

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 01-14

In the matter of amendment of Supreme Court Rules 70.245, 71.01, 71.04 regarding court reporters.

FILED

APR 30, 2002

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

On April 17, 2002, the court held a public hearing on the amended petition filed on December 28, 2001, by the Director of State Courts, on the recommendation of the Committee of Chief Judges and District Court Administrators. The petitioner seeks to amend Supreme Court Rules under chapters 70 and 71 governing court reporters.

IT IS ORDERED that, effective July 1, 2002, the Supreme Court Rules are amended as follows:

SECTION 1. 70.245 of the Supreme Court Rules is created to read:

70.245 Assignment of court reporters. In order to effectively manage court reporting resources within each judicial administrative district, an official court reporter appointed by circuit court judges under s. 751.02, stats., may be assigned in any of the following ways:

- (1) The chief judge may assign any official court reporter, as needed, to any court within the district.
- (2) The director of state courts, with the advice and consent of the chief judges, may assign any official court reporter, as needed, to any court within the adjoining districts.
- (3) The director of state courts, with the advice and consent of the chief judges, may reassign any real time, certified, official court reporter, as needed, to any court within the district or the adjoining districts to provide reasonable accommodations under the Americans With Disabilities Act of 1990, 42 U.S.C. 12101 et seq.

Comment

The Wisconsin Court System recognizes the achievement and level of service provided by real-time certified official court reporters through a higher salary than reporters who are not real-time certified. This recognition is due, in part, to the expectation that real-time certified official court reporters may be reassigned as needed for ADA purposes.

SECTION 2. 71.01 (2) (d) of the Supreme Court Rules is created to read:

71.01 **(2)** (d) If accompanied with a certified transcript, videotape depositions offered as evidence during any hearing or other court proceeding.

Comment

It is customary that a transcript accompanies a video description when it is presented to the trial court. Therefore, a court reporter should not be required to again record the video when it is presented to the fact finder - provided a record is made of any editing of the video and the court reporter remains available while the video is presented to the fact finder in order to record any motions, objections, and rulings.

SECTION 3. 71.04 (2) of the Supreme Court Rules is amended to read:

71.04 (2) The original transcript of any proceeding, whether complete or partial, shall be filed with the court. The cost of such transcript shall be borne as provided in this rule and in ~~section s. 814.69 of the statutes~~ stats. Any unedited, uncertified transcript furnished pursuant to 71.04 (9) (b) is not the official record.

SECTION 4. 71.04 (6) of the Supreme Court Rules is amended to read:

71.04 (6) Except as provided in sub. (4), every reporter, upon the request of any party to an action or proceeding, shall make a typewritten transcript, and as many duplicates thereof as the party requests, of the testimony and proceedings reported by him or her in the action or proceeding, or any part thereof specified by the party, the transcript and duplicate thereof to be duly certified by him or her to be a correct transcript thereof. Any unedited, uncertified transcript furnished pursuant to 71.04 (9) (b) is not the official record.

SECTION 5. 71.04 (8) of the Supreme Court Rules is renumbered 71.04 (8) (a).

SECTION 6. 71.04 (8) (b) of the Supreme Court Rules is created to read:

71.04 (8) (b) A reporter shall include an index immediately following the title and appearance page(s) for each transcript of a proceeding in which testimony is taken or in

which an index would be helpful in locating distinct segments of a proceeding, such as:

1. Jury voir dire;
2. Opening statements;
3. Witness names in chronological order of appearance, including all witnesses on direct, cross, redirect, recross, rebuttal, and surrebuttal examinations; and witnesses subject to witness voir dire; and examination by the court;
4. The numbers and a description of each exhibit offered and received;
5. Closing arguments;
6. Instructions and verdict given to the jury;
7. Receipt of the verdict or rendering of the court's decision;
8. Polling of the jury; and
9. Sentencing.

The index shall list page numbers for the segments listed.

SECTION 7. 71.04 (9) of the Supreme Court Rules is renumbered 71.04 (9) (intro.) and amended to read:

71.04 **(9)** (intro.) A reporter may make a special charge, pursuant to an arrangement with the ~~party requesting same~~ requesting party, for furnishing any of the following:

(a) ~~typewritten~~ Typewritten transcripts of testimony and proceedings from day to day during the progress of any trial or proceedings.

SECTION 8. 71.04 (9) (b) of the Supreme Court Rules is created to read:

(b) Unedited and typewritten or electronic draft versions of testimony or proceedings.

SECTION 9. 71.04 (10m) of the Supreme Court Rules is created to read:

71.04 **(10m)** (a) If before trial the court approves a stipulation by all parties, an independent, freelance reporter may take the official record, or a portion of the official records, upon taking the official oath of office.

(b) If after trial the court approves a stipulation by all parties, an independent, freelance reporter's record of proceedings may be the official record or a portion of the official record.

(c) Before approving a stipulation under par. (a) or (b), the court shall consider the availability of an official reporter, including the ability of the official reporter to meet requests for providing daily transcripts.

(d) An independent, freelance reporter authorized under par. (a) or (b) shall comply with all of the requirements under this chapter relating to the production of an official record and transcripts and charges for transcripts.

SECTION 10. 71.04 (12) of the Supreme Court Rules is created to read:

71.04 **(12)** Upon request and payment for a certified paper copy of a transcript, a court reporter may provide an electronic

copy of the transcript. A reporter may charge an additional \$10 for the electronic copy of the transcript.

IT IS ORDERED that the proposed amendment to Supreme Court Rule 71.04 (4) is held in abeyance pending the court's consideration of rule petition 02-01.

IT IS FURTHER ORDERED that the petitioner's comments that accompanied these rule amendments in the petition filed on December 28, 2001, are not adopted and shall not be printed. The comments are available in the Office of the Clerk of the Wisconsin Supreme Court and the court's website, www.courts.state.wi.us.

IT IS FURTHER ORDERED that notice of this amendment of these Supreme Court Rules be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 30th day of April, 2002.

BY THE COURT:

Cornelia G. Clark
Clerk of Supreme Court

