IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN THE MATTER OF ORDER AMENDING COURT REPORTING MANAGEMENT PLAN	**PUBLIC** **ADMINISTRATIVE ORDER** (Supercedes 03-AO-0008) No. 14-AO-0002-P

The Amended Court Reporting Management Plan for the Northern District of Iowa, dated July 1, 2014, and approved by the Eighth Circuit Judicial Council on July 18, 2014, is adopted effective July 29, 2014.

IT IS SO ORDERED.

DATED this 29th day of July, 2014.

Linda R. Reade, Chief Judge
UNITED STATES DISTRICT COURT

Certified original placed in Public Administrative Order Book, Volume 3

Copies disbursed on 29th day of July, 2014 via email to:

Chief Judge Linda R. Reade
Judge Mark W. Bennett
Judge Edward J. McManus
Judge Donald E. O'Brien
Chief Magistrate Judge Jon S. Scoles
Magistrate Judge Leonard T. Strand
Robert Phelps, Clerk of Court
Nicole Lennon-Fisher, Administrative Manager,
Justin Knudson, Docketing Supervisor, Cedar Rapids
Kim Schwartz, Deputy in Charge, Sioux City Divisional Office,
Bryan Woodward for posting on the NDIA external website.

Renea Solmonson
Chief Deputy

United States Courts
Judicial Council of the Eighth Circuit
Thomas F. Eagleton United States Courthouse
111 South 10th Street – Suite 26.325
St. Louis, Missouri 63102-1116

Millie B. Adams
Circuit Executive

Voice (314) 244-2600
Fax (314) 244-2605
www.ca8.uscourts.gov

EIGHTH CIRCUIT JUDICIAL COUNCIL

ORDER

I hereby certify that the Eighth Circuit Judicial Council has approved the amended Court Reporting Management Plan for the Northern District of Iowa, as adopted by the court on July 1, 2014.

Millie B. Adams
Millie B. Adams
Circuit Executive

St. Louis, Missouri
July 18, 2014

cc: Judicial Council Members
Chief Judge Linda R. Reade
Robert L. Phelps, Clerk of Court
Administrative Office

Approval was given by the Court Reporter Management Committee.

JCO 2561

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
COURT REPORTING MANAGEMENT PLAN
JULY 1, 2014

TABLE OF CONTENTS

I. ADOPTION OF PLAN BY THE COURT 2

II. EMPLOYMENT 2

- *A. Duties of Supervising Judge or Clerk of Court* 3
- *B. Duties of Court Reporters* 5
- *C. Leave Act* 5
- *D. Time and Attendance* 6
- *E. Assignment of Official Court Reporters* 6
- *F. Employment and Assignment of Additional Court Reporters* 6

III. REPORTING SERVICES FOR MAGISTRATE JUDGES 7

IV. FREELANCE REPORTING 7

V. TRANSCRIPTS 8

VI. RECORDS AND REPORTS 9

- *A. Attendance and Transcripts of United States Court Reporters (AO 40A)* 10
- *B. Statement of Earnings of United States Court Reporters (AO 40B)* 10
- *C. Other Forms* 10

VII. EQUIPMENT AND SPACE 10

VIII. EFFECTIVE DATE 11

I. ADOPTION OF PLAN BY THE COURT

This plan for the effective control and management of court reporting services, which includes the utilization of official court reporters, contract or per diem court reporters and courtroom deputies utilizing digital court recording software, is adopted by the United States District Court for the Northern District of Iowa. It is subject to the final approval by the Eighth Circuit Judicial Council and the rules and regulations that the Judicial Conference of the United States may adopt. This plan applies to all court reporters serving in any capacity, that is, official, temporary, contract or per diem, in the Northern District of Iowa and provides information on the day-to-day operation and management of the court reporting component within the court. The *Guide to Judiciary Policy* ("*The Guide*") provides more detailed guidelines and procedures regarding court reporting in the federal judiciary. *See The Guide*, Volume 6. This plan is intended as a supplement to the provisions set forth in the Court Reporters Act, 28 U.S.C. § 753, and *The Guide*. When approved, this plan will supersede the court reporter management plan that has been in effect in the Northern District of Iowa since January of 2003.

II. EMPLOYMENT

Only court reporters fully qualified under the terms of 28 U.S.C. § 753(a) will be appointed. The court prefers applicants who have successfully completed the certified realtime reporter examination or are at least proficient in realtime reporting. Court reporters will provide realtime reporting to the court at no additional cost to the court.

Official court reporters are employed pursuant to 28 U.S.C. § 753 and the policies of the Judicial Conference of the United States and the Administrative Office of the United States Courts ("AO"). Official court reporters are appointed for the court en banc and are neither directly employed by nor part of the personal staff of an individual district judge. Nonetheless, for ease of scheduling and administration, each official court reporter may be primarily assigned to one district judge. The district judge headquartered in Cedar Rapids, Iowa, is responsible for supervising the official court reporter employed at that location, and the district judge headquartered in Sioux City, Iowa, is responsible for supervising the official court reporter employed at that location. The district judge acts as the day-to-day supervisor of the assigned official court reporter, and the district judge's supervision of the assigned official court reporter includes matters such as tour of duty, leave and scheduling.

A. Duties of Supervising Judge or Clerk of Court

The court, en banc, in accordance with *The Guide*, Volume 6, Chapter 1, § 130.25, delegates to the clerk of court or supervising judge or designee administrative matters such as:

> (a) monitoring the overall workload with the goal of fairly and efficiently distributing the work that all court reporters do and minimizing the travel of official court reporters, the use of contract court reporters and other costs to the court;
>
> (b) overseeing the relationship between a court reporter and parties, attorneys, court staff and fellow court reporters;
>
> (c) monitoring all requests for transcripts;
>
> (d) conducting periodic review of transcripts to ensure full compliance with format requirements of the AO and the Judicial Conference of the United States;
>
> (e) conducting periodic review of records to ensure proper recording;
>
> (f) conducting periodic review of order and billing records to ensure that authorized transcript rates are charged, that billing is in proper form and that transcripts are prepared in a timely manner;
>
> (g) verifying compliance with the recording, certifying and filing provisions of 28 U.S.C. § 753(b), which includes but is not limited to those that pertain to proceedings recorded by shorthand, mechanical means, electronic sound recording or any other method of all criminal arraignments, pleas and proceedings made in connection with the imposition of a sentence;
>
> (h) reviewing records to ensure that all notes and audio recordings are maintained in accordance with 28 U.S.C. § 753(b) and this plan;
>
> (i) conducting periodic review of time and attendance records to ensure proper maintenance and accuracy;

(j) reviewing records to ensure timely submission and filing of reports required by the AO and Judicial Conference of the United States;

(k) acting as a liaison to the courts of appeals on matters pertinent to court reporters serving in the Northern District of Iowa and transcript production pursuant to Federal Rule of Appellate Procedure 11(b);

(l) conducting periodic review of budget, salary, benefits, travel, space and facilities needs;

(m) administering discipline or sanctions pursuant to the provisions of this plan or the court's policies and guides; and

(n) performing other duties as the court directs, such as compiling and maintaining records relating to leave and other administrative benefits.

Newly-appointed official court reporters serve a probationary period of one year which may be extended or termed. To the extent feasible, all newly-appointed official court reporters must be proficient in realtime reporting or achieve realtime reporting proficiency within one year of entrance on duty. All court reporters are encouraged to provide realtime upon request, and, if providing realtime, they must comply with the realtime reporting standards promulgated by the Judicial Conference of the United States.

An appointment as an official court reporter constitutes an appointment as an official court reporter for the court en banc. Official court reporters continue to retain employment regardless of the resignation, retirement or death of an individual district judge. During the period between such an occurrence and the appointment of a new district judge, an official court reporter continues to serve other reporting needs of the court.

Official court reporters have no vested right of employment. After obtaining the approval of the court en banc, the clerk of court may terminate an official court reporter with or without cause. Periodic reviews of an official court reporter's performance may be conducted by the supervising judge. When evaluating an official court reporter's performance, the clerk of court will discuss work performance factors with the supervising district court judge. An official court reporter may be subject to disciplinary action and/or dismissed from service to the court if the official court reporter fails to perform competently or satisfactorily or fails to comply with the provisions of this plan. Further, if at any time, in the judgment of the court, the volume of work or budget of the Northern

District of Iowa does not justify retention of the full complement of existing official court reporters, a reduction may be accomplished through relocation, through attrition or by termination after providing notice that is not less than 60 days.

B. Duties of Court Reporters

All court reporters are appointed by the clerk of court and serve at the pleasure of the court en banc. In the performance of their duties, all court reporters of the Northern District of Iowa must follow: the statutory requirements of 28 U.S.C. § 753; the administrative practices defined in *The Guide*; the administrative practices defined in this plan; and such other polices as set forth by the court.

C. Leave Act

At its September 1987 meeting, the Judicial Conference of the United States adopted a policy that requires official court reporters in the same court location to have the same status, that is, either all under the Leave Act, 5 U.S.C. § 6301, et seq., or all not under the Leave Act. Official court reporters who are under the Leave Act accrue and use sick and annual leave just as other deputy clerks do, and, when they are absent, the court is responsible for providing court reporting coverage. A contract court reporter or a per diem court reporter will be obtained when an official court reporter who is under the Leave Act requests leave, the supervising district judge is in court and another official court reporter is not available or a cost analysis does not justify the use of another official court reporter. Official court reporters who are under the Leave Act have regular office hours at the courthouse, that is, a regular tour of duty, and during those hours they are not permitted to perform freelance work.

Official court reporters who are not under the Leave Act do not accrue sick leave or annual leave and must provide their own substitute when they are absent. They also do not have any set office hours at the courthouse, that is, no regular tour of duty, so they can perform freelance work any time that they are not needed in court. Also, pursuant to *The Guide*, if a court reporter who is not covered by the Leave Act is unavailable for court and cannot provide a substitute reporter, he or she is to be placed in a non-pay status for the time period that another court reporter has to be paid by the court. *See The Guide*, Volume 6, Chapter 2 § 240.50.

In the Northern District of Iowa, there are two official court reporters. One official court reporter is located in Cedar Rapids, Iowa and the other official court reporter is located in Sioux City, Iowa. Both official court reporters are under the Leave Act. An

official court reporter that ends his or her tour of duty will be replaced with an official court reporter who is under the Leave Act.

D. Time and Attendance

For official court reporters, the core hours during which they are generally expected to be at the courthouse are 8:00 a.m. to 5:00 p.m., Monday through Friday, but each official court reporter must be available outside regular core hours if directed to do so by the supervising district judge. Compensatory time may be accumulated as determined by the supervising judge. In the Northern District of Iowa specific core hours are determined by the supervising judge in each courthouse. Official court reporters remain on official duty during those hours unless on approved leave status. The hours of official court reporters may be altered for any given day/week with the approval of the supervising district judge. On a day-to-day basis, leave is approved by the supervising district judge. Official court reporters are encouraged to take leave when the supervising district judge is not scheduled to be in the courtroom. For tracking purposes, an official court reporter is required to obtain permission to take leave from their supervising judge, then enter his or her leave request into the automated leave tracking system ("Electronic Leave Management Resource or ELMR") for approval by the clerk of court.

E. Assignment of Official Court Reporters

The Northern District of Iowa is authorized one official court reporter for each active district judge. However, it is the policy of the Northern District of Iowa that, although official court reporters are not permanently assigned to individual district judges, all non-supervising reporting assignments are to be co-ordinated between the court reporter and the supervising district judge whom the official court reporter is ordinarily assigned.

Contract reporters will be hired for trials and hearings conducted by senior district judges, visiting district judges and magistrate judges only when an official court reporter is not available at the location where the trial or hearing is to take place. Subject to the approval of the supervising district judge, any official court reporter may be assigned to serve a senior district judge, visiting district judge or magistrate judge. Such assignment must be made in a manner designed to reduce the overall costs of providing necessary court reporting within the Northern District of Iowa.

F. Employment and Assignment of Additional Court Reporters

The clerk of court or designee is directed to arrange for court reporting coverage, to monitor the court schedule and manage reporting assignments so as to minimize the use

of contract court reporters or per diem court reporters and to minimize any travel. Every reasonable effort will be made through scheduling to reduce the need for reporting services by contract court reporters and per diem court reporters and to minimize travel by them. If court reporting services are required beyond what can be provided by the two official court reporters, contract court reporters or per diem court reporters will be hired on an as-needed basis and paid for by the court. Contract court reporters are those from a firm that has been awarded a contract for court reporting by the court. Per diem court reporters are also hired on an as-needed basis but do not have a long term contract with the court, and, therefore, they are called from a rotational list of qualified area court reporters. Contract court reporters and per diem court reporters must be fully qualified under the standards adopted by the Judicial Conference of the United States and must adhere to transcript format and rate schedules in the same manner as official court reporters. The contract offered to a contract court reporter and any arrangement with a per diem court reporter will incorporate the relevant terms and conditions of this plan.

III. REPORTING SERVICES FOR MAGISTRATE JUDGES

Some proceedings before magistrate judges are recorded by courtroom deputies using digital sound recording equipment. *See The Guide*, Volume 6, Chapter 1 § 115.20. These courtroom deputies are employed by the clerk's office and are responsible for the accurate and proper verbatim recording of court proceedings. When a request is made for a digitally recorded proceeding to be transcribed, the clerk's office will arrange for an official court reporter or qualified transcriber to transcribe the proceeding. Official court reporters who are assigned to transcribe a digitally recorded proceeding will access the proceeding from the court's network. When a magistrate judge determines that a court reporter is required by a specific rule or statute or by the particular circumstances of the case, the magistrate judge's staff will request reporting coverage from the clerk's office and such person will review the official court reporters' assignments and arrange for court reporting of the proceeding. *See The Guide*, Volume 6, Chapter 4.

IV. FREELANCE REPORTING

Freelance reporting is reporting that is not required in the discharge of official duties. Official court reporters may not engage in freelance reporting or transcribing activities or other private business of any kind, which includes providing deposition services and reporting services for grand juries, during their regular tours of duty. Official court reporters may perform freelance reporting during their employment with the court provided that such work is during non-core working hours and their supervising district judge approves. Official court reporters will be allowed to take leave during core working hours to perform private work if their supervising judge approves. An official court

reporter who plans to engage in freelance reporting must obtain from their supervising district judge written approval that grants him or her permission to perform such work. The letter from the supervising district judge will be placed in the official court reporter's personnel file.

V. TRANSCRIPTS

All reporters are required to receive, process, and fulfill transcript requests according to the specifications in *The Guide*, Volume 6, Chapter 5, and the policies of the Judicial Conference of the United States. The supervising judge may monitor the transcript order and delivery process, including timeliness, rates charged and compliance with national policies, for appeal transcripts, Criminal Justice Act transcripts and private transcripts. Overcharging for services or transcripts provided to the court, counsel or the requesting party will result in the official court reporter or court reporter being required to make restitution to the ordering party or the court, and an official court reporter may also be subject to disciplinary action, including dismissal, at the discretion of the court en banc. *See The Guide*, Volume 6, Chapter 5 § 530.95. The court and the court of appeals may each sanction an official court reporter who habitually files late transcripts. A reduction in fees may be ordered to be credited to the ordering party by the supervising judge.

In multi-defendant cases that involve more than one Criminal Justice Act defendant, no more than one transcript should be purchased from the official court reporter on behalf of the Criminal Justice Act defendants. One of the appointed counsel or the court reporter will arrange for duplication of the transcript at a commercially competitive rate for each defendant for whom a transcript was approved. The cost of duplication will be charged to the Criminal Justice Act appropriation.

The authorized fee schedule promulgated by the Judicial Conference sets forth the fees to be charged for ordinary, 14 day, expedited, and realtime transcripts. No reporter employed by the court may charge fees for transcripts which exceed the authorized fee schedule of the Judicial Conference of the United States. No reporter employed by the court may charge fees for services not authorized by the Judicial Conference of the United States. Current fee schedules are available through the clerk's office website.

A copy of each transcript prepared is required to be filed with the office of the clerk of court following the CM/ECF procedures established by the court at no cost to the court.

No transcripts of court proceedings shall be considered official except those made from the records certified by the court reporter. 28 U.S.C. § 753(d). Proceedings

recorded by the courtroom deputy using digital sound recording equipment are saved on a server within the information technology ("IT") department. Public requests for digitally recorded proceedings are made through the clerk's office. Normally an official court reporter is available to transcribe digital sound recordings at the request of any party and create the official record. If a party requests a digital copy of an electronic recording, the clerk's office will request and receipt for payment of fees required and make delivery arrangements. The clerk's office will create a CD of the proceeding, checking quality during creation. In the event that a proceeding is being reported by a court reporter and is also recorded by FTR Gold, the official transcript can only be purchased from the court reporter who provided reporting services.

VI. RECORDS AND REPORTS

Records of court proceedings are required to be kept by all reporters. *See The Guide*, Volume 6, Chapter 1 § 140.55. So that the integrity of the record is preserved, original paper notes of official court reporters are to be maintained under suitable conditions in the courthouse. The clerk's office will preserve them in the public records for not less than ten years. Non-official court reporters are responsible for maintaining their original paper notes for not less than ten years. These records may periodically be transferred to the Federal Records Center, and would then be destroyed in accordance with *The Guide*, Volume 10, Chapter 6, Appendix 6B.

To further fulfill the archiving of notes requirements that are outlined in 28 U.S.C. § 753(b), all reporters must save their raw, original notes in Portable Document Format ("PDF"). Within 90 days of a proceeding, all official court reporters must submit their PDF notes for storage. Court reporters may utilize CM-ECF to electronically file PDF notes in the appropriate case. Notes may also be stored in a folder within the court's network. Official court reporters will verify the successful transfer of their PDF notes to storage. Official notes of all court reporters stored in CM/ECF will be filed under the "court only" restriction level, but will be made available for public inspection upon request. The steno notes are not to be copied or distributed. Contract and per diem court reporters also must save their raw, original notes in Portable Document Format ("PDF") and should be prepared to provide such at the request of the court.

Official court reporters are required to complete and submit reports as directed by the Administrative Office (AO). Reports are submitted to the Clerk's Office for approval via the Automated Court Reporter Application ("ACRA") system. The Clerk's Office approves and then submits them for official filing at the AO.

A. Attendance and Transcripts of United States Court Reporters (AO 40A)

This report is submitted quarterly and reports days in court and transcripts produced. Instructions for completion of each element of the report can be found in *The Guide*, Volume 6, Chapter 1 § 140.30. Official court reporters must submit this via ACRA so that it can be approved and submitted to the AO no later than 20 days after the quarter closes, that is, April 20, July 20, October 20, and January 20 for the preceding quarter. In the event that an official court reporter retires, resigns or is otherwise separated, Form AO 40A must be filed within 20 days from the date of separation.

B. Statement of Earnings of United States Court Reporters (AO 40B)

This report is submitted annually and reports the income and expenses of official court reporters, not non-official court reporters. Official court reporters must submit this via ACRA so that it can be approved and submitted to the AO no later than April 15 of each year for the prior calendar year. In the event that an official court reporter retires, resigns or is otherwise separated, Form AO 40B must be filed within 60 days from the date of separation, even if employment for the year was only partial.

C. Other Forms

The following forms are available to aid official court reporters in recording and tracking the information required on the above mandatory reports. Expense Ledger (Form A0 37), Attendance Ledger (Form AO 38), Transcript Order and Collections Ledger (Form AO 39) and Invoice (Form AO 44).

VII. EQUIPMENT AND SPACE

Official court reporters are both court employees and independent contractors, so there is a division between what equipment is provided by the court, and what is provided by the official court reporter. *See generally The Guide*, Volume 6, Chapter 2 § 260. The court provides office space to official court reporters according to the preference of the supervising district judge, what is reasonably available in the courthouse and the U.S. Courts Design Guide, including sufficient electrical connections for equipment needed to produce official transcripts. Official court reporters are provided furnishings from available supplies and are authorized up to Level C furniture depending upon the availability of funds.

Official court reporters, contract court reporters and per diem court reporters are responsible for purchasing all equipment and supplies used to report proceedings and

produce transcripts. The court is responsible for software to enable judges to view realtime. IT staff are available to help maintain efficient operation of the courtroom, which includes realtime.

Official court reporters are authorized to access the Data Communications Network ("DCN"), which is the judiciary's secure network, for official purposes. The court provides the equipment and connectivity to enable official court reporters to work effectively and to submit required reports electronically.

VIII. EFFECTIVE DATE

This Court Reporting Management Plan replaces all previous court reporting plans for the United States District Court for the Northern District of Iowa, and will become effective upon being approved by the Judicial Council of the Eighth Circuit.

DATED this 1st day of July, 2014.

LINDA R. READE, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA

MARK W. BENNETT, JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA