



COURT REPORTERS SEMINAR

Jekyll Island Club Hotel

Jekyll Island, Georgia

Sunday, March 3, 2002  
8:45 a.m.

LEARNING THE DOS AND DON'TS OF  
TRANSCRIPT FORMATS

by  
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Thank you for the opportunity to meet with you today. I have spoken to various groups in the past, but I have never had the privilege of talking to court reporters before this occasion.

The job of the court reporter, especially in the appeal process, is of paramount importance. An accurate record of the testimony, objections, rulings and charge to the jury is essential for the appellate courts to make the proper determination of the cases that become them.

Your work product is what the appellate court reviews and is what the attorneys reference in their briefs. In my opinion, and when I practiced law, it was my policy never to try a case that you do not have reported. If a case is not worth reporting, it is not worth trying. [INSERT ANECDOTE]

There is a long line of cases which holds absent a transcript, it is presumed that the trial court acted appropriately. And that is the only way the law can be. If not, you will always have people claiming something was or was not said at trial or the court ruled or did not rule in a certain fashion.

For my remarks today, I would first like to show you a brief power point presentation about the Court of Appeals of Georgia, its inception, its caseload and how it operates.

Next, I would like to discuss with you what the Court of Appeals wants in terms of transcripts that we get from you, what we want and what we do not want.

After that, I would like to talk to you briefly about e-filing of transcripts in the appellate courts and finally I would like to reserve a little time to hopefully answer questions you may have.

[Power Point Presentation]

#### **THE DOS AND DON'TS OF TRANSCRIPT FORMATS.**

What we do not want at the Court of Appeals are reduced transcripts, contraband, original exhibits, such as; photographs, audiotapes, videotapes, or other physical evidence. Our rules state that no original evidence or exhibit shall be transmitted to the Court unless the Court directs the clerk of the trial court to transmit such original evidence or exhibits. The Court of Appeals can always order the record be supplemented with items, original documents, exhibits or evidence, if the Court deems it appropriate to have the originals for review.

Recently, the Court received some contraband. It was a baggy of suspected marijuana. Please do not send any contraband. Contraband should be in an evidence vault or it should be destroyed under the protocol and laws governing the destruction of contraband. Contraband is any substance or item which cannot be owned or possessed legally. (Rule 21)

Transcripts can only be accepted by the Court of Appeals which are certified by the court reporter and the clerk of the trial court. (Court of Appeals Rule 19). The Court of Appeals cannot receive transcripts except from the clerk. Often times, attorneys or other parties will try to file a transcript with the Court of Appeals. However, as stated earlier, the Court can only receive the transcript as delivered by the clerk or his or her designee and a transcript must be certified by both the court reporter and the clerk at the trial court. (Court of Appeals Rule 17).

Do is to certify each volume of a transcript. Do not renumber each volume of a transcript beginning with number 1. Continue to number the pages consecutively if the transcript is the same trial, or hearing.

## DEPOSITIONS

Depositions fall under the same requirements as transcripts. The Court does not want reduced transcripts nor want any original photos, exhibits or other evidence attached to the deposition. Depositions need to be certified by the court reporter and the clerk of the trial court. Depositions may come up as part of the record, but it is not required by this Court. Depositions can be filed in the appellate court in a group of several.

If original depositions are filed with the Court of Appeals with the appellate record, then one year after remittitur date, the original depositions will be returned to the clerk of the trial court. All original exhibits or evidence are returned to the clerk of the trial court one year after remittitur date.

Attorneys often fail to file depositions with the clerk of the trial court. In the old days, when I practiced law, the court reporter filed the depositions with the clerk of the trial court, so you did not have to worry about a deposition being properly filed with the clerk.

Now however, the court reporter sends the deposition to the attorneys who have the obligation of filing them with the court.

If you want to be a good guy, you should remind the attorneys to file their depositions with the clerk of the trial court. Cases in the Court of Appeals sometimes fail because the attorneys have failed to include in the record the necessary depositions.

If there is a problem with a record or transcript, OCGA §5-6-41(f) and (g) come into play. The Court of Appeals may have to remand the appeal to the trial court for an evidentiary hearing to determine factual issues regarding the accuracy or sufficiency of the record or transcript. The Court of Appeals cannot take testimony or hear evidence and therefore a record must be made out in the trial court on this issue. Again, this issue may be appealed.

Please pay particular attention to OCGA §5-6-41. I want to read you some of those subsections in that code section which deal with transcripts and your obligations in filing same.

### **E-FILINGS**

I am now about to tell you more than I know about e-filings. Even as we speak, a committee made up of representatives of the Court of Appeals, Supreme Court, the Georgia Courts Automation Commission and the Board of Court Reporting are working on a project to bring electronic transcripts to Georgia. Since the appellate courts are the ultimate final users of all documents generated by the

courts, this committee is working to set standards for electronic filing documents. These standards will be minimum configurations and requirements.

The committee is working toward a plan to have all transcripts filed for appeal be filed by e-filing. The Judicial Council has set compensation for court reporters, as of July 1, 2001, at \$60.00 per CD ROM. As a comparative example, the state of California has set the cost of CD ROM filings for 5 cents per page. Essentially, the court reporter will have to have a 1,200 page transcript in California to receive the equivalent of the electronic filing fee in Georgia. As I state, the committee now studying drafting rules and standards that would pertain to electronic transcripts on CD ROM. I would like to discuss today some of the technical standards that are being proposed and the time aligned to complete the project.

The deadline for the completion of the project is, what I feel is very optimistic January 2003. Basically, we are talking about ten months from now. There are several steps to be accomplished to meet this goal such as;

- (1) Set the compensation for court reporters to submit transcripts on CD ROM, which, as I mentioned earlier has already been established by the Judicial Council.

- (2) Create standardized naming conventions for transcripts. This is a fancy way of saying that the committee is going to establish certain uniform identifying criteria.
- (3) Set technical Standards: File type, delivery method.
- (4) Develop system for searching e-transcripts on appellate courts.
- (5) Start pilot project and begin receiving e-transcripts and testing systems.
- (6) Finalize Rules for the Supreme Court and Court of Appeals for receiving e-filing.
- (7) Requiring transcripts on CD ROM.

The committee is still working on the standard naming convention for transcripts but some of the that have been proposed to be included in the name are:

- (1) Lower court case number
- (2) Date of Transcript
- (3) Parties Name

There are other elements that are being discussed and will come to light later. Quite frankly, I am not even aware of what these are.

It is my hope that before standards are adopted in concrete and rules are imposed on court reporters, attorneys, trial court clerks and appellate court clerks, that all interested parties will have an opportunity to comment on the proposed standards and rules.

The writeable CD disks that are to be used are the type CD-R. This type of media differs from the CD-RW. The CD-R can only be written to once and cannot be altered and rewritten to the disk. This is important to maintain the integrity of the transcripts. In the future, the committee will be looking for digital signatures to be added to the disks before they will be certified as "official". The CD will be physically labeled either with a marker or specialized labels and contain the lower court case number and the county it is filed in. I suggest that the parties name be added as well, but this may be optional in the final draft.

### **E - TRANSCRIPTS**

E-transcripts will be separated into the same number of volumes to mirror the paper transcripts. They will be saved in a TDF file format. The tools that you will need to create these CDs are readily available. It is my understanding the Board of Court Reporting is currently negotiating with Dell computers, and possibly other vendors, to offer special rates to its members.

For the hardware configuration, you will need;

- a. A CD-RW disk drive. While you will be purchasing a CD-RW disk drive, you will be using the CD-R disk in it . That is, one that you can only write on once. The approximate cost is \$120.00 for an internal drive and \$200.00 for an external drive.
- b. CD-R disk media, which cost \$17.00 for a 50 pack of 700MB/80 minutes or approximately 34 cents per disk.
- c. The software configuration that will be needed is as follows:
  1. Adobe Acrobat 5 for Windows, cost \$270.00
  2. Microsoft Word for Windows 2002, cost full \$350.00, upgrade \$100.00
  3. Microsoft Office Suite XP, Cost Full \$470.00, upgrade \$230.00
  4. WordPerfect for Windows 2002 Suite, cost full \$400, Upgrade \$150.00
  5. CD ROM labeler kit, cost \$20.00
  6. CD ROM labels, cost 100 labels \$20.00 or 2 cents each

If you own or purchase one of the latest versions of the Office Suites then you can publish to PDF format directly without the need for the Adobe Acrobat 5 software. There will be other features

like creating a PDF linkable index that can only be done in Acrobat 5. The jury is still out as to whether the final standards will require index capability. I would anticipate that it would.

The committee will be soliciting information from the Board of Court Reporting, the AOC and GCAC. The committee will be drafting rules for both courts for their approval so that we end up with a system that is completely compatible to electronically interchanged transcripts between the two appellate courts.

It is anticipated that the committee will be finalizing the first rules for e-transcripts during the Fall and a pilot project will soon be implemented, tested and evaluated. This will be the final step prior to implementation. The committee's goal is to send out a new rule at least three months before the effective required date.

Again, I believe the target dates are very optimistic, however, there is some bright minds working on it and we may accomplish our time goals. If you have any questions or suggestions concerning the project, please contact Leslie Johnson or to the e-mail technical project manager, John Ruggeri at [efiling@appeals.courts.state.ga.us](mailto:efiling@appeals.courts.state.ga.us). Thank you.

I shall now be happy to take any questions you may have. Thank you.