

# Supreme Court Board of Certified Reporters

Arizona State Courts Building  
1501 West Washington, Phoenix, AZ 85007  
Conference Room CLD1  
10:00 a.m. - 2:00 p.m.

**February 13, 2006**  
**Approved Regular Session Minutes**

**Members Present:**

Judge Lawrence Winthrop  
Patricia Seguin  
Jennifer Stadler  
Jean Lea  
Judge Jan Kearney  
Kathleen Montalvo  
Sandra Markham  
William Druke

**AOC Staff Present:**

Rhonda Simmons  
Nina Preston  
Brenda Lee Dominguez  
Dara Fonseth  
Nancy Swetnam  
Kimberly Siddall

**Guests:**

Jennifer Greene  
Denise Blommel  
Joseph Noter  
John Bouley  
Linda Hironimus  
Marvin Atwood  
Kate Baumgrath

**Members Absent:**

Jennifer Stadler

**Members Telephonically Present:**

James Bouley

## *Regular Session*

### **Call to Order**

The meeting was called to order by Sandra Markham at 10:09 a.m.

### **Topics for Discuss**

- *Re-thinking Reporter Notes Storage Procedures in Capital Cases.*

Jennifer Greene, Court Services Division of AOC, gave a presentation to the Board reflecting proposed changes to court rules suggested by the Technical Advisory Council. A draft report titled "Electronic (Digital) Recording of Court Proceedings" was provided to the Board. Major issues being addressed is the transition from paper to electronic storage and retention period for capital cases.

- *Validation of NVRA Examinations.*

Rhonda Simmons reported to the Board the NVRA examination has been validated, but the actual report has not been received. Ms. Simmons recommended the Board wait to determine the voice proficiency examination for certification until they have the report.

- *Industrial Commission Cases...certified reporter or not?*

Rhonda Simmons reported to the Board it has been brought to her attention that stenographic reporters who are not certified are being allowed to take Industrial Commission cases. Ms. Simmons was informed these reporters were told by the Industrial Commission Presiding Judge that they do not need to be certified. Nina Preston, legal counsel, will research the statutes in order to give advice on this matter at the next Board meeting.

### **Recommendations and Board Action**

- *Applicants for initial certification.*

Kimberly Siddall reported the following applicants have submitted initial applications. The applications are complete; however, their fingerprint results have not been received by staff. Therefore, it is recommended that provisional certification be granted:

Amy Blosser  
Kerry Fremerman  
Deborah Roth

A **motion** was made by Jean Lea and seconded by William Druke to grant Provisional Standard Certification to the reporters listed above based on all documents provided and pending results of the fingerprint background check. Motion passed. **BCCR-06-024**

#### *Standard Certification*

Kimberly Siddall reported Stephanie Gustave has submitted an initial application. The application is complete; no information has been presented during the background which is contrary to certification being granted. Ms. Gustave has demonstrated she meets the eligibility requirements for certification. It is recommended initial standard certification be granted.

Stephanie Gustave

A **motion** was made by William Druke and seconded by Patricia Seguin to grant Standard Certification to Stephanie Gustave based on all documentation provided showing applicant meets all qualifications for certification. Motion Passed. **BCCR-06-025**

- *Applicants for renewal.*

Shirley Kenyon

A **motion** was made by Judge Lawrence Winthrop and seconded by Jean Lea to grant Shirley Kenyon Standard Certification based on documentation provided showing she meets all qualifications for renewal. Motion passed. **BCCR-06-026**

Kimberly Siddall reported Pamela Banas-Cook has submitted a renewal application. The application is complete, with no information presented during background process. Ms. Banas-Cook received 8 hours of continuing education in 2005 and 6 hours in 2006. It is recommended the Board allow for 2 hours of continuing education completed in 2006 be applied toward her renewal and direct Ms. Banas-Cook to pay a \$25.00 late fee for not completing 10 hours of continuing education in 2005 and she must complete 10 hours of continuing education for 2006 which does not include the 2 hours used for 2005 renewal.

Pamela Banas-Cook

A **motion** was made by William Druke and seconded by Patricia Seguin to grant Pamela Banas-Cook Standard Certification, apply 2 continuing education credit hours from 2006 to 2005, and pay a delinquent continuing education compliance fee of \$25.00 for not completing 10 hours of continuing education in 2005. Motion passed. **BCCR-06-027**

- *Applicants for Provisional Certification Renewal.*

Kate Baumgarth

Denise M. Blommel, attorney for Kate Baumgarth, addressed the Board and requested Ms. Baumgarth be granted certification despite her failing to pass the remaining skill component of the RPR by one error on November 5, 2005 because she can demonstrate her proficiency through alternative means pursuant to A.R.S. §32-4022(B)(1) and (E). Ms. Blommel stated her client fits into the definition of disabled under Title II of the ADA, due to the severe panic attacks experienced while taking the RPR examination.

James Bouley left the meeting telephonically at 11:02 a.m.

#### **Executive Session – 11:02 a.m.**

A **motion** was made by Judge Lawrence Winthrop and seconded by Jean Lea to go into Executive Session for advice from legal counsel. Jim Bouley recused. Motion passed. **BCCR-06-028**

#### **Break**

#### **Executive Session Ended at 12:21 p.m.**

#### **Review and Approval of Regular and Executive Session Minutes**

William Druke requested on page 4 under Continuing Education Issues in the motion BCCR-06-11 the word “a” in the last line be removed.

A **motion** was made by Judge Lawrence Winthrop and seconded by Kathleen Montalvo to adopt the amended Regular Session minutes for January 9, 2006. Motion passed. **BCCR-06-029**

A **motion** was made by William Druke and seconded by Judge Lawrence Winthrop to adopt the Executive Session minutes for January 9, 2006. Motion passed. **BCCR-06-030**

### **Recommendations and Board Action (revisit)**

- *Applicants for Provisional Certification Renewal.*

The following reporters were granted an extension of their Provisional Standard Certificates until February 13, 2006 in order to allow them to provide the results of their November 2005 RPR to the Board by January 31, 2006:

Kate Baumgarth  
Sharon Flores  
Adam Gage  
Lori Hetland  
Kathleen Incavo  
Mary Manning  
Ana-Leticia Quintero  
Lynette Rozwood

A **motion** was made by Judge Lawrence Winthrop and seconded by Judge Jan Kearney to direct Nina Preston to research the American with Disabilities Act and provide legal advice to the Board regarding Provisional Standard Certification to Kate Baumgarth and to place this matter on the agenda for the March 13, 2006 Board meeting. James Bouley recused. Motion passed. **BCCR-06-031**

A **motion** was made by William Druke and seconded by Judge Lawrence Winthrop to deny renewal of Provisional Standard Certification to Sharon Flores for failure to pass the RPR Literary examination pursuant to § 7-206(G)(5)(b)(1)(d) and (e). James Bouley recused. Motion passed. **BCCR-06-032**

A **motion** was made by William Druke and seconded by Patricia Seguin to deny renewal of Provisional Standard Certification to Adam Gage for failure to pass the RPR Literary examination pursuant to § 7-206(G)(5)(b)(1)(d) and (e). James Bouley recused. Motion passed. **BCCR-06-033**

A **motion** was made by Patricia Seguin and seconded by Judge Lawrence Winthrop to deny renewal of Provisional Standard Certification to Lori Hetland for failure to pass the RPR Testimony examination pursuant to § 7-206(G)(5)(b)(1)(d) and (e). James Bouley recused. Motion passed. **BCCR-06-034**

A **motion** was made by Judge Lawrence Winthrop and seconded by Kathleen Montalvo to deny renewal of Provisional Standard Certification to Kathleen Incavo for failure to submit RPR examination results pursuant to § 7-206(G)(5)(b)(1)(d) and (e). James Bouley recused. Motion passed. **BCCR-06-035**

A **motion** was made by Patricia Seguin and seconded by Kathleen Montalvo to deny renewal of Provisional Standard Certification to Mary Manning for failure to submit RPR examination results pursuant to § 7-206(G)(5)(b)(1)(d) and (e). James Bouley recused. Motion passed. **BCCR-06-036**

A **motion** was made by William Druke and seconded by Patricia Seguin to deny renewal of Provisional Standard Certification to Ana-Leticia Quintero for failure to pass the RPR Literary examination pursuant to § 7-206(G)(5)(b)(1)(d) and (e). Judge Jan Kearney and James Bouley recused. Motion passed. **BCCR-06-037**

A **motion** was made by William Druke and seconded by Kathleen Montalvo to deny renewal of Provisional Standard Certification to Lynette Rozwood for failure to pass the RPR Testimony examination pursuant to § 7-206(G)(5)(b)(1)(d) and (e). James Bouley recused. Motion passed. **BCCR-06-038**

James Bouley rejoined the meeting telephonically at 12:37 p.m.

- *Applicants for Extension of Temporary Certification.*

Rhonda Simmons reported Jean Barclay was given an extension of her temporary certification through February 13, in order for Ms. Barclay to submit her RPR test results and to determine whether she has requested accommodations. Ms. Barclay has submitted her examination results which show she has not passed the RPR examination and she did not request accommodations.

A **motion** was made by William Druke and seconded by Judge Lawrence Winthrop to deny the application for extension of Temporary Certification to Jean Barclay due to no extenuating circumstances were found to exist. Motion passed. **BCCR-06-039**

## **Hearing Requests**

Rhonda Simmons reported the following reporters have requested hearings on the denial of their Provisional or Temporary certification. Ms. Simmons requested the Board grant approval to postpone the hearings, provided the reporters consent, and to provide additional time to appoint a hearing officer and send notices.

Michelle Elam  
Lydia Elias  
Cherly Gardner  
Toni Gehm  
Marla Graham

Linda Hironimus  
Diane Laur  
Blanche Paulsen  
Alice Peltcs  
Bonnie Ponce  
Denise Style  
Natalie Westervelt  
Carole Whipple

A **motion** was made by Judge Lawrence Winthrop and seconded by Judge Jan Kearney to refer the request for hearings to hearing officer(s) and the time set for such hearings be extended, with the reporters consent, 45 days from February 13, 2006. Motion passed.  
**BCCR-06-040**

### **Continuing Education Issues**

Rhonda Simmons submitted a list to the Board of continuing education courses that have been previously approved by NCRA. The Board discussed the relevance of these courses to the reporting profession. Sandra Markham will draft a letter on behalf of the Board to NCRA and request information about why these course were approved for credit.

### **Review of Complaints**

- *Review and discussion regarding Certified Reporter Program complaint numbers 04-C008, 04-C009 and NC-001.*

A **motion** was made by William Druke and seconded by Patricia Seguin to dismiss complaint number NC-001 for lack of jurisdiction. Motion passed. **BCCR-06-041**

A **motion** was made by William Druke and seconded by Patricia Seguin to proceed with formal discipline in the finding that probable cause exists in allegations 1 and 2 of complaints 04-C008 and 04-C009 and dismiss allegation 3. Sandra Markham recused. Motion passed. **BCCR-06-042**

### **Topics for Discussion and Possible Code Revisions**

- *Review and discussion of proposed revision of ACJA § 7-206 and § 7-201.*

Nancy Swetnam reported the following major changes in ACJA § 7-201 and § 7-206:

#### **§ 7-201: General Requirements**

- **Boards.** Establishes “regulatory boards” for each profession. Each board will have the responsibility for the final decision regarding certification, complaints and discipline of the applicable professionals and will make recommendations to the Supreme Court on policy and procedural issues.

- **Certification.** Provides standard processes for all aspects of certification, including examinations and retakes of examinations. Provides for voluntary surrender and reinstatement after revocation. Addresses the issue of whether applicant and certificate holder files are open to the public or closed.
- **Complaints.** Enacts major changes regarding the process for complaints, investigations, hearings and disciplinary action including:
  - Expedited process for complaints without merit or jurisdiction.
  - Authority to investigate and take disciplinary action if the misconduct by the certificate holder occurred while the certification was active.
  - Notice to the complainant.
  - Formal interview. Expedites the processing and resolution of complaints by providing the option for a “Formal Interview” in front of the Board.
  - Confidentiality of dismissed complaints. Standardizes whether dismissed complaints are confidential or open to the public.
  - Cease and desist orders. Grants boards the authority to issue cease and desist orders for enforcement of the provisions of the ACJA sections and applicable court rules and statutes.
  - Emergency suspension cases. Provides an expedited hearing process for emergency suspension cases.
  - Establishes a one year time limit for filing of a special action petition with the Superior Court.
- **Time Standards.** Establishes time standards for the processing of applications for certifications, audits and complaints.

### **§ 7-206: Certified Reporter**

- **Voice Writers.** Incorporates the statutory changes enacted by the 2005 Legislature regarding certification of voice writers and reference to “certified reporters” instead of “court reporters.”
- **Transcript Fees.** Clarifies the fee a reporter may charge for additional copies of a transcript.
- **Arizona Transcript Format Standards.** Adopts the Arizona Transcript Format Standards as recommended by the Keeping of the Record Committee.
- **Fees.** Increases the fees for initial certification and for examinations and establishes standard fees (e.g. per page copy fee, reinstatement fee).

The proposed changes to ACJA § 7-201 and § 7-206 will be distributed for public comment during the months of February and March. The Board will be asked to make a formal recommendation to the Arizona Judicial Council and the court on the specific language.

Rhonda Simmons covered the following matters in § 7-206 and requested the Board take a look at the language and make recommendations:

- C. Purpose.** A.R.S. § 32-4003(A) provides: “~~Beginning July 1, 2000,~~ A person shall not engage in the stenographic reporting of report proceedings in any court in this state and shall not take report stenographic depositions in this state for use in any court in this state

unless the person is certified pursuant to this chapter.” A.R.S. § 32-4003(D) provides: ~~“Beginning July 1, 2000,~~ It is unlawful for any person who is not certified pursuant to this chapter to represent oneself as a certified ~~court~~ reporter.” For eligibility to ~~stenographically record and transcribe report~~ a verbatim record in any sworn proceeding in this state for use in any court in this state, all persons shall hold a valid certificate and comply with the requirements of this section. The reporter’s transcript is an important document before, during and after a trial. The paper transcript and its electronic version are used for trial preparation, briefs, impeachment purposes and appellate review. Property, freedom and life all can depend on a clear and accurate record. ~~Court~~ Reporting is integrally related to the prompt, effective and impartial operation of the judicial system.

DRAFTER’S NOTE: Is additional clarification needed to specify that an uncertified individual cannot take a steno machine into a deposition that is being electronically recorded, as this may give the false impression the person is a certified reporter? Further discussion is requested.

**H. Complaints, Investigation, Hearings and Disciplinary Action.** The procedures for complaints, investigations, hearings and disciplinary action are pursuant to A.R.S. §§ 32-4006, -4041(A) and -4042 and are specified in § 7-201. In addition, the program manager may investigate and the board may take disciplinary action regarding previous certificate holders if the complaint is received after the expiration date of the certificate under the following conditions:

- a. The alleged misconduct occurred with respect to the production of a transcript that was prepared after the expiration of the certificate;
- b. The proceeding was held while the reporter was certified; and
- c. The complaint is filed within one year after the production of the transcript.

#### **Appendix D, Continuing Education Policies (D)(11)**

11. Maximum Credit. Unless the board has determined the continuing education activity is directly related to the ~~court~~ reporting profession, a reporter may not receive more than 50 percent of the credit requirement for the renewal period through one activity. The board has determined the following activities are directly related to the ~~court~~ reporting profession; participation in these activities is preapproved for 100 percent of the continuing education requirements regardless of whether the activity was delivered in a self-study format as described in subsection D(8):

- a. Realtime reporting seminars;
- b. The RPR preparation classes offered by community colleges; and



c. Case Catalyst and other courses provided by court reporting software vendors.

- *Voice Writer eligibility to take the Arizona Written Exam.*

Rhonda Simmons reported to the Board that currently the way the code is written, voice writers can take the Arizona written exam by graduating from a court reporting school. However, one of the criteria for taking the Arizona Written exam through proof of graduation is that a reporter complete 40 hours of internship verified by a working certified court reporter. It is recommended an AO to be verified by a certified court reporter be sent to the Chief Justice to correct this problem by striking the requirement for internship as a criteria for taking the exam under § 2-706(E)(3)(2). This entire section is proposed to be stricken from the code during code revisions.

A **motion** was made by William Druke and seconded by Judge Jan Kearney to strike § 2-706(E)(3)(2)(a-g) in order to allow Voice Writers to begin taking the Arizona Written Exam immediately. Motion passed. **BCCR-06-043**

### **Program Update/Requests**

- *Complaints.*

Rhonda Simmons reported to the Board there are currently 18 open complaints. Five are awaiting consent agreement negotiations and three were discussed in the meeting today. There will be at least two more complaints before the Board at the next Board meeting.

- *Extending time for March Board Meeting.*

The Board changed the starting time of the March 13, 2006 Board meeting from 12:00 p.m. to 11:00 a.m. in order to discuss public comments on the proposed code revisions and the voice writer examination validation report.

### **Call to the Public**

None at this time.

### **Adjournment**

A **motion** was made by William Druke and seconded by Judge Jan Kearney to adjourn. Motion Passed. **BCCR-06-044**

The meeting of the Board of Certified Reporters adjourned at 1:26 p.m.

/bld