

BOARD OF CERTIFIED REPORTERS
AMENDED Meeting Agenda - Tuesday, October 29, 2013

Arizona Supreme Court - 1501 West Washington Street
Phoenix, Arizona 85007 – **9:00 A.M.** - Conference Room 109
General Inquiries Call: (602) 452-3378 (Division Line)
Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).

CALL TO ORDER..... *G. Allen Sonntag, Chair*

1) REVIEW AND APPROVAL OF MINUTES.....*G. Allen Sonntag, Chair*

1-A: Review and approval of regular session minutes for the meeting of October 7, 2013.

1-B: Review and approval of regular session minutes for the meeting of October 10, 2013.

2) INITIAL CERTIFICATION AND ELIGIBILITY.....*Division Staff*

2-A: Review, discussion and possible action regarding applications for initial certification submitted by the following applicants:

- 1. Patricia Kotarba*
- 2. Laura Locascio*
- 3. Mary Hankins*

2-B: Review, discussion and possible action regarding the application for initial certification of Clark Edwards.

2-C: Review, discussion and possible action regarding applications for initial certification submitted by Terri Hourigan.

3) OTHER BUSINESS

3-A: Update on the current status of proposed code changes to Arizona Code of Judicial Administration § 7-206 and the Board's request for the appointment of a Task Force.

3-B: *Review, discussion, and possible action regarding proposed revisions to Arizona Code of Judicial Administration § 7-206.*

CALL TO THE PUBLIC *G. Allen Sonntag, Chair*

ADJOURNMENT *G. Allen Sonntag, Chair*

Y:\BOARDS COMMITTEES COMMISSION\CERTIFIED REPORTERS\AGENDAS - MATERIALS\2013\October 29, 2013\CR Agenda AMENDED 10-29-13.docx

BOARD OF CERTIFIED REPORTERS
Agenda Summary - Tuesday, October 29, 2013

1) REVIEW AND APPROVAL OF MINUTES

I-A: Review and approval of regular minutes for the meeting of October 7, 2013.

Attached for the Board's review are the regular session minutes from the board meeting of October 7, 2013.



BOARD OF CERTIFIED REPORTERS

Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Hearing Room 109

October 7, 2013
1:00 P.M.

Draft Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

G. Allen Sonntag, Chair
Hon. Peter Swann
J. Tyrrell Taber
Melissa Gonsalves

Telephonically Present:

Patricia Sequin
Terri Faust, Vice Chair
Cheryl Cummings
Kathleen Montalvo

Absent:

Hon. Edward Bassett

OTHER ATTENDEES:

AOC Staff:

Mark Wilson
Michelle Martinez
Linda Grau
Debbie MacDougall
Anne Hunter
Pasquale Fontana
Arnita Oliver

Guests:

CALL TO ORDER

Called to Order By: **G. Allen Sonntag, Chair**

Time: 1:03 P.M.

1) REVIEW AND APPROVAL OF MINUTES:

1-A: *Review and approval of regular session minutes for the meeting of August 12, 2013.*

Individual Addressing the Board: G. Allen Sonntag

Discussion: None

Motion: Move to approve the regular session minutes for the meeting of August 12, 2013.

Motion Proposals: First J. Tyrrell Taber
Second Patricia Seguin

Motion Results: Pass

2) PENDING COMPLAINTS:

2-A: *Review, discussion and possible action regarding the following certificate holder complaints:*

- Complaint Number 13-C005 – Kimberly McAndrews
- Complaint Number 13-C001 – Olivia Armenta

Individual Addressing the Board: Linda Grau

Discussion: **Complaint Number 13-C005** – Kimberly McAndrews: - The Division received this complaint from the Honorable Diane Johnsen, Court of Appeals on April 23, 2013. The complainant alleged that:

- Ms. McAndrews filed incomplete transcripts with false certifications of completeness in (4) Court of Appeals cases: CA-CR 120456, CA-CR 11-0750, CA-CR 12-0528, and CA-CR 12-0298.

The matter was investigated and submitted for probable cause determination.

Ms. McAndrews acknowledged to the Court of Appeals and the Division that she certified and filed transcripts as “full, true and accurate” records of court proceedings knowing they were not.

On July 29, 2013, Probable Cause Evaluator Mike Baumstark entered a finding probable cause *does exist* in complaint number 13-C005.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding grounds for formal disciplinary action exists pursuant to ACJA § 7-201(H)(6)(a), (H)(6)(k)(2), (H)(6)(k)(6), (H)(6)(k)(7), (H)(6)(k)(11) and (H)(6)(k)(12) for acts of misconduct involving ACJA § 7-201(F)(1), ACJA § 7-206(F)(1), (J)(1)(a), (J)(1)(f), (J)(2)(b), (J)(2)(c), (J)(4)(b), (J)(5)(f) and (J)(6)(a).

In considering that formal disciplinary action exists, it is recommended the Board recognizes:

Mitigating Factors:

- Absence of prior discipline.
- Personal or emotional problems.

Aggravating Factors:

- Multiple offenses-Ms. McAndrews acknowledges she knowingly falsely certified transcripts filed with the Court of Appeals as being accurate and complete.
- Substantial experience in the profession. Ms. McAndrews has held active certification since 2002.

Proportionality Analysis: (in part)

- The certification of a transcript as true, accurate and complete is a fundamental responsibility of each certified reporter. Falsely certifying a transcript undermines the judicial process and poses a risk to “property, freedom and life.”

Should the Board ultimately enter a finding these violations have occurred, it is recommended the Board impose the following sanctions pursuant to ACJA § 7-201(H)(24)(a)(6):

- a) Revoke McAndrews' reporter certification, pursuant to ACJA § 7-201(H)(24)(a)(6)(i) and Arizona Revised Statutes ("ARS") § 32-4041(A)(4);
- b) Issue a cease and desist order enjoining McAndrews from providing any and all reporting services that require active Arizona Supreme Court certification pursuant to ARS and/or AJCA and may not produce transcripts except for those proceedings that took place while McAndrews' certificate was valid and active;
- c) Assess costs associated with the investigation and related disciplinary proceedings, as a disciplinary sanction and a condition of reinstatement, to be remitted no later than ninety (90) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(j); and,
- d) Impose civil penalties, as a disciplinary sanction, in the amount of \$250.00 per found violation to be remitted no later than ninety (90) days following entry of the Board's Final Order, pursuant to ACJA § 7-201(H)(24)(a)(6)(k).

Motion: Move to accept staff's recommendation.

Motion Proposals: First Hon. Peter Swann
Second Patricia Seguin

Motion Results: Pass

Individual Addressing the Board: Linda Grau

Motion: The Board is asked to consider a motion authorizing the chair to sign a notice of formal charges on behalf of the Board.

Motion Proposals: First J. Tyrrell Taber
Second Hon. Peter Swann

Motion Results: Pass

Discussion: **Complaint Number 13-C001 – Olivia Armenta:**

The Division received this complaint on January 2, 2013. The complainant submitted four (4) allegations:

1. Ms. Armenta refused to give the complainant the audio tape and electronic file of the examination under oath.
2. Ms. Armenta altered, deleted, and modified the transcript of the examination under oath from the original.

3. The exhibits he received, two years later, were also altered, deleted and modified.
4. Ms. Armenta allowed another individual to engage in the unauthorized practice of law.

The matter was investigated and submitted for probable cause determination.

On August 15, 2013, Probable Cause Evaluator Baumstark entered a finding probable cause *does not exist* as to this complaint.

It is recommended the Board accept the finding of the Probable Cause Evaluator and dismiss complaint number 13-C001.

Motion: Move to accept staff's recommendation.

Motion Proposals: First J. Tyrrell Taber
Second Kathleen Montalvo

Motion Results: Pass

2-B: Review, discussion and possible action regarding the Division Director dismissal recommendation in complaint number 13-C006.

Individual Addressing the Board: Linda Grau

Discussion: Pursuant to ACJA § 7-201(H)(1)(g)(3), complaints recommended for dismissal by the Division Director are CONFIDENTIAL and not a matter of public record. If the Board wishes to address specific details regarding this matter, it is recommended the Board enter Executive Session to discuss matters confidential.

Complaint Number 13-C006:

On August 16, 2013, Division Director Mark Wilson recommended the Board dismiss complaint number 13-C006 without prejudice. Notice of the dismissal recommendation was forwarded to the complainant on August 19, 2013, along with notice of the complainant's right to request Board review. To date, no request for review has been received from the complainant. It is recommended the Board dismiss complaint number 13-C006.

Motion: Move to accept staff's recommendation and dismiss complaint number 12-C006.

Motion Proposals: First J. Tyrrell Taber
Second Hon. Peter Swann

Motion Results: Pass

2-C: Report regarding the status of pending complaints.

Individual Addressing the Board: Linda Grau

Discussion: As of September 26, 2013, there were 12 open complaints; based on the Board's actions, there are now a total of ten (10) open complaints. Four (4) are 5-to-9 months old and the remaining are in the 10-to-14 month time frame.

3) ADMINISTRATIVE ISSUES:

3-A: Review, discussion, and possible action regarding the establishment of the 2014 Board meeting schedule

Individual Addressing the Board: Debbie MacDougall

Discussion: The Board of Certified Reporters is asked to consider and approve a 2014 meeting calendar. It is recommended the Board meet on the second Monday of the applicable month at 1:00 P.M. as follows:

- February 10, 2014
- April 14, 2014
- June 9, 2014
- August 11, 2014
- October 20, 2014
- December 8, 2014

The Board of Certified Reporters decided to proposed new dates that would be applicable to all the members and present those dates at the next meeting.

3-B: Review, discussion and possible action regarding the certification renewal application deadline pursuant to Arizona Code of Judicial Administration § 7-201(G)(2).

Individual Addressing the Board: Linda Grau

Discussion: Staff recommends the Board establish the 2014-2016 renewal application deadline as February 2, 2014.

Motion: Move to accept staff's recommendation.

Motion Proposals: First J. Tyrrell Taber
Second Terri Faust
Motion Results: Pass

3-C: *Discussion and possible action concerning random audits of continuing education compliance for renewal.*

Individual Addressing the Board: Linda Grau

Discussion: It is recommended the Board request staff to sample audit 20% of the certified reporter pool for continuing education compliance. (Please Note: There are 458 certified reporters at this time, 20% would be 92.)

Motion: Motion to request staff to sample audit 10% of the certified reporter pool for continuing education compliance.

Motion Proposals: First Hon. Peter Swann
Second J. Tyrrell Taber
Motion Results: Pass

4) INITIAL CERTIFICATION AND ELIGIBILITY

4-A: *No applications to be considered by the Board at this meeting.*

Individual Addressing the Board: Linda Grau

5) OTHER BUSINESS:

5-A: *Review, discussion, and possible action regarding proposed revisions to Arizona Code of Judicial Administration § 7-206.*

Individual Addressing the Board: Mark Wilson

Discussion: Discussion is held among the Board members regarding the proposed revisions of ACJA § 7-206. The Board requested that an additional meeting be scheduled within the week so that further discussion can be held regarding this issue.

CALL TO THE PUBLIC

G. Allen Sonntag, Chair

Individuals Addressing the Board: Scott Rhodes
Doreen Sutton
Marty Herder
Pam Griffin
Haley Westra
John MacDonald
Kathy Fink
Mary Meyer
Julie Ottmar
Donna DeLavina

[NOTE: During call to the public, a recess was taken at 2:40 P.M. and the meeting reconvened at 2:58 P.M.]

ADJOURNMENT

G. Allen Sonntag, Chair

Motion: Move to adjourn.

Motion Proposals: First J. Tyrrell Taber
Second

Motion Results: Pass

Time: 3:20 P.M.

Initials: AO

BOARD OF CERTIFIED REPORTERS
Agenda Summary - Tuesday, October 29, 2013

1) REVIEW AND APPROVAL OF MINUTES

1-B: Review and approval of regular minutes for the meeting of October 10, 2013.

Attached for the Board's review are the regular session minutes from the board meeting of October 10, 2013.



BOARD OF CERTIFIED REPORTERS

Arizona State Courts Building
1501 West Washington Street, Phoenix, Arizona 85007
Hearing Room 109

October 10, 2013
1:30 P.M.

Draft Regular Meeting Minutes

MEMBER ATTENDANCE:

Present:

G. Allen Sonntag
Hon. Peter Swann
Melissa Gonsalves
J. Tyrrell Taber

Telephonically Present:

Cheryl Cummings
Terri Faust

Absent:

Patricia Seguin
Kathleen Montalvo
Hon. Edward Bassett

OTHER ATTENDEES:

AOC Staff:

Mark Wilson
Debbie MacDougall

Guests:

CALL TO ORDER

G. Allen Sonntag, Chair

Called to Order By:

Time: 1:43 P.M.

1) ADMINISTRATIVE ISSUES

1-A: *Review, discussion, and possible action regarding the establishment of the 2014 Board meeting schedule.*

Individual Addressing the Board: Debbie MacDougall

Discussion: At the October 7, 2013 meeting, a request was made that the Board meet on Tuesdays instead of the proposed day of Mondays. The dates listed below are the second Tuesday of the appropriate month in 2014.

Therefore, it is recommended the 2014 meeting calendar be set as follows:

February 11, 2014
April 8, 2014
June 10, 2014
August 12, 2014
October 14, 2014
December 9, 2014

Motion: Move to accept staff's recommendation to accept the 2014 meeting calendar.

Motion Proposals: First Hon. Peter Swann
Second Melissa Gonsalves

Motion Results: Pass

2) OTHER BUSINESS:

2 -A: *Review, discussion, and possible action regarding proposed revisions to Arizona Code of Judicial Administration § 7-206.*

Discussion: Discussion is held among the Board members and Judge Peter Swann makes the following motion:

“The Board supports revision to the rules that would ensure that everyone and I do mean everyone is subject to the same requirements as everybody else. That those requirements be calibrated to guarantee the sanctity of the record and that we recognize that right now there are legitimate threats to the sanctity of the record based upon current conditions in the industry, and I believe it is the further sense of the Board...I don't mean to speak for it but I am proposing this language... that the current proposed revisions though well intentioned may not achieve that goal adequately and that's the reason that we would recommend a task force. That the task force be appointed by the Supreme Court and that the members be selected for their varying perspectives and I say perspectives advisably. I don't think that this is a time to have interest groups compete with one another. I think this is a time to bring together people with knowledge from various areas of the issue and that the court should appoint the members of the task force with due regard to the perspectives that people bring to the issue. If the court chooses to appoint such a task force, it should request that the task force produce a proposal in time for the December AJC meeting.”

Motion: Move to have the Division consider the Board's motion to appoint a task force.

Motion Proposals: First Hon. Peter Swann
Second J. Tyrrell Taber

Motion Results: Pass

CALL TO THE PUBLIC

G. Allen Sonntag, Chair

Individuals Addressing the Board:

Marty Herder (addressed the Board prior to call to the public)
Dan Maynard
Michelle Balmer

ADJOURNMENT

Motion: Move to adjourn.

Motion Proposals: First J. Tyrell Taber
Second

Motion Results: Pass

Time: 2:31 P.M.

Initials: AO

BOARD OF CERTIFIED REPORTERS

Agenda Summary - Tuesday, October 29, 2013

2) INITIAL CERTIFICATION AND ELIGIBILITY

2-A: *Review, discussion and possible action regarding applications for initial certification submitted by the following applicants:*

1. *Patricia Kotarba*
2. *Laura Locascio*
3. *Mary Hankins*

For the following applicants, the NCRA has verified passing RPR scores and Division staff has confirmed the applicants meet the minimum eligibility requirements for certification contained in ACJA § 7-206(E). Each applicant has passed the Arizona Written Exam. Reported current and prior certifications in others states have been verified and confirmation has been received the applicable applicants have not been the subject of disciplinary action in the other states. Each applicant has been subjected to an Arizona court contact background check and an FBI fingerprint check.

1. Patricia Kotarba – Applicant has 34 years of experience as a court reporter and is currently certified and in good standing with the State of Illinois. Applicant reports she has a job in Arizona upon being granted certification.
2. Laura Locascio – Applicant has 17 years of court reporting experience. Ms. Locascio currently holds active and in good standing certification in Illinois, California and Nevada.
3. Mary Hankins – Applicant has 21 years experience as a court reporter, currently holds certification and is in good standing in New Mexico, previously held certification in Texas.

It is recommended the Board grant initial certification to Patricia Kortaba, Laura Locascio and Mary Hankins.

BOARD OF CERTIFIED REPORTERS

Agenda Summary - Tuesday, October 29, 2013

2) INITIAL CERTIFICATION AND ELIGIBILITY

2-B: Review, discussion and possible action regarding the application for initial certification of Clark Edwards.

It is recommended the Board consider and discuss the following information regarding applicant Clark Edwards. Mr. Edwards reports 25 years of court reporting experience and presently holds active certification in good standing in Utah. Mr. Edwards previously held active certification in California from January 23, 1991 through October 31, 1995 with no record of being the subject of disciplinary action. The following disclosures were presented in the application and background review identified no additional non-disclosures:

- Mr. Edwards disclosed having terminated from employment as an official reporter at the Superior Court in Maricopa County in 2001, citing the cause for termination as punctuality issues. Division staff contacted the Managing Court Reporter at the Superior Court in Maricopa to confirm the cause for employment and was advised the court's human resources department maintains records for 5 years and no information is available regarding Mr. Edwards termination.
- Mr. Edwards disclosed having been called before the "an officer of the court" on two prior occasion regarding late transcripts during the mid-1990's. Absent details which would provide for court record review, Mr. Edwards confirmed he attended a hearing regarding the transcript(s), requested and was granted a short extension and ultimately filed the transcript within the extension period. Mr. Edwards does not recall whether any findings were entered against him.

Grounds for Mr. Edwards' termination from the Superior Court in Maricopa County and his being called to answer regarding the late transcript issue could not be verified by court records. It is recommended the Board consider and discuss whether these matters pose any challenge to certification being granted.

BOARD OF CERTIFIED REPORTERS

Agenda Summary - Tuesday, October 29, 2013

2) INITIAL CERTIFICATION AND ELIGIBILITY

2-C: Review, discussion and possible action regarding applications for initial certification submitted by Terri Hourigan.

NCRA has verified Ms. Hourigan's passing RPR score and Division staff have confirmed the applicant meets the minimum eligibility requirements for certification contained in ACJA § 7-206(E). Ms. Hourigan has passed the Arizona Written Exam. She has 35 years of court reporting experience and currently holds active and in good standing certification in California and Nevada. It is recommended the Board grant initial certification to Terri Hourigan.

BOARD OF CERTIFIED REPORTERS
Agenda Summary - Tuesday, October 29, 2013

3) OTHER BUSINESS

3-A: Update on the current status of proposed code changes to Arizona Code of Judicial Administration § 7-206 and the Board's request for the appointment of a Task Force.

Mark Wilson will provide an update to the Board.

BOARD OF CERTIFIED REPORTERS
Agenda Summary - Tuesday, October 29, 2013

3) OTHER BUSINESS

3-B: Review, discussion, and possible action regarding proposed revisions to Arizona Code of Judicial Administration § 7-206.

Attached for the Board's review are the proposed revisions as to ACJA § 7-206.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-206: Certified Reporter

A. **Definitions.** In addition to the definitions in ACJA § 7-201(A), the following definitions apply:

“Board” means “the board of certified reporters” as provided in A.R.S. § 32-4002(1).

“Certify” means “board authorization to engage in activities regulated by the board” as provided in A.R.S. § 32-4002(4).

“Certification” means ~~“a standard certificate that is issued by the board to a person who meets the requirements of §§ 32-4021 and 32-4022 and does not include a temporary certificate”~~ as provided in A.R.S. § 32-4002(2) an avowal included with each complete transcript that affirms a transcript is a full, true and accurate record of a proceeding and otherwise compliant with Arizona Revised Statutes and ACJA.

“Certified reporter” means a person who holds “a standard certificate that is issued by the board to a person who meets the requirements of A.R.S. §§ 32-4021 and 32-4022 ~~“a person who is certified by the board and who records and transcribes a verbatim record in any sworn proceeding by means of written symbols or abbreviations in shorthand, machine writing or voice writing”~~ as provided in A.R.S. § 32-4002(3).

“Chapter” means Title 32, Chapter 40, Board of Certified Reporters, Arizona Revised Statutes.

“Report” means “to stenographically or by voice writing record and transcribe sworn proceedings” as provided in A.R.S. § 32-4002(5).

“Temporary certificate” means a certificate that has been extended pursuant to Laws 1999, Ch. 335, § 3; Laws 2000, Ch. 41, § 13 and subsection G(4)(a).

“Voice writing” means “the making of a verbatim record of the spoken word by means of repeating words of the speaker into a device that is capable of digital translation into text” as provided in A.R.S. § 32-4002(6).

B. - I. [No change.]

J. **Code of Conduct.** The following code of conduct is adopted by the supreme court to apply to all certified reporters pursuant to Title 32, Chapter 40, Arizona Revised Statutes. The purpose of this code of conduct is to establish minimum standards for performance by certified reporters.

1. Ethics.

- a. A certified reporter shall avoid impropriety and the appearance of impropriety in all professional activities, shall respect and comply with the laws and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system.
- b. A certified reporter shall exercise fairness and impartiality toward each participant in all aspects of reported proceedings and always offer to provide comparable service to all parties in a proceeding.
- c. A certified reporter shall have no personal or financial self-interest in the reporting of a proceeding and shall exercise caution to avoid any appearance of self-interest.
- d. A certified reporter shall be alert to situations that are conflicts of interest that may give the appearance of a conflict of interest or create an appearance of partiality.
- e. A certified reporter shall promptly make full disclosure to all parties or their representatives of any relationships which may give the appearance of a conflict of interest or partiality.
- f. A certified reporter shall refrain from knowingly making misleading, deceptive, untrue or fraudulent representations while in the practice of reporting. A certified reporter shall not engage in unethical or unprofessional conduct that is harmful or detrimental to the public in the practice of reporting. Proof of actual injury is not required.
- g. ~~A person holding a certificate under this section shall not enter into an employment, independent contractor, or agency relationship, which requires the certificate holder to:~~
 - ~~(1) Relinquish control in a manner that prevents the certificate holder's monitoring, oversight and review of the preparation, production and distribution of the transcript and copies of the transcript before it is certified and delivered to the custodial attorney;~~
 - ~~(2) Relinquish control in a manner that prevents the certificate holder's inspection and copying of records of charges, billings, and invoicing to all parties relating in any way to the reporting of the proceedings or cases and production of the transcript provided by the certificate holder and any products or services ancillary thereto;~~
 - ~~(3) 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;~~
 - ~~(4) Give any economic or other advantage to any party, or their attorney, representative, agent, or insurer; or~~
 - ~~(5) Expressly or impliedly requires the certificate holder reporting any proceeding or case to perform court reporting services in any other proceeding or case at a~~

~~specific rate of compensation or compels, guarantees, regulates, or controls the use of particular court reporting services in other proceedings or cases.~~

~~This subsection shall not apply to contracts for certified reporting services for the courts, agencies, or instrumentalities of the United States or of the State of Arizona.~~

A certified reporter's certification of a transcript as required by section (F)(3) means based upon personal knowledge the reporter affirms the following:

- (1) The transcript is a full, true and accurate record of the proceeding;
- (2) The preparation, production and distribution of the transcript and copies of the transcript has been performed in compliance with the Arizona Revised Statutes and ACJA;
- (3) All billings and invoicing to all parties related in any way to the reporting of the proceedings or cases and production of the transcript and any products or services ancillary thereto have been performed in compliance with the Arizona Revised Statutes and the ACJA;
- (4) All financial terms and other services have been offered on the same terms to all parties in the litigation; and
- (5) No economic or other benefit was given to any party, or their attorney, representative, agent, or insurer that was not provided to other parties, attorneys, representatives, agents or insurers in the same case.

h. A reporter shall not take a deposition if the certified reporter is:

- (1) A party to the action;
- (2) A relative, employee, or attorney of one of the parties;
- (3) Someone with a financial interest in the action or its outcome; or,
- (4) A relative, employee, or attorney of someone with a financial interest in the action or the outcome. For the purposes of this subparagraph, "employee" or "relative" shall not include an employee or relative of the attorney or one of the parties.
- ~~(5) An "employee" includes a person who has a continuing contractual relationship, express or implied, with a person or entity interested in the outcome of the litigation, including anyone who may have ultimate responsibility for payment to provide reporting or other court services, and a person who is employed part-time or full-time under contract or otherwise by a person who has a contractual relationship with a party to provide reporting or other court services.~~

i. A judicial officer may declare a deposition void if a certified reporter with an association to a matter, as described in this subsection, takes a deposition.

j. The provisions of section 7-206 may not be waived by disclosure, agreement, stipulation, or otherwise.

2. Professionalism.

- a. A certified reporter shall preserve the confidentiality and ensure the security of information, verbal or written, entrusted to the certified reporter by the court or any of the parties in the proceeding; and unless otherwise authorized by law may only release the information to the parties or their authorized agents.
- b. A certified reporter shall be truthful and accurate when advertising or representing the certified reporter's qualifications, skills, abilities, or the services provided.
- c. A certified reporter shall maintain and observe the highest standards of integrity and truthfulness in all professional dealings.
- d. A certified reporter shall keep abreast of current literature, technological advances and developments and shall fulfill ongoing training requirements to maintain professionalism.
- e. As part of the judicial department's commitment to the principle of access to justice for all and the integral role of certified reporters, certified reporters are encouraged to provide pro bono services, when requested through qualified legal assistance organizations providing free legal services to the indigent. Certified reporters providing pro bono services pursuant to this subsection shall disclose the pro bono services to all parties in the case.

3. Fees and Services.

- a. Except as provided in subsection (J)(2)(e), a certified reporter shall charge all parties or their attorneys in the same action the same price for an initial copy of a transcript. Additional copies purchased by the same ordering party may be charged at a reduced rate provided disclosure is made to all parties involved in the case and the same reduced rate for additional copies is provided to all parties involved in the case. Each party shall be treated as an individual party to the action and is required to purchase an initial copy at the same rate provided to all parties requesting a copy in the same action before they may obtain additional copies at a reduced rate. A certified reporter may provide services on a pro bono basis as provided in this section.
- b. A certified reporter shall, upon request at any time, disclose in writing an itemization of all rates and charges to all parties or their attorneys, or to division staff. A certified reporter shall maintain an accurate account of services rendered and provide copies of invoices to any requesting party involved in the case or upon the request of the board or division staff.
- c. A certified reporter shall ~~determine fees independently, except when established by statute or court order, entering~~ not enter into no an unlawful agreements with other reporters on concerning the fees to any user, that is unlawful or inconsistent with this code section.

- d. A certified reporter shall charge no less than 60 percent more for an original transcript than what is charged for copies in all cases. The charge for the original transcript includes the per diem paid for the reporter's appearance.
- e. A certified reporter shall at all times be aware of and avoid impropriety or the appearance of impropriety, which may include, but is not limited to:
 - (1) Establishing contingent fees as a basis of compensation;
 - (2) Directly or indirectly receiving of any gift, incentive, reward, or anything of value as a condition of the performance of professional services;
 - (3) Directly or indirectly offering to pay any commission or other consideration in order to secure professional assignments;
 - (4) Directly or indirectly giving, for the benefit of employment, any gift, incentive, reward or anything of value to attorneys, clients, witnesses, insurance companies or any other persons or entities associated with the litigation, or to the representatives or agents of any of the foregoing, except for:
 - (a) Nominal items that do not exceed \$25.00 per transaction and \$100.00 in the aggregate per recipient each year; and
 - (b) Pro bono services; and
 - (5) Entering into any written or verbal financial relationship or agreement with counsel, parties of interest or their intermediaries that: would require a certified reporter to violate any provision of this code section.
 - ~~(a) Undermines the actual or perceived impartiality of the certified reporter; or~~
 - ~~(b) Does not provide or offer any private party of interest comparable reporting services in the same proceedings.~~

J.(4 - 6) [No change.]

K. - L. [No change.]

M. Transcript Format Standards. Transcripts filed by certified reporters in courts in the state of Arizona shall conform to the following standards:

- 1. Applicability. Each transcript prepared by a certified reporter shall consist of the following pages:
 - a. Title page;
 - b. Table of contents and index page;
 - c. Appearance page; and
 - d. Certificate page.

2. Title Page.

a. Court Proceedings. The title page shall contain:

- (1) Case caption;
- (2) The type of proceedings: grand jury, jury trial, type of motion, etc.;
- (3) The date of proceedings;
- (4) The city and state where the proceedings were held;
- (5) The name of the judicial officer;
- (6) The name of the certified reporter, title ("certified reporter" or "CR") and certificate number;
- (7) A clear indication that a transcript is a partial transcript or excerpt; and
- (8) Other applicable information.

b. Depositions and Other Non-court Proceedings. The title page shall contain:

- (1) Case caption;
- (2) The type of proceedings: deposition, sworn statement, unsworn statement, etc.;
- (3) The date of the proceedings;
- (4) The city and state where the proceedings were held;
- (5) The name of the certified reporter, title ("certified reporter" or "CR") and certificate number; and
- (6) Other applicable information: excerpts, volume number.

c. Index Page.

- (1) Court Proceedings. The index page, if applicable shall:
 - (a) Begin on a separate page;
 - (b) Show each witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
 - (c) Indicate for each witness the page numbers of direct, cross, and redirect examination, etc.;
 - (d) Show other important events and the page number they occur: jury selection, opening statements, closing arguments, verdict, etc.; and
 - (e) Identify when exhibits are marked or introduced, admitted or excluded.
- (2) Depositions and Other Non-court Proceedings. The index page shall:
 - (a) Begin on a separate page;
 - (b) Show the witness name typed on the index page as it appears in the transcript: middle initial, no middle initial, full name, Jr., etc.;
 - (c) Indicate for each witness the page numbers of examination by each attorney or party;
 - (d) Show other important events and the page number they occur; and
 - (e) Identify when exhibits are marked or identified.

d. Appearance Page.

- (1) Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Indicate the name of the attorneys and which party they represent. Attorney addresses may be included;
 - (c) Indicate parties appearing in propria persona; and
 - (d) Indicate the names of the grand jurors present.
- (2) Depositions and Other Non-Court Proceedings. The appearance page shall:
 - (a) Begin on a separate page;
 - (b) Identify the location where proceedings took place;
 - (c) Indicate the time the proceedings began;
 - (d) Indicate the name and address of the attorneys and which party they represent;
 - (e) Indicate parties appearing in propria persona; and
 - (f) Indicate all other individuals present in the room during the proceedings: videographers, interpreters, etc.

e. Certificate Page.

- (1) Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain language indicating the transcript is a full, true and accurate record of the proceeding;
 - (c) Be signed and dated by the certified reporter; and
 - (d) Include the reporter's certificate number.
- (2) Depositions and Other Non-Court Proceedings. The certificate page shall:
 - (a) Begin on a separate page;
 - (b) Contain the following language: indicating the transcript is a full, true and accurate record of the proceeding;

This certification is valid only for a transcript accompanied by my signature.

I, [reporter's name], Certified Court Reporter in and for the State of Arizona, as an officer before whom this testimony was taken, do hereby certify that [the name of the person(s) to whom oath was administered], after having been sworn by me upon authority of A.R.S. § 41-324(B), did testify as hereinbefore set forth in the foregoing [number of pages], that this testimony was reported by me in the [steno: stenomask] reporting method and is a true and correct transcript; that the transcript has been prepared in compliance with the transcript format guidelines required by Arizona Revised Statutes and ACJA as well as the ACJA § 7-206(J) Code of Conduct; and that I am not related to counsel or to the parties herein, nor am I otherwise interested in the outcome of this matter.
 - (c) Be executed only when the court reporter reviews and approves the accuracy of the transcript to which the certification is attached and can provide the affirmation required by ACJA § 7-206(J)(1)(g) ~~Contain language indicating~~

~~the reporter administered an oath or affirmation to each witness whose testimony appears in the transcript pursuant to A.R.S. § 41-324(B);~~

- (d) Be signed and dated by the certified reporter;
- (e) Include the reporter's certificate number; and
- (f) Indicate whether the witness has requested signature, not requested signature or waived signature.

M.(2)(f-g) [No change.]