left margin. A period following the "Q" and "A" is optional. The statement following the "Q" and "A" shall begin on the fifth space from the left margin. Subsequent lines begin at the left margin.

8. Depositions read at trial have the same effect as oral testimony and the indentations for "Q" and "A" should be the same as above. When typing the transcript of a deposition (or portions of) read into the record, EACH question and answer should be preceded by a quotation mark. At the conclusion of the reading, a closing quotation mark should be used.

9. Colloquy. Speaker identification shall begin on the tenth space from the left margin followed by a colon. The statement shall begin on the third space after the

colon. Subsequent lines shall begin at the **left margin**.

10. Quoted material other than depositions shall begin with a quotation mark on the tenth space from the left margin with subsequent lines also beginning at the tenth space.

11. Interruptions of speech and simultaneous discussions shall be denoted by the use of a dash ("--").

12. Headers are brief descriptive information noted to aid in locating a person and/or event in an transcript. A page heading should be provided on each page of witness testimony; it is optional for other types of persons and/or event notations. Listing the name of the witness or other party and the type of examination or other event is sufficient, i.e. "Hannan-Direct" or "Hannan-Cross/Redirect.") Headers appear above line 1, and on the same line as the page number. This is not counted as a line of transcript.

13. Editing. The transcript should provide an accurate record of words spoken in the course of proceedings. All grammatical errors, changes of thought, contractions, misstatements, and poorly constructed sentences should be transcribed as spoken. In the interest of readability, however, false starts, stutters, uhms and ahs, and other verbal tics are not normally included in transcripts; but such verbalizations must be transcribed whenever their

exclusion could change a statement's meaning.

**TRANSCRIPTS - ARBITRATION CASES**

Although arbitration transcripts share traits with both official and deposition transcripts, they follow the same transcript preparation guidelines as federal cases.

Arbitration proceedings are governed by the American Arbitration Association and the rules are the same regardless of the state in which these cases are heard.

You will need to determine billing instructions. They can be rather convoluted in this type of hearing. The arbitrator will receive the original transcript. The "company" is normally required to pay for this transcript. The company may also order (and pay for) a transcript. The "Union" may also order (and pay for) a transcript. When the Union also gets a transcript, they may be required to split the cost of the arbitrator's copy. So be sure to get complete billing instructions before you begin.

The arbitrator may elect to retain the exhibits or have you attach them to the transcript. Since exhibits in an arbitration case can be extensive, the parties may stipulate that exhibits not be attached to the transcript. If a set is not furnished to you at the arbitration, you should ask the arbitrator if you can keep his set while you are completing the record and simply return it to him with the original transcript.

You should check with the arbitrator before the proceedings begin as to which of you will swear the witnesses. The arbitrator will inquire whether either party wants the Rule invoked.

Next, he will ask if there are joint exhibits to which the parties will stipulate. The labor contract, as well as the grievance package, are both usually offered as joint exhibits. Other exhibits may be offered during the course of the proceedings. You or the arbitrator will mark each exhibit as they are introduced. "Joint," "Company," and "Union" exhibit stickers are available from such companies as Pengad, Reporters Paper & Mfg. Co. (RPM), and The Corby Group.

The swearing of the witness, colloquy, parentheticals, exhibits, etc., are all set up the same as federal transcript EXCEPT that you can start new witnesses on a new page rather than having to continue on the same sheet as required in state and federal court transcripts.

For arbitration forms see Forms:

Title Sheet, Index, Stipulations, Joint Statement, Opening Statements, Exhibits, Certificate,

**INTERPRETERS**

Act 555 of 1973 provides "that every person who cannot speak or understand the English language, or who because of hearing, speaking or other impairment has difficulty in communication with other persons, and who is a party in any administrative hearing, civil action, or criminal action, or a witness therein, shall be entitled to an interpreter to assist such person throughout the proceedings."

Effective March 13, 1981, "in all state court bilingual proceedings and proceedings involving the hearing impaired, the presiding judicial officer shall utilize the services of a certified translator-interpreter to communicate in verbatim all verbally spoken words or signs."

Sections(d), 2(d), and 3(d) of Act 555 of 1973 provide that every interpreter for another person who is either a party or a witness in an administrative hearing, or any civil proceeding or is a defendant in any criminal action shall take the appropriate oath as follows:

In an administrative proceeding:

*Do you solemnly swear (or affirm) that you will justly, truly and impartially interpret to \_\_\_\_\_ the oath about to be administered to him (her), and the questions which may be asked him (her), and the answer he (she) shall give to such questions, relative to the cause now under consideration before this board (agency), so help you God (or under the*

*pains and penalties of perjury)?*

In any civil or criminal proceeding:

*Do you solemnly swear (or affirm) that you will justly, truly and impartially interpret to \_\_\_\_\_the oath about to be administered to him (her), and the questions which may be asked him (her), and the answer he (she) shall give to such questions, relative to the cause now under consideration before this court, so help you God (or under the pains and penalties of perjury)?*

A registry of certified interpreters is maintained by the Administrative Office of the Courts, Justice Building, Little Rock, Arkansas.

Examples for use in transcripts of proceedings when an interpreter is being used appear at Forms.

**ARKANSAS CODE OF JUDICIAL CONDUCT****Preamble.**

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called Canons, specific rules set forth in Sections under each Canon, a Terminology Section, an Application Section and Commentary. The text of the Canons and the Sections, including the Terminology and Application Sections, is authoritative. The Commentary, by explanation and example, provides guidance with respect to the purpose and meaning of the Canons and Sections. The Commentary is not intended as a statement of additional rules. When the text uses "shall" or "shall not," it is intended to impose binding obligations the violation of which can result in

disciplinary action. When "should" or "should not" is used, the text is intended as hortatory and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined. When "may" is used, it denotes permissible discretion or, depending on the context, it refers to action that is not covered by specific proscriptions.

The Canons and Sections are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through disciplinary agencies. It is not designed or intended as a basis for civil liability or criminal prosecution.

Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

The text of the Canons and Sections is intended to govern conduct of judges and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is

appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintain-ing high standards of judicial and personal conduct.

#### Terminology

"Appropriate authority" denotes the authority with responsibility for initiation of disciplinary process with respect to the violation to be reported. See Sections 3D.(1) and 3D.(2).

"Candidate." A candidate is a person seeking selection for or retention in judicial office by election or appointment. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election or appointment authority, or authorizes solicitation or acceptance of

contributions or support. The term "candidate" has the same meaning when applied to a judge seeking election or appointment to non-judicial office. See Preamble and Sections 5A, 5B, 5C and 5E.

"Continuing part-time judge." A continuing part-time judge is a judge who serves repeatedly on a part-time basis by election or under a continuing appointment, including a retired judge subject to recall who is permitted to practice law. See Application Section C.

"Court personnel" does not include the lawyers in a proceeding before a judge. See Sections 3B(7)(c) and 3B(9).

"De minimis" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality. See Sections 3E(1)(c) and 3E(1)(d).

"Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, adviser or other active participant in the affairs of a party, except that:

- (i) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;
- (ii) service by a judge as an officer, director,

adviser or other active participant in an educational, religious, charitable, fraternal or civic organization, or service by a judge's spouse, parent or child as an officer, director, adviser or other active participant in any organization does not create an economic interest in securities held by that organization;

(iii) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(iv) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

See Sections 3E(1)(c) and 3E(2).

"Fiduciary" includes such relationships as executor, administrator, trustee, and guardian. See Sections 3E(2) and 4E.

"Knowingly," "knowledge," "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. See Sections 3D, 3E(1), and

5A(3).

"Law" denotes court rules as well as statutes, constitutional provisions and decisional law. See Sections 2A, 3A, 3B(2), 3B(6), 4B, 4C, 4D(5), 4F, 4I, 5A(2), 5A(3), 5B(2), 5C(1), 5C(3) and 5D.

"Member of the candidate's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship. See Section 5A(3)(a).

"Member of the judge's family" denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Sections 4D(3), 4E and 4G.

"Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household. See Sections 3E(1) and 4D(5).

"Nonpublic information" denotes information that, by law, is not available to the public. Nonpublic information may include but is not limited to: information that is sealed by statute or court order, impounded or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases or psychiatric reports. See Section 3B.(11).

"Periodic part-time judge." A periodic part-time judge is a judge who serves or expects to serve repeatedly on a part-time basis but under a separate appointment for each limited period of service or for each matter. See Application Section D.

"Political organization" denotes a group, other than a political party, a purpose of which is to participate in the political process.

"Political party" has the same meaning as provided in Ark. Code Ann. § 7-1-101 (16) (A), that is, "any group of voters which at the last-preceding general election polled for its candidate for Governor in the state or nominees for presidential electors at least three percent (3%) of the entire vote cast for the office." In the case of a newly organized political party, the term "political party" shall mean a party that satisfies the requirements contained in Ark. Code Ann. § 7-3-108 (b).

"Pro tempore part-time judge." A pro tempore part-time judge is a judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard. See Application Section E.

"Public election." This term includes primary and general elections; it includes partisan elections, nonpartisan elections and retention elections. See Section 5C.

"Require." The rules prescribing that a judge "require" certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control. See Sections 3B(3), 3B(4), 3B(6), 3B(9) and 3C(2).

"Third degree of relationship." The following persons are relatives within the third degree of relationship:

great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece. See Section 3E(1)(d). Canon 1. A judge shall uphold the integrity and independence of the judiciary.

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the

judiciary.

B. A judge shall not allow family, social political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others' nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

C. A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion or national origin.

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

B. Adjudicative Responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed

by partisan interests, public clamor or fear of criticism.

(3) A judge shall require order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, or national origin, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

(6) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, or national origin, or other similar factors, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, or national origin, or other similar factors, are issues in the proceeding.

(7) A judge shall accord to every person who has a

legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge may initiate or consider any ex parte

communications when expressly authorized by law to do so.

(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

(9) A judge shall not, while a proceeding is ending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This Section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

(11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

#### C. Administrative Responsibilities.

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice

and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary appointments. A judge should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism. No judge shall employ a spouse or other relative unless it has been affirmatively demonstrated to the Arkansas Judicial Discipline and Disability Commission that it is impossible for the judge to hire any other qualified person to fill the position. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

(Amended November 19, 1990, effective July 1, 1991.)

D. Disciplinary Responsibilities.

(1) A judge who receives information indicating a

substantial likelihood that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of (ii) is acting as a lawyer in the proceeding; (iii) is known by the judge to have a more than de minimis interest that could be substantially affected by the proceeding;

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

F. Remittal of Disqualification. A judge disqualified by the terms of Section 3E may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the

proceeding.

Canon 4. A judge shall so conduct the judge's extrajudicial activities as to minimize the risk of conflict with judicial obligations.

A. Extra-judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

B. Avocational Activities. A judge may speak, write, lecture, teach on and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.

C. Governmental, Civic or Charitable Activities.

- (1) A judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice.
- (2) A judge shall not accept appointment to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on

matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities.

(3) A judge may serve as an officer, director, trustee or non-legal adviser of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

(a) A judge shall not serve as an officer, director, trustee or non-legal adviser if it is likely that the organization

(i) will be engaged in proceedings that would ordinarily come before the judge, or will be engaged frequently in adversary proceedings in the court of which the judge is a member or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(b) A judge as an officer, director, trustee or nonlegal adviser, or as a member or otherwise:

(i) may assist such an organization in planning fund-raising

and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;

(ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system or the administration of justice;

shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

#### D. Financial Activities.

(1) A judge shall not engage in financial and business dealings that:

(a) may reasonably be perceived to exploit the judge's judicial position, or

(b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the

judge serves.

(2) A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family, including real estate, and engage in other remunerative activity.

(3) A judge shall not serve as an officer, director, manager, general partner, adviser or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

(a) a business closely held by the judge or members of the judge's family, or

(b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(5) A judge shall not accept, and shall urge members of the judge's family residing in the judge's household, not to accept, a gift, bequest, favor or loan from anyone except for:

(a) a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;

(b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Section 3E;

(f) a loan from a lending institution in its regular

course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds \$150.00, the judge reports it in the same manner as the judge reports compensation in Section 4H.

#### E. Fiduciary Duties

(1) A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary, except for the estate, trust or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties.

(2) A judge shall not serve as a fiduciary if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(3) The same restrictions on financial activities that apply

to a judge personally also apply to the judge while acting in a fiduciary capacity.

F. Service as Arbitrator or Mediator. A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

G Practice of Law. A judge shall not practice law or appear as counsel in any court within this state. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family.

H. Compensation, Reimbursement and Reporting

(1) Compensation and Reimbursement. A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.

(a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.

(b) Expense reimbursement shall be limited to the actual cost of travel, food and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the

judge's spouse or guest. Any payment in excess of such an amount is compensation.

Public Reports. A judge shall report the date, place and nature of any activity for which the judge received compensation, and the name of the payor and the amount of compensation so received. The judge's report shall be made at least annually and shall be filed as a public document in the office of the Clerk of the Supreme Court.

L. Disclosure of a judge's income, debts, investments or other assets is required only to the extent provided in this Canon and in Sections 3E and 3F, or as otherwise required by law.

Canon 5. A judge or judicial candidate shall refrain from inappropriate political activity

A. All Judges and Candidates.

(1) Except as authorized in Sections 5B(2), and 5C(1) and 5C(3), a judge or a candidate for election or appointment to judicial office shall not:

(a) act as a leader or hold an office in a political organization or a political party;

(b) publicly endorse or publicly oppose another candidate for public office;

(c) make speeches on behalf of a political organization or a political party;

(d) directly or indirectly seek or use endorsements

from apolitical party;

(e) solicit funds for, pay an assessment to or make a contribution to a political party or candidate, or

(1) publicly identify his or her current political party affiliation or lend one's name to a political party;

(2) A judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the Sections of the Canon;

(c) except to the extent permitted by Section 5C(2), shall not authorize or knowingly permit any other person to do for the candidate what the candidate is prohibited from doing under the Sections of this Canon;

(d) shall not:

(i) make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office;

(ii) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court; or

(iii) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent;

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate Section 5A(3)(d).

B. Candidates Seeking Appointment to Judicial or Other Governmental Office.

(1) A candidate for appointment to judicial office or a judge seeking other governmental office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy. (a) such persons may:

(i) communicate with the appointing authority, including any selection or nominating commission or other agency designated to screen candidates;

(ii) seek support or endorsement for the appointment from organizations that regularly make recommendations for

reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in Section 5B(2)(a); and

(iii) provide to those specified in Sections 5B(2)(a)(i) and 5B(2)(a)(ii) information as to his or her qualifications for the office;

(b) a non judge candidate for appointment to judicial office may, in addition, unless otherwise prohibited by law; retain an office in a political organization or a political party,

(ii) attend gatherings of political organizations and political parties, and

continue to pay ordinary assessments and ordinary contributions to a political organization or a political party or candidate and purchase tickets for political party dinners or other functions.

#### C. Judges and Candidates Subject to Public Election.

(1) A judge, or a candidate subject to public election may, except as prohibited by law:

(a) at any time

(i) purchase tickets for and attend gathering of a political organization or a political party;

(ii) contribute to a political organization;

(iii) privately identify himself or herself as a affiliated with a political party.. Pro Tempore Part-time

Judge or Periodic Part-time Judge.

A pro tempore part-time judge or periodic part-time judge:

(1) is not required to comply:

(a) except while serving as a judge, with Sections 2A, 2B, 3B(9) and 4C(1);

(b) at any time with Sections 2C, 4C(2), 4C(3)(a), 4C(3)(b), 4D(1)(b), 4D(3), 4D(4), 4D(5), 4E, 4F, 4G, 4H, 5A(1), 5A(2), 5B(2) and 5D.

(2) A person who has been a pro tempore part-time judge or periodic part-time judge shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto except as otherwise permitted by Rule 1.12(a) of the Arkansas Rules of Professional Conduct.

D. Time for Compliance. A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Sections 4D(2), 4D(3) and 4E and shall comply with these Sections as soon as reasonably possible and shall do so in any event within the period of one year.

(Subdivision B.(1)(b) amended December 20, 2001.)

# FORMS

---

DEPOSITION OF \_\_\_\_\_

LOCATION \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

DIRECTIONS  
\_\_\_\_\_  
\_\_\_\_\_

COURT STYLE \_\_\_\_\_ DOCKET NO. \_\_\_\_\_

ATTORNEYS \_\_\_\_\_ FOR \_\_\_\_\_

\_\_\_\_\_ FOR \_\_\_\_\_

MISCELLANEOUS \_\_\_\_\_ DUE DATE \_\_\_\_\_

DELIVERY/BILLING INSTRUCTIONS \_\_\_\_\_

BILLING: APPEARANCE FEE \$ \_\_\_\_\_

TRANSCRIPT \_\_\_\_\_ PAGES @ \_\_\_\_\_ \$/PAGE \_\_\_\_\_

EXHIBITS \_\_\_\_\_ PAGES @ \_\_\_\_\_ \$/PAGE \_\_\_\_\_

POSTAGE \_\_\_\_\_

MILEAGE \_\_\_\_\_ MILES @ \_\_\_\_\_ \$0.\_\_\_\_\_/MILE \_\_\_\_\_

TRAVEL TIME \_\_\_\_\_ HOURS @ \_\_\_\_\_ \$0.\_\_\_\_\_/HOUR \_\_\_\_\_

TOTAL \$ \_\_\_\_\_ \$ \_\_\_\_\_

DATE DELIVERED/MAILED \_\_\_\_\_ TYPIST \_\_\_\_\_

DELIVERED BY: HAND/US MAIL/UPS/FED EX/OTHER \_\_\_\_\_

**SAMPLE JOB WORKSHEET**

DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

ESTIMATED TIME: \_\_\_\_\_

IN THE (CHANCERY/CIRCUIT/PROBATE) COURT OF \_\_\_\_\_ COUNTY,  
ARKANSAS

IN THE UNITED STATES (DISTRICT/BANKRUPTCY) COURT  
(EASTERN/WESTERN) DISTRICT OF ARKANSAS  
(NAME OF CITY) DIVISION

\_\_\_\_\_

\_\_\_\_\_

V.

\_\_\_\_\_

DOCKET NO. \_\_\_\_\_

\_\_\_\_\_

APPEARANCES

ON BEHALF OF \_\_\_\_\_

ON BEHALF OF \_\_\_\_\_

(ORIG/COPY) (ORIG/COPY)

WITNESSES: FOR PURPOSES: EVIDENCE/DISCOVERY/ALL

\_\_\_\_\_ SIGNATURE: WAIVED/RESERVED

\_\_\_\_\_ WAIVED/RESERVED

ALSO PRESENT: \_\_\_\_\_

OTHER STIPULATIONS: \_\_\_\_\_

TRANSCRIPT DUE DATE: \_\_\_\_\_

BILLING INSTRUCTIONS: \_\_\_\_\_

January 12, 1996

HAND DELIVERED  
CERTIFIED MAIL RETURN RECEIPT REQUESTED  
FEDERAL EXPRESS  
UPS  
RECEIPT NO.

Mr. Dudley Dooright  
Dooright & Dooright, P.A. P.O. Box 100  
Big Boulder, AR 22017

Re: John Doe v. Jane Brown  
Razorback County Chancery No. 90-001

Dear Mr. Dooright:

Enclosed please find the original and one copy of the deposition of John Doe taken in your office on January 2, 1996, along with my statement for services rendered. I have on this date sent a copy of the transcript to Ms. Penny Goldfinger, attorney for Jane Brown.

I appreciate the opportunity to have been of service in this matter and look forward to working with you again in the future.

Sincerely,

Simply Speedy, CCR

SS/rpm enclosures

**TRANSMITTAL LETTER**

January 12, 1996

HAND DELIVERED  
CERTIFIED MAIL RETURN RECEIPT REQUESTED  
FEDERAL EXPRESS  
UPS  
RECEIPT NO.

Mr. Dudley Dooright  
Dooright & Dooright, P.A. P. O. Box 100  
Big Boulder, AR 22017

Re: John Doe v. Jane Brown  
Razorback County Chancery No. 90-001

STATEMENT

Appearance Fee: \_\_\_\_ hours @ \$ \_\_\_\_ /hour . . . . \$ \_\_\_\_\_

Deposition of JOHN DOE:

\_\_\_\_\_ pages @ \$ \_\_\_\_\_ /page . . . . . \_\_\_\_\_

Exhibits:

\_\_\_\_\_ copies @ \$ \_\_\_\_\_ /page . . . . . \_\_\_\_\_

Mileage:

\_\_\_\_\_ miles @ \$0. \_\_\_\_\_ /mile . . . . . \_\_\_\_\_

Travel Time:

\_\_\_\_\_ hours @ \$ \_\_\_\_\_ /hour . . . . . \_\_\_\_\_

TOTAL DUE . . . . . \$ \_\_\_\_\_

Optional: If payment is made by (fill in date, allowing at  
least 2 weeks), please deduct \$ \_\_\_\_\_ for a discounted total  
of \$ \_\_\_\_\_.

**STATEMENT FOR SERVICES**

**Transmittal of Copy Transcripts:**

The following language may be used to transmit a copy:

*Enclosed please find one copy of the deposition of John Doe taken in the office of Dooright & Dooright, on January 2, 1996. I have on this date sent the original and one copy of the transcript to Mr. Dudley Dooright.*

*I appreciate the opportunity to have been of service in this matter and look forward to working with you again in the future.*

**Transmittal of Copy to Clerk:**

In Arkansas state courts, we are occasionally required to file a transcript with the clerk. You should include an extra copy of the cover sheet for the clerk to file mark and return to you for your records. Federal court clerks no longer accept deposition transcripts for filing, so double check with the attorney if he asks you to do this.

*Please file the enclosed original transcript of deposition of John Doe taken in the above-referenced cause of action on January 2, 1996. Please file mark the attached copy of the cover sheet of the transcript and return to me in the enclosed, stamped envelope.*

**Collection Letters:**

*Attached is a copy of my statement to you dated January 12, 1996. This statement is now two months past due. If there is some problem with the statement, please let me know. Your immediate attention will be appreciated.*

- OR -

*Attached is a copy of my statement to you dated January 12, 1996. This statement is now four months past due. By copy of this letter, I am notifying the court clerk of nonpayment and requesting that this matter be brought to Judge Verity's attention.*

*I am also enclosing a copy of a Supreme Court ruling for your information.*

*This case is styled R. S. McCullough v. Loretta Johnson, 307 Ark. 9 (1991). You can obtain copies at your local law library.*

**TRANSMITTAL LETTERS/COLLECTION LETTERS**

1 IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY, ARKANSAS

2 \_\_\_\_\_ PLAINTIFF

3 V DOCKET NO.

4 \_\_\_\_\_ DEFENDANT

5 ORAL DEPOSITION OF (NAME OF WITNESS)

6 TAKEN IN (CITY), ARKANSAS

7 (DATE), 1996

8 APPEARANCES

9 FOR THE PLAINTIFF:

10 Firm Name  
11 Address  
12 City, State  
By (Name of appearing atty.)

13 FOR THE DEFENDANT:

14 Firm Name  
15 Address  
16 City, State  
By (Name of appearing atty.)

15 ALSO PRESENT:

16 \_\_\_\_\_ FOR \_\_\_\_\_  
17 (List anyone else present during the proceedings, i.e. video  
18 reporter, another party to the action, attorney representing  
19 a client who is not a named party)  
20  
21  
22  
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24





1 BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

2 CLAIM NO. E212121

3  
4 HANDSOME JACK, EMPLOYEE/CLAIMANT

5 V

6 MARIE LEBOW, EMPLOYER/RESPONDENT

7 BAYOU DWELLERS, INC. INSURED/RESPONDENT

8  

---

9 DEPOSITION OF HANDSOME JACK

10 TAKEN JANUARY 1, 1993

11 NEW ORLEANS, ARKANSAS

12  

---

13 APPEARANCES:

14 On Behalf of the Claimant: Justine R. Cuit  
15 Paradise Law Firm  
16 1001 Paradise Row  
New Orleans, AR 60002

17 On Behalf of the Respondents: Allie R. Gatore  
18 Gatore & Crock, P. A.  
No. 9 Bayou Ridge  
New Orleans, AR 60101

19  
20  
21  
22  
23  
24  
25 DEPOSITION TITLE SHEET - WORKERS' COMP

1                   IN THE UNITED STATES DISTRICT COURT  
2                   WESTERN DISTRICT OF ARKANSAS  
                  HOT SPRINGS DIVISION

3 UNITED STATES OF AMERICA, PLAINTIFF

4 V.                                   NO. 93-71-004HS

5 CENTURIAN DEVELOPMENT, DEFENDANT

6 \_\_\_\_\_  
7                   ORAL DEPOSITION OF REGINIS R. CENTRY

8                                   DATE: JULY 14, 1994

9                                   LOCATION: MT. IDA, ARKANSAS

10 \_\_\_\_\_  
11                                   APPEARANCES:

12 ON BEHALF OF THE PLAINTIFF:       Ima Ringer  
13                                                           1042 Avenue J  
                                                          Fort Worth, AR 70303

14 ON BEHALF OF THE DEFENDANT:       Lockhart N. Load  
15                                                           1401 Escroitaire Rd.  
                                                          Mountain Folk, AR 70606

16  
17 (Proceedings recorded by shorthand/machine  
18 shorthand/Stenomask. Transcript produced from dictation/  
notereading/computer.)

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24  
25                                   **DEPOSITION TITLE SHEET FEDERAL COURT**





| 1  | <u>I N D E X</u>                                                                    | <u>PAGE</u> |
|----|-------------------------------------------------------------------------------------|-------------|
| 2  | AGREEMENT OF COUNSEL . . . . .                                                      | 3           |
| 3  | SWEARING OF THE WITNESS . . . . .                                                   | 4           |
| 4  | EXAMINATION OF JOHN S. DOE, M.D.<br>BY MR. DOORIGHT. . . . .                        | 4           |
| 5  | IDENTIFICATION OF                                                                   |             |
| 6  | DEPOSITION EXHIBIT ONE . . . . .                                                    | 19          |
| 7  | - COMPLAINT                                                                         |             |
| 8  | BY MR DOOWRONG. . . . .                                                             | 25          |
| 9  | EXHIBITS                                                                            |             |
| 10 | DEPOSITION EXHIBIT ONE . . . . .                                                    | 31          |
| 11 | (* ) SIGNATURE SHEET . . . . .                                                      | 32          |
| 12 | COURT REPORTER'S CERTIFICATE . . . . .                                              | 33          |
| 13 | (*Note: Some reporters put the signature/errata sheets AFTER<br>their certificate.) |             |
| 14 |                                                                                     |             |
| 15 |                                                                                     |             |
| 16 |                                                                                     |             |
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| 19 |                                                                                     |             |
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| 21 |                                                                                     |             |
| 22 |                                                                                     |             |
| 23 |                                                                                     |             |
| 24 |                                                                                     |             |
| 25 | <b>DEPOSITION INDEX FOR DISCOVERY DEPOSITION</b>                                    |             |

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

PAGE

|                                        |       |
|----------------------------------------|-------|
| Stipulations . . . . .                 | 2     |
| Witness Sworn. . . . .                 | 4     |
| Examination by Mr. Dooright. . . . .   | 4-28  |
| Examination By Mr. Doowrong. . . . .   | 28-32 |
| Signature of Deponent. . . . .         | 35    |
| Certificate of Court Reporter. . . . . | 36    |

EXHIBITS

|        |          |
|--------|----------|
| MARKED | ATTACHED |
|--------|----------|

|                      |    |    |
|----------------------|----|----|
| Number 1- Deed       | 12 | 33 |
| Number 2 - Agreement | 14 | 34 |

|    | <u>INDEX</u>                                               | <u>PAGE</u> |
|----|------------------------------------------------------------|-------------|
| 1  |                                                            |             |
| 2  | AGREEMENT OF COUNSEL                                       | 3           |
| 3  | SWEARING OF THE WITNESS                                    | 4           |
| 4  | EXAMINATION OF JOHN S. DOE, M.D                            |             |
| 5  | Direct Examination by Mr. Dooright                         | 4           |
| 6  | Identification of Deposition Exhibit One                   | 14          |
| 7  | (Description of Exhibit)                                   |             |
| 8  | Cross Examination by Mr. Doowrong                          | 25          |
| 9  | Redirect Examination by Mr. Dooright                       | 27          |
| 10 | Recross Examination by Mr. Doowrong                        | 32          |
| 11 | Redirect Examination by Mr. Dooright                       | 32          |
| 12 | Court Reporters's Certificate                              | 35          |
| 13 | (REPORTER'S NOTE: Exhibit No. 1 retained by Mr. Dooright.) |             |
| 14 |                                                            |             |
| 15 |                                                            |             |
| 16 |                                                            |             |
| 17 |                                                            |             |
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| 19 |                                                            |             |
| 20 |                                                            |             |
| 21 |                                                            |             |
| 22 |                                                            |             |
| 23 |                                                            |             |
| 24 | <b>EVIDENTIARY DEPOSITION INDEX</b>                        |             |
| 25 |                                                            |             |

## STIPULATIONS

1  
2 THE ORAL DEPOSITION OF JOHN S. DOE, M.D., is being taken on  
3 the (day) of (month), 1996, before Simply Speedy, Certified  
4 Court Reporter, beginning at 2:00 p.m. at (location of  
5 deposition and city), Arkansas, in accordance with the  
6 following:

7 IT IS HEREBY AGREED AND STIPULATED by the parties in the  
8 above cause, through their attorneys of record, that the  
9 deposition of John S. Doe, M.D., may be taken on oral  
10 examination before Simply Speedy, CCR, pursuant to the terms  
11 and provisions of the Arkansas (Rules of Civil  
12 Procedure/Workers' Compensation Commission) for use as  
13 permitted by the Rules; that the questions and answers so  
14 given and propounded shall be transcribed by the reporter;  
15 that all formalities in the notifying, taking, transcribing,  
16 certifying, forwarding, filing and notice of filing, and  
17 signing of the deposition are waived; that the right to  
18 object to the testimony of the witness on the grounds of  
19 competency, relevancy and materiality is expressly reserved,  
20 other than the form of the questions as propounded to the  
21 witness; and that those such objections may be asserted at  
22 the time of trial without the necessity of noting the  
23 objection at the taking of the deposition.

24 IT IS FURTHER AGREED that when the questions and answers are  
25 reduced to typewriting, the deposition may be mailed or  
delivered as follows: original and one copy to Mr. Dudley  
Dooright; one copy to Mr. Spruce T. Uppem.

WHEREUPON, there being no further stipulations, the  
following proceedings were had and done, to-wit:

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**STANDARD STIPULATIONS - GENERAL FORMAT**

## STIPULATIONS

1  
2 The deposition of John S. Doe, M.D., produced, sworn and  
3 examined in the offices of Dudley Doorright, 103 Main Street,  
4 Picatype, Arkansas, commencing at 3:00 p.m. on January 3  
5 1996, in the captioned cause at the instance of counsel for  
6 the Plaintiff, said deposition being taken according to the  
7 terms and provisions of the Arkansas Rules of Civil  
8 Procedure.

9 It is stipulated and agreed by the parties, through their  
10 attorneys of record, that all forms and formalities in the  
11 taking, transcribing, forwarding and filing of said  
12 deposition, and signature of witness, are hereby waived,  
13 however, the right being expressly reserved to object to the  
14 testimony of the witness at the time of trial as to  
15 incompetency, irrelevancy and immateriality, other than  
16 those with respect to the form of questions as propounded to  
17 the witness.

18 It is further stipulated and agreed by the parties, through  
19 their attorneys of record, that the videotaped film of the  
20 deposition may be used at the time of trial.

21 (You can go directly into the swearing of the witness and  
22 testimony.)  
23  
24  
25

**"USUAL" STIPULATIONS - VIDEO LANGUAGE**

## 1 AGREEMENT OF COUNSEL

2 THE DEPOSITION OF JAMES DOE, M.D., taken pursuant to Notice,  
3 a copy of which is attached hereto and made a part hereof,  
4 began at 3:00 p.m. on the 3rd day of May, 1995 before  
SimplySpeedy, Certified Court Reporter, at (address),  
Arkansas, in accordance with the following Agreement of  
Counsel.

5 IT IS HEREBY AGREED AND STIPULATED by the parties in the  
6 above cause through their attorneys of record that the  
evidentiary deposition of James Doe, M.D., may be taken on  
7 oral examination pursuant to the terms and provisions of the  
Arkansas Workers' Compensation Commission; that the  
8 deposition or any portions thereof may then be used as  
evidence at the trial of said suit by any party thereto,  
9 subject to objections as to form, relevancy and  
responsiveness without the necessity of filing written  
10 objections at the time of taking, with all other objections  
being reserved to time of trial, and that signature of the  
witness be waived.

11 IT IS FURTHER AGREED that when the questions and answers are  
12 reduced to typewriting, the deposition may be mailed or  
delivered as follows: Original to be filed with the Arkansas  
13 Worker's Compensation Commission; one copy to Mr. Dooright;  
one copy to Mr. Doowrong.

14 WHEREUPON, there being no further stipulations, the  
following proceedings were had and done, to-wit:

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**STIPULATIONS - EVIDENTIARY, WORKERS' COMP**

## 1 AGREEMENT OF COUNSEL

2 THE TELEPHONE DEPOSITION OF COLLY FLOUREAR, taken on the  
3 15th day of January, 1995, before Fast R. Fingers, Certified  
4 Court Reporter, began at 3:10 p.m. in the home of Mrs. Colly  
5 Flourear, 1009 North Twerkle, Timbuctoo, Arizona, in  
6 accordance with the following Agreement of Counsel.

7 IT IS HEREBY AGREED AND STIPULATED by the parties in the  
8 above cause through their attorneys of record that the  
9 telephone deposition of the above-named witness may be taken  
10 on oral examination before Fast R. Fingers, CCR-RPR-CM,  
11 pursuant to an Order dated January 5, 1985, a copy of which  
12 is attached hereto and incorporated herein as Deposition  
13 Exhibit No. 1; that the questions and answers so propounded  
14 and given shall be transcribed by the reporter; that the  
15 deposition or any portions thereof may then be used as  
16 evidence at the trial of said suit by any party thereto,  
17 subject to such objections as could be made if the witness  
18 were on the stand testifying in person; and that signature  
19 of the witness be waived.

20 IT IS FURTHER AGREED that when the questions and answers are  
21 reduced to typewriting, the deposition may be mailed or  
22 delivered as follows: Original filed with the Clerk of the  
23 Razorback County Probate Court; one copy to Mr. Keel M.  
24 Over; and one copy to Mr. Stringem Up.

25 **EVIDENTIARY TELEPHONE DEPOSITION STIPULATION**

1 JAMES DOE, M.D.

2 THE WITNESS HEREINBEFORE NAMED, having been first duly  
3 cautioned and sworn to testify to the truth, the whole  
4 truth, and nothing but the truth, testified on his oath as  
5 follows, to-wit:

6 DIRECT EXAMINATION

7 BY MR. DOORIGHT:

8 Q Mr. Doe, I'm Dudley Dooright, of course; and Mr.  
9 Doowrong is over here with us. We're back to talk with you  
10 again concerning your care and treatment of John Doe. I  
11 believe the last time that we took a deposition you  
12 explained to us that John Doe was not related to you; isn't  
13 that correct?

14 A Since that time, I've married his ex-wife. Does that  
15 count?

16 Q Are you still treating him?

17 A Oh, yes.

18 Q Well, that's what we're interested in is the treatment  
19 he's been receiving. Since we last talked to you, this case  
20 has been involved in here and gone up and down and around,  
21 and so maybe there are a few things we can answer for the  
22 Court as well as learn some more about his treatment and the  
23 additional surgery that he's had since that deposition.

24 Basically, as a preface, I'd like to go back and just  
25 briefly outline the course of treatment up to the date of

## STIPULATIONS

The deposition of JOHN DOE in the above-styled cause was taken before Fast R. Fingers, CCR-RPR, a certified court reporter, at the Razorback County Courthouse at the hour of 2:00 p.m. on the 4th day of February, 1996, pursuant to Arkansas Rules of Civil Procedure.

Counsel waive all formalities, including the signature of the witness; however, counsel reserve the right to object, other than to the form of the questions, to testimony on the grounds of competency, relevancy or immateriality at the time of trial.

## P R O C E E D I N G S

THEREUPON,

## NAME OF WITNESS

Having been called for examination by counsel for Plaintiff, and having been first duly sworn, was examined and testified as follows:

## DIRECT EXAMINATION

BY MR. DOORIGHT:

Q Would you state your name, please?

A My name is John Doe.

Q And would you tell us where you live?

A I live here in town.

Q What is your street address?

1 A On August 24, 1993, I sent him a letter advising him  
2 that I was enclosing a copy of the Plaintiff's Response to  
3 the Motion to Dismiss.

4 MR. DOORIGHT: I've marked a copy of the letter  
5 dated August 24, 1993, from Hang M. Hie to Lelt U.  
6 Swing, as Plaintiff's Exhibit 5., and I would move its  
7 introduction at this point.

8 (Plaintiff's Exhibit 5 was marked for identification.)

9 [MR. DOORIGHT CONTINUING:]

10 Q When was your next contact with Mr. Hie or his office?

11 A Well, during this time period, I would make telephone  
12 calls to his office, but I was never able to speak with him  
13 directly nor did he ever return any of my calls. That was on  
14 an ongoing basis. I finally called him at home. And the next  
15 correspondence I have in the file is a letter of November 4,  
16 1993, where I advised him that:

17 "However, you have never returned my telephone calls, nor  
18 have you responded to any of my correspondence since that  
19 Sunday that I spoke to you at your home. At that time you  
20 advised me that you personally would pay the full amount of  
21 the outstanding fees and costs and that you would attempt to  
22 be reimbursed through Mr. Tweepeters."

23 And then the next paragraph:

24 "This is to advise you that, unless I hear from  
25

1 Q I submit for the record that it could lead to  
2 discoverable evidence, and I'll ask you the question again:  
3 What is your occupation? And your answer was: Investments.  
4 I'll ask you what is the type of investments, and I'll give  
5 you one more opportunity to answer it before I have the  
6 question certified.

7 A Have the question certified.

8 Q Thank you, sir.

9 MR. GREEN: Certify the question.

10 MR. BROWN: And go on and interpose my objection  
11 to relevancy.

12 [MR. GREEN CONTINUING:]

13 Q And what is your business address?

14 A I'm not going to answer that. You can go ahead and  
15 certify, do whatever you've got to do, certify them so you  
16 can ask that question when you come back here.

17 Q What is your date of birth?

18 A 3/16/22.

19 Q And what is your social security number?

20 A 123-54-9876.

21 Q And where was that social security number issued?

22 A Taipei, Taiwan.

23 Q How old were you when it was issued?

24 A I believe I was 13 or 14 years old.

25 Q What is your length of residency here?

1 STATE OF ARKANSAS )  
 )SS.  
2 COUNTY OF GARLAND ) CERTIFIED QUESTIONS

3 TO: Clerk of the Chancery Court of Razorback  
County, Arkansas Razorback County Courthouse  
4 RE: Jane Doe v. John Doe  
Razorback County Chancery Court, No. 93-597  
5

6 I hereby certify that the following question was asked by  
7 Turn N. Green, Plaintiff's attorney, during the deposition  
8 of John Doe, in the above captioned matter, taken on May 2,  
9 1994, in the offices of Green & Black, P.S., Summitup,  
10 Arkansas.

11 CERTIFIED QUESTION NO. 1, TR.87:1 (if you know the  
12 page and line)

13 Q I submit for the record that it could lead to  
14 discoverable evidence, and I'll ask you the question again:  
15 What is your occupation? And your answer was: Investments.  
16 I'll ask you what is the type of investments, and I'll give  
17 you one more opportunity to answer it before I have the  
18 question certified.

19 A Have the question certified.

20 Q Thank you, sir.

21 MR. GREEN: Certify the question.

22 MR. BROWN: And go on and interpose my objection  
23 to relevancy.

24 Respectfully submitted this 21st day of January, 1994.  
Typit Faster, CCR-CVR-CM #3 Right Avenue, West Lake, AR  
25 71111, Certificate Number 1001

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PLAINTIFF'S EXHIBIT NUMBER 1





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ERRATA SHEET

(Upon completion, please sign and date this sheet below.)

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JOHN DOE                      \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_  
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|    | PAGE # | LINE # | ERROR | CORRECTION |
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Signature\_\_\_\_\_ Date\_\_\_\_\_ Page\_\_\_of\_\_\_\_\_



INSTRUCTIONS TO WITNESS CONCERNING THE READING AND SIGNING  
OF DEPOSITION

[Your attorney has furnished you with] [Enclosed is] a copy of the deposition which you gave before me recently. Attached to the deposition is a signature page and an "errata sheet" designated specifically for your deposition. Read over the deposition carefully. DO NOT write upon the transcript. Unless you feel absolutely compelled, do not be concerned with an insignificant typographical or punctuation error. Concern yourself with the substance of your testimony.

If changes are necessary, merely indicate on the errata sheet by page and line number what your desired changes are. If, for instance, a name is misspelled, state the page and line number of the first misspelling, and the correct spelling. If a change is of a substantive nature, for example, if you desire to change an answer because you misunderstood the question or upon further reflection you realize that you gave an incorrect answer, then also state the reason for your desired change. Please sign and date the errata sheet and attach it to the signature sheet.

If no changes or corrections are necessary, check the appropriate box on the signature sheet, and sign and date it before a Notary Public.

Return the signature page, errata sheet, and the deposition to your attorney. You may wish to coordinate the reading and signing with your attorney in order to facilitate his return of the signed signature page and errata sheet to me no later than [insert date].

- OR -

Upon your completion, please contact me so that I may pick up the transcript, signature and correction sheets no later than [insert date].

The Rules of Civil Procedure allow 30 days in which to read and make any necessary changes or corrections. After that time, a procedure for submitting an unsigned transcript will be instituted.

If you have any questions at all regarding this matter, please do not hesitate to contact me.

Sincerely,

Fast R. Fingers, CCR-RPR-CM

enclosures

March 1, 1996

HAND DELIVERED

Mr. Darrell Deanon  
1000 W. Spritzer  
Hallelloo, AR 17701

RE: Nancy Deano v. Darrell Deano Chancery No. E-87-656

Dear Mr. Deano:

Enclosed please find one copy of your deposition taken on February 18, 1996. Also attached are a signature sheet and errata (or correction) sheets along with a set of instructions for reading, signing and making corrections to this transcript.

As soon as you have completed this, please return the transcript and signature/errata sheets to me in the enclosed, stamped, return envelope.

Sincerely,

Simply Speedy  
Certified Court Reporter

enclosures

## CERTIFICATE OF NON-COMPLIANCE

RE: ORAL DEPOSITION OF JOHN DOE ON JANUARY 3, 1993.

I, Simply Speedy, CCR, hereby certify that the above-named witness failed to comply in a timely manner with the reading, correcting and signing of the transcript made by me from sworn testimony of the witness.

Pursuant to Rule 30(e) of the Rules of Civil Procedure, which allows thirty (30) days for reading and signing a transcript, this Certificate is being filed with the Court in lieu of signature of the witness to his deposition.

WITNESS MY HAND AND OFFICIAL SEAL on this 16th day of February, 1993.

---

SIMPLY SPEEDY, CCR.  
RAPID RETURN REPORTING  
#1 Verbatim Lane  
Allcaps, Arkansas 10001  
Certificate No.

(SEAL)

## CERTIFICATE IN LIEU OF SIGNATURE

I, Simply Speedy, Certified Court Reporter, on this 16th day of February, 1993, do hereby certify the following, to-wit:

1. That the evidentiary deposition of JOHN DOE was taken on January 3, 1993, and that the requirement regarding reading and signing by the witness was not waived.

2. That on January 10th, 1993, the deposition, original signature page and errata sheets, and instructions for reading and signing were submitted to said deponent [or deponent's attorney] as per his request for signing.

3. That a period of more than thirty days has now elapsed since presentment of the deposition to the deponent [or deponent's attorney] and that the deponent [or deponent's attorney] has been notified by me on February 10th, 1993, by telephone [or in writing, a copy of which is attached hereto and incorporated herein as Attachment "A"] and that the deponent has failed to respond.

THEREFORE, substantially more than thirty days having elapsed since the date of submission of the deposition for signature, and pursuant to the provisions of Rule 30(e) of the Rules of Civil Procedure, this certificate supplements the original deposition in lieu of the deponent's signature page.

WITNESS MY HAND AND SEAL this 16th day of February, 1993.

---

SIMPLY SPEEDY  
Certificate No.

## CERTIFICATE

I, JANE DOE, Certified Court Reporter in and for the State of Arkansas, do hereby certify that the witness, , was duly sworn by me prior to the taking of testimony as to the truth of the matters attested to and contained therein; that the testimony of said witness was taken by me in (method of reporting) and was thereafter reduced to typewritten form by me or under my direction and supervision; that the foregoing transcript is a true and accurate record of the testimony given to the best of my understanding and ability.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action; and that I have no contract with the parties, attorneys, or persons with an interest in the action that affects or has a substantial tendency to affect impartiality, that requires me to relinquish control of an original deposition transcript or copies of the transcript before it is certified and delivered to the custodial attorney, or that requires me to provide any service not made available to all parties to the action.

IN ACCORDANCE with Rule 30(e) of the Rules of Civil Procedure, review of the transcript was/was not requested.

---

JANE DOE, REPORTER, CCR

LS#0000, ABC, XYZ

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS  
STATE OF ARKANSAS, PLAINTIFF,  
Vs. No. CR-92-1  
CUMIN GETME, DEFENDANT.

---

CHARGE: KIDNAPPING

---

TRANSCRIPT OF ALL PROCEEDINGS  
AND  
TRIAL IN CHIEF  
BEFORE THE HONORABLE HANG M. HIE  
JULY 23, 1994  
VOLUME 1 OF 4

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

FIRST DIVISION

NATIONAL BANK & TRUST COMPANY, PLAINTIFF

V. NO. CIV-91-000

AMERICAN NATIONAL CORPORATION,  
AN ARKANSAS CORPORATION,  
AND JOHN DOE, DEFENDANTS

---

TITLE OF HEARING

BE IT REMEMBERED, that on the 18th day of June, 1994, before the Honorable Justu S. Swiftly, the above-styled cause of action came on for hearing as follows, to-wit:

APPEARANCES

On Behalf of the Plaintiff: Ima Ringer  
1042 Avenue J  
Fort Worth, AR 70303

On Behalf of the Defendant: Lockhart N. Load  
1401 Escroitaire Road  
Mountain Folk, AR 70606

IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS  
STATE OF ARKANSAS, PLAINIFF,  
VS. NO. CR-95-241  
JOHN DOE, DEFENDANT.

---

CHARGE: MANUFACTURE OF A CONTROLLED SUBSTANCE,  
TO-WIT: MARIJUANA

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JUST N. SWIFT



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IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS  
STATE OF ARKANSAS, PLAINTIFF,  
VS. NO. CR-83-10  
LOO K. OUT, DEFENDANT.

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HEARING ON MOTION FOR CONTINUANCE AND CHANGE OF VENUE

BE IT REMEMBERED that on this 9th day of March, 1994, before the Honorable Justice R. Blind, Judge within and for the 91st Judicial District of which Razorback County is a part, the above-styled cause was heard before the Court.

Appearing on behalf of the State of Arkansas is U. V. Hadit, Deputy Prosecuting Attorney, P. O. Box 1030, Razorback, AR 70000.

Appearing with and on behalf of the Defendant is Datsa Righta, Attorney-at-Law, P. O. Box 3010, Razorback, AR 70000.

All parties being present, the following proceedings were had and done, to-wit:

THE COURT: I have a Motion for Continuance and Motion for Change of Venue in *State of Arkansas versus Loo K. Out*, CR-83-10, which was filed July 29. Mr. Righta, you are the moving attorney.

MR. RIGHTA: Your Honor, both of these motions

1 obviously come from the article published last Friday  
2 in the *Razorback Hogcaller*. I have a stipulation for  
3 IN THE CIRCUIT COURT OF RAZORBACK COUNTY, ARKANSAS

4 STATE OF ARKANSAS, PLAINTIFF

5 V. NO. CR-96-002

6 JOHN DOE, DEFENDANT

7

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8 CHARGE: MANUFACTURE OF A CONTROLLED SUBSTANCE,  
9 TO-WIT: MARIJUANA

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10

**TRIAL IN CHIEF**

11 On this 18th day of July, 1996, the above-styled cause comes  
12 on to be heard before the Honorable Justin Swift, Circuit  
13 Judge of the 12th Judicial Circuit, of which Razorback  
14 County is a part.

15 Comes the State of Arkansas by and through its Prosecuting  
16 Attorney, Mr. Get M. Good, and Deputy Prosecuting Attorney,  
17 Mr. Lectro Cutem. And comes the defendant in person and by  
18 and through his court-appointed attorney, Mr. Letim Hang.

19 WHEREUPON, the jury having been chosen, the Rule is invoked,  
20 witnesses are admonished by the Court, opening statements  
21 are made, testimony and evidence is adduced, to- wit:

22

**PROCEEDINGS**

23 THE COURT: Number 86-1030406050, *State of*  
24 *Arkansas versus John Doe*. All those that are going to  
25 give proof.

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I N D E X

PAGE

|                                                        |    |
|--------------------------------------------------------|----|
| INDIGENCY HEARING Before the Honorable Hang M. Hie     |    |
| November 5, 1994 . . . . .                             | 2  |
| ARRAIGNMENT Before the Honorable Hang M. Hie           |    |
| November 14, 1994 . . . . .                            | 5  |
| TRIAL IN CHIEF Before the Honorable Hang M. Hie        |    |
| February 10, 1985 . . . . .                            | 11 |
| JURY IMPANELED AND SWORN . . . . .                     | 12 |
| STATE'S OPENING . . . . .                              | 13 |
| DEFENDANT'S OPENING . . . . .                          | 16 |
| <u>TESTIMONY AND EVIDENCE ON BEHALF OF THE STATE</u>   |    |
| SHERIFF SHOOT M. UP                                    |    |
| Direct Examination by Mr. Prosecutor . . . . .         | 17 |
| *Introduction of State's Exhibit No. 1 . . . . .       | 28 |
| *Introduction of State's Exhibit No. 2 . . . . .       | 29 |
| Cross Examination by Mr. Defender . . . . .            | 33 |
| Redirect Examination by Mr. Prosecutor . . . . .       | 34 |
| STATE RESTS. . . . .                                   | 34 |
| MOTION AND RULING. . . . .                             | 35 |
| <u>TESTIMONY AND EVIDENCE ON BEHALF OF THE DEFENSE</u> |    |
| CUMIN GETME                                            |    |
| Direct Examination by Mr. Defender . . . . .           | 35 |

1 Cross Examination by Mr. Prosecutor . . . . . 41

2

3

INDEX - CONTINUED

4

PAGE

5 DEFENDANT RESTS . . . . . 43

6 MOTION AND RULING. . . . . 43

7 STATE'S SUMMATION. . . . . 43

8 DEFENDANT'S SUMMATION. . . . . 46

9 JURY CHARGE. . . . . 49

10 VERDICT AND MOTIONS. . . . . 49

11 ADJOURNMENT. . . . . 50

12 REPORTER'S CERTIFICATE . . . . . 51

13 (REPORTER'S NOTE: Photographs submitted with original  
14 transcript only.)

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## INDEX

DIRECT CROSS REDIRECT RECROSS

|                               |         |         |     |     |
|-------------------------------|---------|---------|-----|-----|
| JURY IMPANELED AND SWORN      | 3       |         |     |     |
| PLAINTIFF'S OPENING REMARKS   | 5       |         |     |     |
| DEFENDANT'S OPENING REMARKS   | 16      |         |     |     |
| PLAINTIFF'S WITNESSES:        |         |         |     |     |
| REDA T. MORROW                | 24 32   | 40, 48  | 46, | 50  |
| UVA DONIT                     | 56 60   | 68      |     | 82  |
| PLAINTIFF RESTS               | 93      |         |     |     |
| MOTION AND RULING             | 93      |         |     |     |
| DEFENDANT' S WITNESSES:       |         |         |     |     |
| IVA GOTCHA                    | 94 98   | 99, 101 | 99, | 102 |
| CANA I. HAVIT                 | 105 107 | 108     |     | 112 |
| DEFENDANT RESTS               | 118     |         |     |     |
| PLAINTIFF'S REBUTTAL WITNESS: |         |         |     |     |
| MOVIT OVER                    | 119     | 125     |     |     |
| DEFENDANT'S SURREBUTTAL       |         |         |     |     |
| WITNESS:                      |         |         |     |     |
| SLICKER DEALER                | 129     | 138     |     |     |
| MOTION AND RULING             | 145     |         |     |     |
| PLAINTIFF'S CLOSING           | 155     |         |     |     |
| DEFENDANT'S CLOSING           | 172     |         |     |     |
| JURY CHARGE                   | 188     |         |     |     |

1 VERDICT AND MOTIONS 193

2 ADJOURNMENT 195

3 that you might receive the oath, evidence that's going to  
4 testify.

5 (Witnesses sworn.)

6 MR. GOOD: Your Honor, I call as my first witness  
7 Mikel Tooney.

8 **TESTIMONY AND EVIDENCE**

9 **ON BEHALF OF THE STATE**

10 **MIKEL TOONEY,**

11 Having been called by and on behalf of the State of  
12 Arkansas, and having been duly sworn, was examined and  
13 testified as follows, to-wit:

14 **DIRECT EXAMINATION**

15 BY MR. GOOD:

16 Q State your name, please.

17 A Mikel Tooney, sir.

18 Q Mr. Tooney, how old are you?

19 A I'm 22.

20 Q Where do you reside?

21 A I live in Austin, Arkansas.

22 Q What is your occupation?

23 A I'm a ditch digger.

24 Q How long have you been doing that?

25 A About six years now.

1 Q What are your primary duties?

2 A Well, I dig ditches mostly.

3 Check in the amount of \$24,000 dated January 14, 1995. It's  
4 drawn on Struder National Bank.

5 Q Who was the check payable to?

6 A It was made payable to M. T., Inc.

7 Q Was M. T., Inc., given credit for the check?

8 A Yes, sir, they were.

9 MR. DOWRONG: Objection, hearsay.

10 Q Do you have personal knowledge as to whether or not M.  
11 T. Inc., received credit for that check?

12 MR. DOWRONG: Objection, Your Honor, permission to  
13 voir dire the witness, please.

14 THE COURT: Granted.

15 **VOIR DIRE EXAMINATION**

16 BY MR. DOOWRONG:

17 Q Mr. Tickle, you have before you what has been marked for  
18 identification as Plaintiff's Proposed Exhibit 1, a check  
19 from Mr. Doodle; do you not?

20 A Yes, sir.

21 Q Did you personally receive this check for deposit?

22 A No, I didn't personally.

23 MR. DOWRONG: Your Honor, his testimony is based  
24 upon his book knowledge rather than personal knowledge;  
25 and under the best evidence rule, they have to put

1           those books and records into evidence or it's  
2           inadmissible hearsay.

3           THE COURT: Let's get them in then.

4                           **DIRECT EXAMINATION - CONTINUING**

5 BY MR. DOORIGHT:

6 Q    Mr. Tickle, I hand you what will be marked as  
7 Plaintiff's Exhibit 2, a copy. Do you recognize that  
8 document and will you tell us what it is?

9                                           (Pleading's Exhibit 2 marked for  
10                                           identification.)

11 A    Yes, sir.

12 Q    What is it?

13 A    It's a reconciliation statement dated 2/15/95.

14 Q    Is this document one that is kept in the ordinary course  
15 of your bank's business?

16 A    Yes, sir.

17 Q    Does the amount of that check we've been discussing, the  
18 \$24,000 appear on that bank statement?

19 A    Yes, it does.

20                           MR. DOWRONG: Objection, Your Honor, hearsay.

21 Permission to voir dire the witness, please.

22                           THE COURT: We'll do this in chambers, gentlemen.

23                           **IN-CAMERA VOIR DIRE EXAMINATION**

24 BY MR. DOOWRONG:

25 Q    Mr. Tickle, in front of you, you have what has now been

1 marked as Plaintiff's Proposed Exhibit 2. Correct?

2 A Yes, sir.

3 Q Is this the document that you're telling us is a  
4 reconciliation?

5 A Yes, sir.

6 Q Can you tell the Court how that's prepared?

7 A Each time a check is presented, a copy is kept for our  
8 records. At the end of the statement cycle, these statements  
9 are sent out to the customer to reconcile their account.

10 Q Is this a copy of the statement that the customer gets?

11 A Yes, it's the actual copy.

12 Q Now, does this statement identify the \$24,000 entry as  
13 being an entry for the specific check, Plaintiff's Proposed  
14 Exhibit Number 1, that we've been talking about here today?

15 A No, sir.

16 MR. DOWRONG: Your Honor, there's lack of  
17 foundation and also hearsay.

18 MR. DOORIGHT: Your Honor, I think we can make  
19 that an issue for the Court to decide.

20 THE COURT: All right, gentlemen, let's go back  
21 in.

22 (Return to open court.)

23 **DIRECT EXAMINATION CONTINUED**

24 BY MR. DOORIGHT:

25 Q Mr. Tickle, is there an identifying code or number on

1 the back of that check that corresponds to some code on the  
2 statement?

3 A Yes, sir.

4 Q And what are those numbers?

5 A It's the same number, 00-345-0901-284012-003.

6 Q Explain to the Court exactly what that means to you.

7 MR. DOORIGHT: Your Honor, at this time I ask that  
8 Plaintiff's Exhibit Number 1 be introduced into evidence.

9 THE COURT: All right.

10 MR. DOORIGHT: I would also ask that Plaintiff's  
11 Exhibit Number 2 be introduced into evidence.

12 MR. DOWRONG: Your Honor, we have no objection to  
13 Number 1, but we renew our objection on 2.

14 THE COURT: We'll let it be admitted and note your  
15 objection on the record.

16 (Whereupon, Plaintiff's Exhibits 1 and 2  
17 were admitted into evidence.)

18 MR. DOORIGHT CONTINUING:

19 Q Mr. Tickle, what did the bank do with this check?

20 A Well, sir, the checking account was insufficient to  
21 cover the check so the account went into an overdraft --  
22 overdrawn position. At that time, the bank's policy was to  
23 force-pay the check and to charge the customer's account an  
24 overdraft charge.

25 Q Did you charge your client's account?

1 A Yes, sir.

2

3 Some examples of parentheticals used in official  
4 transcripts:

5 (The following in-chambers record was  
6 made before jury selection began,  
7 to-wit:)

8 (The following in-camera record was made  
9 before jury selection began, to-wit:)

10 (Mr. Alus A. Felon was brought into  
11 chambers.) (Proceedings were moved into  
12 the courtroom and proceeded as follows,  
13 to-wit:)

14 (Proceedings resumed in open court as  
15 follows, to-wit : )

16 (Roll was called by the Clerk.)

17 (Prospective jurors answered in the  
18 affirmative.) (Hand was raised.) (No  
19 hands were raised.) (One hand was  
20 raised.)

21 (A recess was taken, after which time  
22 the following proceedings were had and  
23 done, to-wit:)

24 (A recess was taken; proceedings resumed  
25 at 9:35 a.m., to-wit:)

26 Brackets or parentheses may be used. Parentheticals:  
27 In state cases, the first line of each begins at 15,

1 succeeding lines begin at 10; in federal cases, first line  
2 of each begins at 10, succeeding lines begin at left  
margin.)

3 STATE'S EXHIBIT 1

4 (Exhibit Provided With Original Transcript Only.)

5 (You can write in a description of the exhibit)

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## CERTIFICATE

I, (Reporter's Name), Official Court Reporter for the Circuit/Chancery Court, (Reporter's District) Judicial Circuit of Arkansas, certify that I recorded the proceedings by (method of reporting) recording in the case of JOHN DOE VERSUS JANE DOE, Garland County Chancery No. 99-11, (date), before the Honorable (Judge's Name), (Judge's title) Judge thereof, at Hot Springs, Arkansas; that said recording has been reduced to a transcription by me, and the foregoing pages numbered through constitute a true and correct transcript of the proceedings held to the best of my ability, along with all items of evidence admitted into evidence. The cost incurred by (plaintiff/defendant) for said record was \$(insert cost of record).

WITNESS my hand and seal as such Court Reporter on this day of , 2009.

\_\_\_\_\_  
REPORTER'S NAME  
Supreme Court Certified Reporter  
No.  
(SEAL)

Court Reporter's Cost: \$

[PLEASE NOTE that this Court Reporter's Cost notation MUST be on your certificate page for all appeal transcripts.]

## CERTIFICATE

1  
2 I, \_\_\_\_\_, Official Court Reporter for the  
3 Circuit Court, \_\_\_\_\_ Judicial Circuit of Arkansas, certify  
4 that, due to the death of (NAME OF DECEASED REPORTER),  
5 Official Court Reporter for \_\_\_\_\_ Division Circuit  
6 Court, I have transcribed and proofed the recording(s) of  
7 the proceedings held \_\_\_\_\_, in the case of  
8 \_\_\_\_\_, County Circuit No. \_\_\_\_\_, reported by (NAME  
9 OF DECEASED REPORTER), before the Honorable Judge \_\_\_\_\_,  
10 at City \_\_\_\_\_, Arkansas; that the foregoing pages numbered  
11 Page Number \_\_\_\_\_ through Page Number \_\_\_\_\_ constitute a true  
12 and correct transcript of the proceedings held to the best  
13 of my ability, along with all items of evidence admitted  
14 into evidence.

15 WITNESS MY HAND AND SEAL as such Court Reporter on this  
16 Date \_\_\_\_\_ day of Month \_\_\_\_\_, Year \_\_\_\_\_.

17 \_\_\_\_\_  
18 , CCR  
Supreme Court Certified Reporter No.

19  
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22  
23  
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25



1 and dogs

2 Exhibit No. D-8, Letterhead of Mothra, dated November 3,  
3 2004, addressed to Godzilla

4 Exhibit No. D-9, AT&T Wireless statement dated 2/14/05 in  
5 name of Mothra

6 Exhibit No.

7 Exhibit No.

8 The exhibit(s) shall be transferred to Buffy  
9 Topper for disposal pursuant to law.

10 IT IS SO ORDERED,

11 \_\_\_\_\_  
12 CIRCUIT JUDGE

13 \_\_\_\_\_  
14 Date

15 I ACKNOWLEDGE RECEIPT OF THE PHYSICAL EXHIBITS DESCRIBED  
16 ABOVE FOR DISPOSAL PURSUANT TO LAW.

17 \_\_\_\_\_  
18 (Sheriff/Governmental  
19 Agency/Attorney or  
20 other entity)

21 \_\_\_\_\_  
22 Date

23 (Receipt shall be filed in case file with the circuit  
24 clerk.)  
25



1 6. An extension of time is necessary for the court reporter  
2 to include the stenographically reported material in the  
3 record on appeal.

4 Based on these findings, good cause has been shown to extend  
5 the time to file the record on appeal.

6 IT IS THEREFORE ORDERED that Appellant's motion is granted.

7 The time for filing the record is extended by days, to ,  
8 20--, which is within the seven month deadline set by Ark. R  
9 App. P.-Civil5 (b)(2).

10 \_\_\_\_\_  
11 Circuit Judge

12 \_\_\_\_\_  
13 Date  
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**REPORTING PURSUANT TO SECTION 3 OF ACT 1327 OF 2009  
TRANSCRIPTS NOT COMPLETED WITHIN THE STIME PRESCRIBED BY  
SUPREME COURT RULES**

|                                                                                |                           |
|--------------------------------------------------------------------------------|---------------------------|
| Court Reporter's Name                                                          | Court Reporter's Address  |
| Court Reporter's Phone #                                                       | Judge's Name              |
| Court Reporter's E-mail                                                        | Judicial Circuit/Division |
| Style of Case                                                                  | Date Transcript Due       |
| Date Transcript Completed<br>or Date Transcript is Expected<br>to be completed | Date Reported to Judge    |

**Reason for delay in preparing transcript:**

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\_\_\_\_\_  
Signature of Reporter/Date

\_\_\_\_\_  
Signature of Judge/Date

Official Court Reporters shall prepare transcripts, which are to be included within a record on appeal, pursuant to the time requirements that are outlined in the Arkansas Supreme Court Rules. In the event an official court reporter fails to complete a transcript within the prescribed time, he or she shall immediately inform the judge for whom he or she is employed, and the Arkansas Board of Certified Court Reporter Examiners. Failure of a court reporter to report to his or her judge and to the Arkansas Board of Certified Court Reporddter Examiners shall result in the immediate suspension of the court reporter's license, pending a hearing before the Arkansas Board of Certified Court Reporter Examiners.

Please send a copy of this completed form to the Arkansas  
Board of Certified Court Reporter Examiners:

Arkansas Supreme Court Clerk's Office  
625 Marshall St.  
Little Rock, AR 72201

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ARBITRATION

BEFORE

USA MERICA, Ph.D.

Permanent Umpire

March, 9, 1994

In The Matter of:

TANYO-AMERICOMPANY,

AND (GRIEVANCE NO. 82-783500)

INTERNATIONAL UNION, UNITED  
STEELWORKERS OF AMERICA (AFL-  
CIO) and Its Local No. 121314

AND

IMA T. SIPPER, GRIEVANT

---

APPEARANCES:

FOR THE UNION:

Name of Union Representative  
Address (of Union office)  
City/State

FOR THE COMPANY:

Name of Company Attorney  
Address  
City/State

## I N D E X

|    |                                                      |                                                    |                |
|----|------------------------------------------------------|----------------------------------------------------|----------------|
| 1  |                                                      |                                                    |                |
| 2  |                                                      |                                                    | PAGE           |
| 3  | STIPULATIONS . . . . .                               |                                                    | 5              |
| 3  | JOINT STATEMENT OF ISSUE . . . . .                   |                                                    | 13             |
| 4  | OPENING STATEMENT ON BEHALF OF THE COMPANY . . . . . |                                                    | 14             |
| 5  |                                                      | TESTIMONY AND EVIDENCE<br>ON BEHALF OF THE COMPANY |                |
| 6  | WITNESSES:                                           |                                                    |                |
| 7  | MARTINA LUMBAGO                                      |                                                    |                |
| 8  | Direct Examination by Mr. Company . . . . .          |                                                    | 16             |
| 8  | Cross Examination by Mr. Union. . . . .              |                                                    | 26             |
| 9  | COMPANY RESTS . . . . .                              |                                                    | 37             |
| 10 |                                                      | TESTIMONY AND EVIDENCE<br>ON BEHALF OF THE UNION   |                |
| 11 | OPENING STATEMENT ON BEHALF OF THE UNION . . . . .   |                                                    | 38             |
| 12 | WITNESSES:                                           |                                                    |                |
| 13 | IMA T. SIPPER                                        |                                                    |                |
| 13 | Direct Examination by Mr. Union . . . . .            |                                                    | 40             |
| 14 | Cross Examination By Mr. Company. . . . .            |                                                    | 51             |
| 15 | UNION RESTS. . . . .                                 |                                                    | 58             |
| 16 | CLOSING STATEMENT ON BEHALF OF THE COMPANY . . . . . |                                                    | 59             |
| 17 | CLOSING STATEMENT ON BEHALF OF THE UNION . . . . .   |                                                    | 61             |
| 18 | EXHIBITS                                             | IDENTIFIED                                         | ADMITTED       |
| 18 | JOINT EXHIBIT ONE . . . . .                          |                                                    | By Stipulation |
| 19 | Articles of Agreement                                |                                                    |                |
| 20 | JOINT EXHIBIT TWO By . . . . .                       |                                                    | By Stipulation |
| 21 |                                                      |                                                    |                |
| 22 |                                                      |                                                    |                |
| 23 |                                                      |                                                    |                |
| 24 |                                                      |                                                    |                |
| 25 |                                                      |                                                    |                |

## 1 ARBITRATION

2 BEFORE

3 USA MERICA, Ph.D

4 March 9, 1994

5 In The Matter of:

6 TANYO-AMERICOMPANY,

7 AND (GRIEVANCE NO. 82-783500)

8 INTERNATIONAL UNION, UNITED  
9 STEELWORKERS OF AMERICA (AFL- CIO)  
and Its Local No. 121314

10 AND

11 IMA T. SIPPER, GRIEVANT

12 \_\_\_\_\_  
13 STIPULATIONS14 On this 9th day of March, 1994, the above-styled hearing  
15 comes on to be heard before USA MERICA, Permanent Arbitrator  
16 for TANYO-AMERICOMPANY, beginning at 9:00 a.m. at the  
17 offices of Tanyo-AmeriCompany, Verbatim, Arkansas.18 Appearing with and on behalf of the Grievant IMA T. SIPPER  
19 and the Union are Jack Union, Union Representative; Tobe  
20 Rock, Local President; Howie Conduit, Local Vice President;  
21 and N. K. Breaker. Appearing on behalf of the Company are Do  
22 T. Company; Sam Tartan, Personnel Manager; and Martina  
23 Lumbago.24 WHEREUPON, the following stipulations were had and done  
25 regarding exhibits, to-wit:

1 MR. ARBITRATOR: Gentlemen, if we're ready to get  
2 started, are there any exhibits you would like marked  
3 as joint exhibits?

4 MR. COMPANY: Yes, sir. I would suggest we mark  
5 the Agreement as Joint Exhibit 1 and the Grievance  
6 Record as Joint Exhibit 2.

7 MR. ARBITRATOR: Any objections?

8 MR. UNION: No objections, Mr. Arbitrator.

9 MR. ARBITRATOR: Okay, they're admitted.

10 (Contract and Grievance Record were  
11 marked and admitted as Joint Exhibits 1  
12 and 2, respectively.)

13 MR. COMPANY: I'll offer the Rules of Conduct for  
14 the plant.

15 MR. UNION: I don't have any objection to them  
16 being entered at this time, but I would prefer that  
17 they be considered as Company Exhibit 1 rather than a  
18 joint exhibit.

19 MR. ARBITRATOR: Any problems with that, Mr.  
20 Company?

21 MR. COMPANY: No, sir.

22 MR. ARBITRATOR: They'll be admitted.

23 (Plant Conduct Rules were marked and  
24 admitted as Company Exhibit 1.)

25 MR. ARBITRATOR: Okay, are there any other

1 MR. COMPANY: No, sir.

2 MR. UNION: No, sir.

3 MR. COMPANY: The Company is proposing the issue  
4 as follows:

5 "Was the termination of Ms. Sipper, effective June 20, 1993,  
6 for violation of a Memorandum of Understanding dated March  
7 25, 1993, proper? If not, what should be the remedy?"

8 MR. UNION: The Union does not agree to that  
9 statement of issue. The Union sees it as:

10 "Was Ms. Sipper terminated on June 20, 1993, for just cause?  
11 If not, what is the proper remedy?"

12 MR. ARBITRATOR: Okay, I have your respective  
13 versions of the issue and will figure out what I view  
14 it as.

15 (If the parties have a joint proposed  
16 statement:)

17 WAS THE COMPANY'S DISCHARGE OF IMA T. SIPPER, EFFECTIVE JUNE  
18 20, 1993, FOR JUST CAUSE? IF NOT, WHAT IS THE APPROPRIATE  
19 REMEDY?

20 MR. ARBITRATOR: And that's agreed to as the joint  
21 statement of the issue?

22 MR. UNION: Yes, sir.

23 MR. COMPANY: Yes, sir.

24 MR. ARBITRATOR: All right, we're ready for  
25 opening.

## 1 OPENING STATEMENT

2 ON BEHALF OF THE COMPANY

3 BY MR. COMPANY  
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16 (After the opening statement of one side, their case in  
17 chief may be presented before the other party makes an  
18 opening statement. Use the same format for both opening  
19 statements. These opening statements are usually read; you  
20 might consider asking for a copy of the opening/closing  
21 statements. After the opening, you can start a new page for  
22 each witness, using the swearing language shown in earlier  
23 deposition samples. Remember to use the Federal transcript  
24 margins and indentions.)  
25

## JOINT EXHIBIT ONE

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(Even if an arbitrator keeps the exhibits to save the cost of having them reproduced in a transcript, request copies for use in preparing the transcript.)

## CERTIFICATE

1  
2 I, JANE DOE, Certified Court Reporter in and for the  
3 State of Arkansas, do hereby certify that the witness,  
4 , was duly sworn by me prior to the taking of testimony as  
5 to the truth of the matters attested to and contained  
6 therein; that the testimony of said witness was taken by me  
7 in (method of reporting) and was thereafter reduced  
8 to typewritten form by me or under my direction and  
9 supervision; that the foregoing transcript is a true and  
10 accurate record of the testimony given to the best of my  
11 understanding and ability.

12 I FURTHER CERTIFY that I am neither counsel for,  
13 related to, nor employed by any of the parties to the action  
14 in which this proceeding was taken; and, further, that I am  
15 not a relative or employee of any attorney or counsel  
16 employed by the parties hereto, nor financially interested,  
17 or otherwise, in the outcome of this action; and that I have  
18 no contract with the parties, attorneys, or persons with an  
19 interest in the action that affects or has a substantial  
20 tendency to affect impartiality, that requires me to  
21 relinquish control of an original deposition transcript or  
22 copies of the transcript before it is certified and  
23 delivered to the custodial attorney, or that requires me to  
24 provide any service not made available to all parties to the  
25 action.

\_\_\_\_\_  
JANE DOE, REPORTER, CCR  
LS#0000, ABC, XYZ

1 **Some examples for use in transcripts when an interpreter is**  
2 **being used:**

3 JOHN DOE, serving as an interpreter, was duly sworn in to  
4 interpret in the [name of language, i.e. sign, Spanish,  
5 etc.] language to the witness, [name of witness], the oath  
6 to be administered to him (her), the questions asked  
7 him(her) and the answers he(she) gave to such questions into  
8 the English language.  
9 JUAN MARTINEZ, being duly sworn, through the interpreter,  
10 testified . .

11 DIRECT EXAMINATION

12 BY MR. SMITH:

13 Q Please state your name.

14 [If the interpreter answers, show as follows:]

15 A Juan Martinez.

16 Q Where do you reside?

17 A Little Rock, Arkansas.

18 Q How long have you lived there?

19 [If the witness answers in English before the interpreter,  
20 show:]

21 THE WITNESS: Three years.

22 [If both the interpreter and the witness answer, show it in  
23 colloquy.]

24 THE WITNESS: Three years.

25 THE INTERPRETER: Three years.

[When counsel resumes questioning, show:]

BY MR. SMITH:

Q Where are you employed?

1 [If the interpreter is asked questions by court and counsel,  
2 other than directed through him and the witness, show it in  
3 the form of colloquy.]

4 THE COURT: Are you available on that date? THE.

5 THE INTERPRETER: Yes, Your Honor.  
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1 One reporter has developed the below "realtime rules" sheet  
2 to give to attorneys when they request a realtime feed. The  
3 sheet helps attorneys understand what realtime is and how  
4 they can make a cleaner record. **This sheet is a suggestion**  
5 **only** and not a requirement for anyone to use:

6 **WHO IS RESPONSIBLE FOR MAKING THE RECORD?**

7 The court reporter is responsible for preserving the  
8 record, but the primary job of making the record rests with  
9 counsel.

10 An excellent theory and a winning strategy may be useless if  
11 there is not care taken with making a record.

12 Following are some suggestions in helping you make your  
13 record:

14 Speak one at a time. The reporter has to hear and  
15 understand every word. What can't be heard or understood  
16 can't be  
17 reported. If the reporter didn't hear it, it is most likely  
18 that the other participants, including the jury, didn't hear  
19 it either.

20 Quote accurately. People tend to talk faster when reading.  
21 When giving cites or reading verbatim from a document, it  
22 is imperative that you do so slowly, clearly and concisely.  
23 If you provide the reporter a copy of the quoted material,  
24 you can be assured that the record will reflect the quote  
25 accurately. It also assists the reporter to have copies of

1 the exhibits, witness lists and word lists.

2 State figures in full. When you say "forty-one-o-six," you  
3 might mean 41.06, 4,106 or 40,106. Please fully state  
4 figures, including the words "dollars" and "cents." This  
5 same suggestion applies to dates, addresses and especially  
6 case cites.

7 Take care with witnesses. Unlike the other participants in  
8 the courtroom, the court reporter must get verbatim what  
9 the witness is saying, not just the general nature of the  
10 testimony. Please question witnesses slowly and give them  
11 time to answer. Try using the "one second" rule: Wait one  
12 second after the witness answers before asking the next  
13 question.

14 Bench Conferences. Please be conscious that the reporter  
15 must be able to hear all participants at the bench. Also,  
16 make sure the reporter is ready before you speak again in  
17 open court.

18 Reporters are generally silent in the courtroom. When a  
19 reporter does speak up, it is in the best interest of the  
20 record to recognize and acknowledge the problem and resolve  
21 it.

22 Remember, when the last words have been spoken, all that  
23 remains is the record.

24 **WHAT IS REALTIME?**

25 Court reporters write machine shorthand phonetically.

1 During realtime, these phonetic outlines are simultaneously  
2 translated into English through the reporter's computer  
3 software and displayed on counsel table.

4 Realtime is in no way voice activated.

5 The conduct of the participants in the courtroom can greatly  
6 affect realtime translation. If you see an increase in  
7 mistranslates or untranslates on the screen, several things  
8 could be happening: People are cross-talking, someone is  
9 talking too fast or not talking clearly.

10 Writing realtime requires a high degree of mental  
11 gymnastics. When the reporter hears a homonym such as the  
12 word "to," they must first determine whether it should  
13 appear as "to," "two," "too," or "2," recall the necessary  
14 steno stroke for the differentiation and then write the  
15 word. Also, each word spoken must be written precisely on  
16 the steno machine in order for the computer to be able to  
17 recognize it. This is both mentally and physically tiring.  
18 If warnings to speak up and to speak slower are ignored,  
19 realtime services may be disconnected to allow the reporter  
20 to concentrate on speed and/or hearing rather than a  
21 realtime translation. It also helps the quality of the  
22 translation if regular breaks are taken.  
23 All necessary corrections, proofreading, indexing and  
24 research will be done by the reporter in order to certify  
25 the transcript when it is ordered.

I N D E X

|                                         | <u>PAGE</u> |
|-----------------------------------------|-------------|
| <b>PREFACE</b>                          | <b>1</b>    |
| <b>RULE PROVIDING CERTIFICATION</b>     | <b>4</b>    |
| Board Members                           | 4           |
| Officers of the Board                   | 5           |
| Duties of the Board                     | 5           |
| Application for Certification           | 6           |
| Eligibility for Certification           | 7           |
| Admission without Examination           | 7           |
| Discipline                              | 8           |
| Surrender of Certificate                | 22          |
| Appeal                                  | 25          |
| Funds - Disbursement of                 | 26          |
| Scope                                   | 27          |
| Transcripts must be certified           | 27          |
| Effective Date                          | 27          |
| Continuing Education Requirement        | 27          |
| <b>REGULATIONS OF BOARD</b>             | <b>34</b>   |
| Use of CCR Designation                  | 34          |
| Fees                                    | 35          |
| Contents of Test                        | 39          |
| Testing equipment                       | 40          |
| Change of Address                       | 41          |
| Filing a Complaint                      | 41          |
| Grounds for Discipline                  | 42          |
| Use of CCR Designation                  | 44          |
| Records Retention Schedule              | 45          |
| Responsibility for Storage              | 46          |
| Handling Firearms, Contraband           | 46          |
| When Position Vacated                   | 46          |
| Methods of Disposal                     | 47          |
| Log of Records                          | 48          |
| Retention Time Schedule                 | 49          |
| Section 22 - contracting                | 51          |
| May Administer Oaths                    | 53          |
| <b>Rules for Transcript Preparation</b> | <b>55</b>   |
| Fee Charged for Disk                    | 55          |
| The Record                              | 56          |
| Rule 3-1 Preparation of the Record      | 56          |
| Transcript Paper Size, Margins, etc.    | 58          |
| Rule 3-2 Items Omitted from Record      | 60          |
| Rule 3-3 Record in Civil Cases          | 61          |
| Rule 3-4 Record in Criminal Cases       | 62          |

|                                          |            |
|------------------------------------------|------------|
| <b>Federal Rules of Civil Procedure</b>  | <b>64</b>  |
| Rule 27- Depositions Before Action       | 64         |
| Petition                                 | 64         |
| Notice and Service                       | 65         |
| Order and Examination                    | 66         |
| Use of Deposition                        | 66         |
| Rule 28 - Persons Who May                | 68         |
| Take Depositions                         |            |
| Disqualification for Interest            | 69         |
| Rule 29 - Stipulations Regarding         | 70         |
| Discovery                                |            |
| Rule 30 - Deposition on Oral Examination | 70         |
| Witness Reading & Signing                | 77         |
| Copies to Party or Deponent              | 78         |
| Rule 31 - Depositions on                 | 79         |
| Written Questions                        |            |
| Rule 32 - Use of Depositions in          | 82         |
| Court Proceedings                        |            |
| <br>                                     |            |
| <b>ARKANSAS RULES OF CIVIL PROCEDURE</b> | <b>88</b>  |
| Rule 28 - Persons Who May                | 88         |
| Take Depositions                         |            |
| Disqualification for Interest            | 90         |
| Rule 29 - Stipulations Regarding         | 90         |
| Discovery                                |            |
| Rule 30 - Depositions on Oral            | 90         |
| Examination                              |            |
| Stipulation for Telephone Deposition     | 94         |
| Witness Reading & Signing                | 97         |
| Copy to Party or Deponent                | 98         |
| Rule 31 - Depositions on Written         | 99         |
| Questions                                |            |
| Copy to Opposing Party                   | 101        |
| Rule 32 - Use of Depositions in Court    | 102        |
| Transcript must be prepared by CCR       | 104        |
| <br>                                     |            |
| <b>TIPS AND SUGGESTIONS</b>              | <b>107</b> |
| Reporter's Seal                          | 107        |
| Work Sheets                              | 107        |
| Form Letters                             | 108        |
| Billing                                  | 108        |
| Billing                                  | 109        |
| Attorney Responsible for Payment         | 110        |
| Reference Materials                      | 111        |
| Depositions                              | 114        |
| Before Beginning Deposition              | 114        |
| Interrupting Deposition Proceedings      | 114        |
| Need Help?                               | 115        |

|                                             |            |
|---------------------------------------------|------------|
| ACRA Information                            | 115        |
| Maude Parkman Mentoring Program             | 116        |
| Transcripts                                 | 117        |
| Cover Sheets                                | 117        |
| Index Sheets                                | 118        |
| COPIES, ORIGINAL AND TWO                    | 122        |
| Exhibits                                    | 123        |
| Telephone Depositions                       | 123        |
| Swearing the Witness                        | 124        |
| Body of the Transcript                      | 126        |
| Certifying a Question                       | 127        |
| Exhibits                                    | 127        |
| Signature Page & Errata Sheets              | 129        |
| Reporter's Certificate                      | 132        |
| Complete Record Required                    | 132        |
| Transcript Deposit may be Required          | 133        |
| Official Transcript Page Rate               | 133        |
| Official Court Reporters Salary             | 134        |
| Substitute Court Reporters                  | 135        |
| Officials Expense Reimbursement             | 138        |
| Appointment of Court Reporters              | 138        |
| Liability for Loss of Records               | 139        |
| Court Reporters Fund Established            | 140        |
| Funding of Official Court Reporters         | 140        |
| Court Reporters made State Employees        | 140        |
| <b>Official Transcripts - State Courts</b>  | <b>142</b> |
| Rule 3-1 Preparation of the Record          | 143        |
| Transcript Format Rules                     | 145        |
| Rule 3-2 Items to be Omitted<br>from Record | 147        |
| Rule 3-3 Record in Civil Cases              | 148        |
| Rule 3-4 Record in Criminal Cases           | 149        |
| Transcripts - Federal Court                 | 154        |
| Transcripts - Arbitration Cases             | 158        |
| Interpreters                                | 160        |
| <br>                                        |            |
| <b>ARKANSAS CODE OF JUDICIAL CONDUCT</b>    | <b>162</b> |
| <br>                                        |            |
| <b>FORMS</b>                                | <b>188</b> |
| SAMPLE JOB WORKSHEET                        | 189        |
| SAMPLE JOB WORKSHEET2                       | 190        |
| Transmittal Letter                          | 191        |
| Statement for Services                      | 192        |
| Transmittal Letters/Collection Letters      | 193        |
| Deposition Title Sheet                      | 194        |
| Deposition Title Sheet                      | 195        |
| Deposition Title Sheet - Probate            | 196        |
| Deposition Title Sheet Workers' Comp        | 197        |
| Deposition Title Sheet - Federal Court      | 198        |

|                                         |     |
|-----------------------------------------|-----|
| Deposition Certificate of               | 199 |
| Non-Attendance                          |     |
| Deposition Certificate of               | 200 |
| Non-Attendance                          |     |
| Deposition Index for Discovery          | 201 |
| Deposition                              |     |
| Discovery Deposition Index              | 202 |
| Evidentiary Deposition Index            | 203 |
| Standard Stipulations - General Format  | 204 |
| "Usual" Stipulations - Video Language   | 205 |
| Stipulations-Evidentiary, Workers' Comp | 206 |
| Evidentiary Telephone                   | 207 |
| Deposition Stipulation                  |     |
| Swearing the Witness, Proceedings       | 208 |
| Stipulations, Swearing, Q&A             | 209 |
| Colloquy, Parentheticals,               | 210 |
| Marking Exhibits                        |     |
| Certified Question                      | 211 |
| Certifying a Question                   | 212 |
| Exhibit Sheet                           | 213 |
| Witness Signature Sheet                 | 214 |
| Signature Page                          | 215 |
| Errata Sheet                            | 216 |
| Errata Sheet                            | 216 |
| Signature of Deponent Certificate       | 218 |
| Instructions for Reading & Signing      | 219 |
| Transmittal Letter for Reading &        | 220 |
| Signing                                 |     |
| Certificate of Non-Compliance           | 221 |
| Certificate for Non-Signature           | 222 |
| of Transcript                           |     |
| Deposition - Reporter's Certificate     | 223 |
| Title Sheet for Record on Appeal        | 224 |
| Title Sheet for Hearing                 | 225 |
| Title Sheet - Trial in Chief            | 226 |
| For Hearing, Motions,                   | 227 |
| Proceedings before the Court            |     |
| For Hearing, Motions, Proceedings       | 228 |
| before the Court                        |     |
| Cover Sheet for Hearing or              | 229 |
| Trial in Chief                          |     |
| Official Court Reporter's Index         | 230 |
| Official Court Reporter's Index         | 231 |
| Reporter's Index - Federal Court        | 232 |
| Testimony - 1st page                    | 233 |
| Colloquy, Voir Dire Examination         | 234 |
| Colloquy, In-Camera Proceedings         | 235 |
| Colloquy, Parentheticals                | 236 |
| Colloquy, Marking Exhibits              | 237 |

|                                                |     |
|------------------------------------------------|-----|
| Examples of Parentheticals                     | 238 |
| Exhibits                                       | 239 |
| Submitting Photos in lieu of Exhibits          | 240 |
| Official Court Reporter's Certificate          | 241 |
| Official Reporter's Cert. (deceased)           | 242 |
| Order Destroying Exhibits                      | 243 |
| Extension for Filing Transcript                | 245 |
| Self-Reporting Form                            | 247 |
| Arbitration - Title Sheet                      | 249 |
| Arbitration - Index                            | 250 |
| Arbitration Stipulations                       | 251 |
| Arbitration Statement of Issue                 | 252 |
| Arbitration Opening Statements                 | 253 |
| Arbitration - Exhibits                         | 255 |
| Arbitration Certificate                        | 256 |
| Interpreter Form                               | 257 |
| Suggested Realtime Rule Sheet<br>for attorneys | 258 |