

United States District Court

District of Maine



Court Reporting Management Plan

Effective July 8, 2015

I. Overview

This Court Reporting Management Plan for the United States District Court for the District of Maine has been approved by the First Circuit Judicial Council and adopted by the Court. This Plan is intended to supplement the provisions set forth in Title 28 U.S.C. § 753 and those provided by the [Guide to Judiciary Policy, Volume 6, Court Reporting](#).

The purpose of this Plan is to establish the effective management of court reporting services for all judicial officers holding court proceedings in this Court. This Plan is applicable to all court reporters employed or hired by the Court, including substitute and contract court reporters.

This Court uses a variety of court reporting services including official court reporters, electronic sound recording and, on occasion, contract court reporters.

Based on the Court's varying needs, it requires between three and five official court reporters at any one time, some of whom may be part-time reporters filling one such position. The Court utilizes Clerk's Office staff to operate electronic sound recording in the courtrooms as necessary.

II. Appointment, Pooling and Assignment of Official Court Reporters

Official court reporters shall be appointed in accordance with the provisions of 28 U.S.C. Section 753, the policies and procedures of the Administrative Office of the U.S. Courts and the Judicial Conference of the United States. Pursuant to 28 U.S.C. Section 753, only fully qualified reporters shall be appointed. Court Reporter qualifications are found in the Guide, Vol. 12, §581.40.30.

In order to ensure an even distribution of casework and coverage for the needs of the entire Court, a genuine pooling of reporters shall be effected in this District. It is the policy of this District that court reporters are not employed by or permanently assigned to individual judges. They are employed by and temporarily assigned by the Court en banc. A reporter shall continue to retain employment at the will of the Court en banc, regardless of death, resignation, or retirement of an individual judge. If the volume of work, over time,

does not justify retention of the full complement of reporters, a reduction shall be accomplished through relocation, attrition, reduction in court reporter work schedules or by giving a reasonable notice for termination of the appointment of not less than sixty (60) days and not more than ninety (90) days.

Pursuant to Judicial Conference policy, all initial appointments shall be on a probationary basis for a period of one year. Court reporters who do not perform in a competent and satisfactory manner, or do not comply with the requirements of this Plan, shall be subject to dismissal.

Due to the distance between Portland and Bangor, each of those places of holding court shall be treated independently from the other but in a uniform manner. The court reporters are expected to travel to each place of holding court, as necessary.

The Clerk shall, as nearly as possible, ensure that each reporter works an equal number of hours each week in court. A practical approach shall be taken to the assignment of reporters with the Clerk giving due regard to prolonged proceedings and the advisability of allowing continuity of reporters.

In the event a court reporter resigns, retires or is otherwise separated, the reporter will be required to meet with the Clerk and execute a certification form regarding his or her responsibilities for (1) filing of all official notes, tape recordings, discs, CDs or other acceptable forms of media; and (2) preparation of all transcripts which are currently ordered but not yet filed or which might be ordered after separation.

A. Supervision

The Clerk is hereby designated as the Court officer responsible for the day-to-day management and supervision of an efficient reporting program within the Court. The Clerk shall ensure that court reporters fulfill their statutory duties and that all assignments are accomplished on an equitable basis in order to facilitate efficient reportorial and transcription services to the Court and bar.

The Judicial Officers in this District shall act upon the hiring, disciplining, and enforcement of general policy matters concerning court reporters.

B. Hours and Benefits

Full and part-time court reporters are assigned a regular tour of duty, and as such regular office hours shall be maintained at both courthouses. The office hours that have been established are 8:00 a.m. to 5:00 p.m., Monday through Friday, unless otherwise authorized by the Clerk. Court reporters may be required to work outside of their normal work hours if their services are needed by a judge.

Full and part-time court reporters earn annual and sick leave pursuant to the Leave Act, 5 U.S.C. Section 6301. They must use annual or sick leave for any paid absences from work, and they are entitled to the same benefits available to judiciary employees. Leave

records for official court reporters shall be maintained by the Clerk. All requests for leave shall be submitted using the HRMIS Leave Tracking System. To the extent practicable, leave requests should be submitted far enough in advance to permit the scheduling of an alternate reporter.

C. Other Assignments

Magistrate Judges utilize electronic sound recording where authorized. However, care should be taken to comply with the provisions of Title 28 U.S.C. Section 753(b), especially in the case of criminal proceedings being heard by the Magistrate Judge by reference from a judge of this Court. Concerning civil cases, Magistrate Judges should proceed pursuant to Title 28 U.S.C. Section 636(c)(5).

A Magistrate Judge may use the services of a court reporter. The Clerk will endeavor to assign an official court reporter to the Magistrate Judge in order to alleviate the necessity for requiring the services of a contract reporter.

D. Realtime Reporting

Realtime court reporting technologies allow the stenotype or steno mask record to be electronically transcribed in the courtroom using software that translates the stenotype or steno mask recording instantaneously and displays it on a monitor in front of the reporter, judge, attorneys or other participants. Official court reporters shall have successfully completed the National Court Reporter Association (NCRA) Certified Realtime Reporter (CRR) examination or have passed an equivalent qualifying examination. Court reporters will provide realtime services upon request of a judge or a party. Reporters are responsible for familiarity with litigation support systems used by the Court and are to educate others in the use of such software. Realtime reporters (CRR) are authorized to charge attorneys for rough drafts or realtime hookups, using fees set by the Judicial Conference and adopted by this Court.

A CRR may charge and collect for a realtime translation. A realtime translation is defined as “a draft transcript produced by a federal certified realtime reporter as a by-product of realtime.” CRRs should not sell realtime translations to anyone who is not a party to the case without prior approval of the presiding judge.

All parties requesting realtime services shall be responsible for providing their own personal computers, viewer/annotation software and monitors. Upon the request of the parties, reporters may make equipment and software available. The CRR shall provide wiring and data communication connections needed to provide realtime services to these persons. Parties should coordinate and pre-test their equipment with the CRR at an agreed-upon time prior to any scheduled proceeding. The Court (e.g. the judge, law clerk, and courtroom deputy) will have the option of being provided realtime report services (without additional remuneration).

A CRR providing an unedited realtime transcript should offer comparable services to all parties to the proceeding. The primary purpose of realtime reporting services is to provide access to the unedited, uncertified transcript as the proceedings are occurring. It is not

intended to be used in subsequent proceedings for impeachment or for any other purpose, including distribution. Furthermore, a rough draft transcript may not be used for quotation purposes.

It should be noted that when a realtime translation is provided, there may be two versions of the transcript for one proceeding – unofficial and official. The realtime translation may contain errors, some of which could change the accuracy or meaning of the testimony. A realtime translation will not satisfy the requirement for the reporter to provide or file a certified transcript with the district court clerk or as the record on appeal when ordered by the parties or a judicial officer.

E. Daily Copies

The production of daily or hourly transcripts is not to be subsidized by the Court. Consequently, if extra reporters are required to provide such transcripts, the cost of such reporters shall be paid out of the earnings derived from the higher transcript rates as established by the Judicial Conference. This provision does not however, prohibit official court reporters from assisting in producing such transcripts if there are no other official proceedings to record, including those of magistrate judges, and when no substantial transcript backlog will result.

F. Private Reporting Activities

Court reporters may engage in private reporting work outside the United States Courts. Pursuant to Judicial Conference Policy adopted in March, 1980, the extent to which court reporters are allowed to engage in private reporting is a matter that has been left to the discretion of each individual court. When there is a conflict between official and private reporting work, the court reporter must postpone or not perform private reporting work.

All outside work shall not be allowed unless the reporter has less than 500 pages of transcripts outstanding and permission of the Clerk is sought and received. Court reporters under the Leave Act are not permitted to perform any private (freelance) work of any kind during their regular tours of duty, but may do so on personal time, i.e. nights and weekends or days not working. The Court notes that the Comptroller General has held that time off from duty in a pay status must be regarded as part of the regular tour of duty. Therefore, a court reporter cannot take time off to perform private reporting.

G. Access to Judiciary's Data Communication Network (DCN)

Court reporters are granted access to the DCN via government-owned computers provided by the Court. Court reporters are prohibited from using government-owned computers or DCN resources to generate transcript income. Contract court reporters are not permitted access to the DCN.

III. Electronic Sound Recording

Electronic sound recording equipment shall generally be used to record proceedings before a magistrate judge and may, on occasion, be used to record proceedings before a district judge if an official court reporter is not available. In this Court, the proprietary software “For The Record” (FTR) is used.

An electronic court recorder operator will maintain an electronic log of the proceedings recorded and will ensure sound and transcript quality. The electronic log and the digital audio recordings will be electronically stored on a designated court server and maintained by the Clerk’s Office.

All requests for transcripts of electronic court recordings must be made on Form AO 435 Transcript Order. An appropriate deposit based on the estimated number of pages must be made at the time of order. The deputy clerk shall forward the transcript order and the deposit to an official court reporter or contract with a professional transcription service for preparation of the transcript in accordance with the format, time schedule and fee requirements adopted by the Judicial Conference as if the transcript were produced by one of the Court’s reporters. The Clerk shall periodically review transcripts to ensure compliance with Judicial Conference requirements and transcript quality.

Requests for copies of CDs shall be made on Form AO 436 Tape Order and sold to the public at the rate approved by the Judicial Conference.

An official court reporter is not required, but may agree, to produce a transcript from electronic sound recordings of proceedings which the reporter did not attend. Such transcripts may be ordered by parties or the Court. The reporter shall be considered as a transcriber and may be paid no more than the rates established by the Judicial Conference.

Electronic sound recordings are not uploaded to the CM/ECF System.

IV. Contract Court Reporters and Substitute Reporters

In accordance with 28 U.S.C. § 753, it is the responsibility of the Court to take the official record of court proceedings, and that responsibility should not be delegated to a party, attorney or court reporter service hired by an attorney or party. In unique circumstances, the Court may permit attorneys or parties to utilize a private reporter to create an unofficial expedited record in accordance with the *Guide*, Vol. 6, § 460.20.10.

Contract reporters may be utilized only when all official court reporters are occupied in court proceedings or on approved leave, or for reasons beyond the court reporter’s control. Contract reporters shall not be utilized to relieve an official reporter for purposes of alleviating a transcript backlog unless each reporter in the district has logged at least 1000 hours reporting official proceedings within the past year, and then only if an official reporter is not available to provide the necessary relief services.

Travel of contract reporters within the district shall be allowed in instances when no official reporter is available at the location requiring reporting services and when the use of a contract reporter would be less costly to the government than utilizing an official reporter in travel status.

V. Transcripts of Official Proceedings

A. Fees for Transcripts

No court reporter, either official or contract, shall charge fees for transcripts of official proceedings which exceed those recommended by the Judicial Conference of the United States and adopted by this Court.

The Clerk shall post the allowable fee schedule on the Court's website.

On a quarterly basis, each reporter will furnish to the Clerk a copy of AO Form 40A with copies of all invoices concerning the transcript orders specified on AO Form 40A, so the Clerk or court reporter supervisor can approve it prior to submission to the AO and so monitor transcript orders to ensure compliance with all regulations regarding timely preparation, format, and fees charged. On a yearly basis, each reporter will furnish to the Clerk a copy of AO Form 40B regarding their statement of earnings, so that the Clerk or court reporter supervisor can approve it prior to submission to the AO.

The reporter shall produce all transcripts in the format required by the Judicial Conference and shall certify on each invoice that the fee charged and the page format used conform to the regulations of the Judicial Conference. The Clerk shall periodically review transcripts to ensure compliance with the Judicial Conference format requirements.

B. Transcripts for CJA Counsel

All transcripts produced for and on behalf of Criminal Justice Act (CJA) defendants shall be billed on the CJA Form 24. Copies of this form and instructions for its completion have been furnished to the court reporters by the Clerk. The respective reporter is responsible for assisting the ordering party in the proper preparation of the CJA Form 24.

CJA trial transcripts shall not include opening or closing statements of counsel, jury voir dire, or jury instructions unless specifically authorized by the trial judge. The routine apportionment of accelerated transcript costs among parties in criminal cases is prohibited.

In multi-defendant cases involving defendants represented by CJA counsel, the original fee may not be charged to parties who order a transcript that was already produced at the request of a judge. Only one charge (whether it represents the original or a copy) is permitted for multi-defendant cases involving CJA-represented defendants. In a multi-defendant case, if appointed counsel order a transcript that has previously been ordered and

paid for with CJA funds, the court reporter will, upon request, provide a copy of the transcript to appointed counsel without charge.

The Clerk of this Court is hereby designated to verify receipt of CJA transcripts and shall ascertain the propriety of each voucher before submitting the same to the appropriate judicial officer for approval. Payment shall be made by the Clerk upon approval of the Judge or Magistrate Judge as may be appropriate.

C. Time Limits for and Delivery of Transcripts

Transcripts of official proceedings produced by the court reporters for this district, for purposes of appeal, shall be delivered to the ordering party and filed with the Clerk of this Court within the time prescribed by the Federal Rules of Appellate Procedure, unless an extension has been obtained from the Clerk of the First Circuit Court of Appeals.

All transcripts of official proceedings produced by the court reporters for this district, for purposes other than appeal, shall be delivered to the ordering party and filed with the Clerk of this Court within thirty (30) days of the date of order unless an extension has been obtained from the Clerk of this Court.

Requests for transcripts and arrangements for payment shall be made directly with the court reporters. It is the responsibility of the court reporter to notify the Clerk should any conflict in this regard occur.

In the event that a reporter has overdue transcript(s), the reporter may be required to hire and pay substitute reporter(s) until such time as the overdue transcripts have been prepared. The reporter shall have the responsibility for the transcript production of any substitute reporter(s) so hired. A reporter shall not use substitute reporter(s) without the prior approval of the Clerk.

VI. Filing Shorthand Notes and Electronic Recordings

Each official and contract court reporter shall, within twenty-four (24) hours after the conclusion of a proceeding, certify all original shorthand notes and other original records of proceedings the reporter has recorded. The certified shorthand notes may be temporarily retained by the court reporter but shall be filed with the Clerk of the Court, accompanied by the Certificate of the Reporter form attached to this Plan, within ninety (90) days after the conclusion of the proceeding. Such notes may be temporarily removed by the court reporter as needed for transcription purposes.

Pursuant to the provisions of Title 28 U.S.C. Section 753, reporters must transcribe and certify all arraignments, pleas and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording and the electronic sound recordings have been certified and filed with the Clerk. Thus, for transcripts involving pleas, arraignments or sentencing matters, official and contract court reporters shall file the transcript with the Clerk within thirty (30) days of the close of the

proceeding unless it was recorded on electronic sound recording equipment. Any sound recording, shall be maintained by the court reporter in the office space the Clerk provides to the reporter; however, these sound recordings remain the property of the Clerk.

Court reporter notes, sound recordings and certifications are uploaded by the Court's non-contract court reporters and stored electronically on a Court server.

The work of all court reporters shall be "note-readable" so that the notes of a court reporter can be read by another reporter, if necessary.

VII. Reports and Records

Under 28 U.S.C. § 753(d), court reporters must submit reports, which serve as an aid to the Judicial Conference in setting the salaries of court reporters and transcript fees. For the AO to fulfill its responsibility for auditing and inspecting court reporters' records, the court reporters must maintain accurate, legible records that are auditable. Reporters must complete record keeping forms prescribed by the AO and submitted using the Automated Court Report Application (ACRA). See *Guide to Judiciary Policy*, Vol. 6 (Court Reporting).

VIII. Sanctions

Notice of overdue transcripts, overdue reports or other neglect of responsibilities shall be sent to the assigned or affected judge by the court reporter supervisor after one warning to the court reporter.

Consistent with Judicial Conference Policy, the Chief Judge and the Clerk are authorized to take necessary steps to sanction any reporter who is delinquent in complying with the Judicial Conference directive under the statute to submit attendance and financial reports. Such sanctions may include, but are not necessarily limited to (1) withholding of salary from a reporter until the report is filed; (2) instituting disciplinary action, as deemed appropriate by the Chief Judge.

Ultimately, any other violation of this Plan, whether it is for refusal to accept the directions of the Clerk or court reporter supervisor or failure to adhere to the fee schedule, transcript format or time limits for delivery, shall be referred to the Chief Judge for such disciplinary action as the Chief Judge deems appropriate.

This Court adopts the mandatory fee reductions for late filing of transcripts that have been adopted by First Circuit Judicial Council Order dated September 15, 2005.

Dated JULY 8, 2015

/s/ NANCY TORRESEN
Chief U. S. District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

FILING CERTIFICATE FOR OFFICIAL NOTES

In accordance with Title 28 U.S.C.A. § 753, I hereby certify that the original notes tendered herein for filing with the Clerk are the full, true and correct notes taken during oral proceedings before the United States District Court for the District of Maine.

Dated:

Name
Official Court Reporter