



April 9, 2019

Wisconsin Supreme Court  
P.O. Box 1688  
Madison, WI 53701-1688

RE: Supplemental Comments Regarding Rule Petition 19-01

Dear Honorable Justices of the Supreme Court:

I write in follow up to several Justices' questions during the April 8, 2019 public hearing regarding the Wisconsin Court Reporters Association's ("WCRA") proposed language to amend Rule Petition 19-01 (the "Petition"). While there was discussion of numerous sections of the Petition for potential amendment during the public hearing, this letter provides proposed language to amend four sections of the Petition that WCRA believes are most important to preserving the integrity of the record.<sup>1</sup> Please consider these proposed amendments during your deliberations on the Petition.

First, as mentioned at the April 8<sup>th</sup> hearing, it is important to WCRA that the Supreme Court Rules reflect that stenographic court reporters are the primary means of making the record in Wisconsin. Therefore, WCRA proposes that Petition Section 8, SCR 71.01(3), be amended as follows:

(3) ~~The director of state courts shall develop rules for the use of alternative means of making a verbatim record. The verbatim record may be made by stenographic reporting, voice reporting, monitored digital audio recording, or other means approved by the director of state courts. The primary means of making the verbatim record is by stenographic reporting. If a stenographic reporter is unavailable, then the verbatim record may be made by voice reporting, or monitored digital audio recording.~~

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<sup>1</sup> During the public hearing, there was a discussion of "emergency circumstances" that may arise in making the record. The phrase "emergency circumstances" is not defined in the Petition but is generally addressed in SCR 71.05 ("Alternative means of reporting"). While WCRA believes that DAR equipment should not be monitored by a clerk, judge, or anyone else who does not meet this letter's proposed definition of "monitored digital audio recording," WCRA is not proposing revised language to SCR 71.05 at this time and does not oppose the Petition's revisions to that section of the Rules. WCRA believes the proposed language to define "monitored digital audio recording" in this letter adequately addresses its concerns about monitored DAR systems.

Additionally, there was discussion of deleting the word "verbatim" in several statutes in Chapters 801 and 809 and in SCR 61.09 as set forth in Judge Koschnick's March 25, 2019 response to comments to the Petition. While WCRA believes that deleting the word "verbatim" from these statutory sections and in SCR 61.09 is important, WCRA has decided to focus its proposed amendments to the Petition on the four sections of the Petition discussed in this letter.

Second, WCRA requests that SCR 71.01 be amended to create a subsection defining “monitored digital audio recording.” WCRA suggests this definition state as follows:

“Monitored digital audio recording” means a person who has successfully obtained certification from the American Association of Electronic Reporters and Transcribers in digital audio recording and whose sole job responsibilities are to be physically present in a circuit court courtroom during the proceedings and to digitally record and monitor those proceedings through the use of headphones and other necessary electronic equipment.

Inclusion of the above definition will ensure that DAR systems are only monitored by individuals qualified and trained to monitor circuit court proceedings. This definition also relieves clerks and judges of the burden of monitoring DAR equipment.

Furthermore, requiring that DAR reporters meet specific standards of training and education will assure circuit courts that the individual making the record has the proper training to maintain the integrity of the record. This is consistent with existing practice, which requires that an official court reporter hired by a circuit court has graduated from an NCRA-approved school or has certification as a Registered Professional Reporter.

Third, WCRA believes that Petition Section 21, SCR 71.04(3), should be amended and that a new subsection in SCR 71.04 be created to allow a stenographic reporter the option whether to accept a transcript request created from a DAR-recorded proceeding:

(3) Except as provided in sub. (4) below, a court may order ~~the~~ a court reporter to transcribe and file all or any part of the testimony and proceedings in any action or proceeding in the court.

(4) A stenographic reporter may decline to transcribe all or part of the testimony of any proceeding in which the verbatim record was made by monitored digital audio recording.

DAR-recorded proceedings take approximately four-to-five times longer to transcribe as compared to proceedings recorded by traditional stenographic means. Moreover, it is not uncommon for DAR-recorded proceedings to have segments of the recording that are inaudible. As such, accepting DAR-recorded proceedings for transcription should be voluntary for official stenographic reporters.

Fourth, official stenographic reporters take their oaths seriously and are concerned about provisions in the Petition that would require them to certify the accuracy of a transcript from a DAR-recorded proceeding. To that end, WCRA suggests amending Petition Section 28, SCR 71.04(10)(b), and creating a new paragraph in 71.04(10) as set forth below:

(b) Except as provided in par. (c), a court reporter who prepares a transcript under par. (a) shall certify that it is a verbatim transcript of the proceedings as recorded in the ~~notes or other~~ verbatim record of the original court reporter.

(c) A stenographic reporter who prepares a transcript from a proceeding recorded by monitored digital audio recording may certify that the transcript is prepared to the best of that stenographic reporter's ability.

Thank you for the opportunity to testify on April 8, 2019, and for considering this written supplementation of WCRA's testimony.

Kind regards,



Jacqueline R. Rupnow  
President, Wisconsin Court Reporters Association