



MINNESOTA JUDICIAL TRAINING UPDATE



OFFICIAL COURT REPORTERS: TEN (10) BASIC RULES EVERY JUDGE SHOULD FOLLOW

Other than a spouse or family member, there are few people judges spend more time with than their court reporters. The personal and professional relationship between a judge and their court reporter is extremely unique. In addition to being responsible for maintaining the official court record, court reporters are also privy to highly confidential and sensitive material. Court reporters are highly trained dedicated professionals and deserve to be treated as such. The following is a list of ten (10) personal and professional practices to help new judges develop a relationship with their court reporter that is based on mutual trust and respect.

1. COURT REPORTERS, LIKE ALL PERSONNEL A JUDGE INTERACTS WITH, SHOULD BE TREATED WITH COURTESY AND RESPECT.

This means not having them run personal errands for you, not having them get coffee for you, not blaming them in front of others, particularly in front of the jury or attorneys, for court delays or for the late start of a hearing.

2. COURT REPORTERS ARE ENTITLED, BY RULE, TO TAKE A 20-MINUTE BREAK AFTER EVERY 90 MINUTES OF CONTINUOUS REPORTING. (Labor Agreement, Article 11.4)

This should be timed so that a judge does not have to interrupt an attorney or witness in mid-sentence. The break is necessary to reduce the likelihood of the reporter developing a repetitive stress injury.

3. JUDGES SHOULD ENSURE THAT ALL PARTIES SPEAKING ON THE RECORD SPEAK LOUD AND CLEAR ENOUGH FOR THE COURT REPORTER TO HEAR.

The acoustics of many courtrooms are poor and a court reporter has a duty to report, so they need to hear and understand what is being said. Many attorneys, parties and witnesses tend to speak at a normal conversational level that is not loud enough for the courtroom. The volume levels at which people speak in a typical social setting is in relation to the physical distance between them. This distance is usually within 3 to 5 feet of the person they are speaking to. Obviously courtroom distances are much greater.

4. JUDGES SHOULD PREVENT PARTIES FROM SPEAKING OVER EACH OTHER.

It is imperative that judges maintain control over the courtroom and proceedings, not allowing attorneys or parties to talk over each other. A court reporter cannot record two speakers at the same time. Some court reporters will stop taking transcription if two people begin to speak at the same time. Judges need to empower and instruct their court reporters to communicate to them and the speaking parties that when two people are talking at the same time that neither conversation can be recorded.

5. JUDGES SHOULD ADOPT A UNIFORM PRACTICE, WHICH IS COMMUNICATED TO ATTORNEYS, REGARDING THE MARKING, REFERENCE AND HANDLING OF EXHIBITS.

In jurisdictions where the court reporter (rather than the court clerk) is responsible for marking exhibits, the judge's practice regarding the marking, referencing and handling of exhibits should be developed with input from the court reporter. Attorneys must be instructed that they cannot speak when a court reporter is marking an exhibit. This practice should also include pre-marking exhibits whenever possible.

6. ATTORNEYS AND WITNESSES READING A DOCUMENT INTO EVIDENCE MUST BE INSTRUCTED TO READ SLOWLY AND SHOULD BE INTERRUPTED AND DIRECTED TO SLOW DOWN IF THEY BEGIN TO READ TOO FAST.

Court reporters are trained to capture the verbatim record at speeds of 225 words per minute and greater. People tend to speak much faster when they are reading, upwards of 250 words per minute, making it difficult to capture a clear and accurate record.

7. JUDGES SHOULD DEVELOP A GOOD WORKING RELATIONSHIP AND ONGOING DIALOGUE WITH THEIR COURT REPORTER SO THAT NEW OR UNIQUE PROBLEMS THAT THE REPORTER EXPERIENCES CAN BE COMMUNICATED TO THE JUDGE.

8. JUDGES SHOULD MAKE SURE THE COURT REPORTER IS SEATED AND READY TO PROCEED BEFORE FORMALLY STARTING THE TRIAL OR HEARING.

9. DISCUSS WITH THE COURT REPORTER THE ISSUE OF REPORTING VOIR DIRE IN CIVIL JURY TRIALS.

Voir Dire in civil jury trials do not need to be recorded if the judge and both attorneys agree. Any agreement not to record voir dire should be placed on the record.

10. CONSIDER PURCHASING A SYSTEM THAT CONSISTS OF A WIRELESS MICROPHONE, A RECEIVER, AN AMPLIFIER AND A SET OF HEAD PHONES. THE WIRELESS MICROPHONE SITS ON THE JUDGE'S BENCH AND BROADCASTS A SIGNAL TO THE RECEIVER AT THE COURT REPORTER'S STATION. THE SYSTEM ALLOWS FOR THE EFFORTLESS RECORDING OF BENCH CONFERENCES. A DUPLICATE SYSTEM CAN BE PLACED BY THE DEFENDANT SO THAT HE OR SHE CAN ALSO HEAR BENCH CONFERENCES.

Use of this or similar wireless equipment allows for realtime recording of bench conferences, allows a defendant to be a party to the bench conference without sacrificing courtroom security and avoids the common practice of repeating the bench conference discussion on the record usually during the next break after the jury has left the courtroom.

RESOURCE: National Court Reporters Association, msic@ncrahq.org; www.NCRAonline.org

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ATTORNEY HANDOUT - MAKING THE RECORD**TWENTY (20) RULES EVERY ATTORNEY SHOULD FOLLOW**

The Court Reporter's transcript is an important document before, during and after a trial. The transcript and its electronic version are used for trial preparation, briefs, impeachment purposes and, of course, for appellate review. Property, freedom and life can all depend on a clear and accurate record. Many cases lost in trial courts are subsequently won on appeal because the record was carefully made in the trial court.

This attorney handout contains numerous reminders and tips to help attorneys make a clear record. Many of the items in this handout are common sense, but they are precisely the kind of things that often are overlooked or forgotten during a trial or a deposition.

1. Identify yourself.
2. Provide spellings – technical terms, names, legal cites.
3. Slow down while reading from documents.
4. Clarify nonverbal gestures.
5. State when you have no further questions by saying just that.
6. Identify yourself each time when multiple parties are involved.
7. Keep a distance from microphones as to not distort or be too loud.
8. Keep your voice up to the very end of a statement or question.
9. When an interpreter is involved, speak to the defendant, not through the interpreter.
10. State objections clearly and loudly.
11. Be observant of the court reporter. Don't speak while marking exhibits, etc.
12. NEVER photocopy transcripts for anyone.
13. When using numbers such as dates, dollars, etc. – Enunciate!
14. Rough drafts of transcripts are not certified copies.
15. Clarify answers when witnesses have accents – repeat their answer.
16. Don't talk over one another.
17. Specify when using acronyms, i.e., "B" as in Boy.
18. No informal conversations at counsel table during a hearing.
19. Keep your hand away from your mouth, and keep your voice toward the court reporter.
Do not have your back to the court reporter when speaking.
20. When quoting from a document, give the proper reference and indicate where the quote begins and ends by saying "quote" and "unquote."