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March 13, 2019

RE: Rule Petition 19-01 Regarding Court Reporting

Dear Honorable Justices of the Supreme Court:

As Past President of WCRA and being part of the Making the Record Committee, I am submitting public comments pertaining to Rule Petition 19-01, Records Pertaining to Court Reporting. The Making the Record Committee worked diligently in compiling the information to be included in this Rule Petition. There was a majority vote in presenting this Rule Petition, however, there were concerns expressed by the steno reporters and the DAR reporter on this committee that I strongly urge you to reconsider in this petition.

I tried to educate the committee on the many faults of this FTR equipment; namely, the malfunctioning of the equipment, the inability to have the words picked up unless everyone is speaking into a microphone, thus, causing many inaudibles when typing up the transcripts, and how it just stops working for no apparent reason. Also, in areas of the state where the internet is not reliable, this equipment won't work to its fullest capability. My concern is many court hearings will have to be redone and causing the State additional money. These things have been happening already in the areas of the state with our DAR equipment mainly because the clerks have been turning the equipment on and off and were unable to monitor the proceedings because of their other duties in the courtroom and the equipment says it is working and it is not. Remote monitoring such as one person monitoring four courtrooms at a time does not provide the monitoring required for a reliable record.

When the time comes for updating the policies and procedures in the DAR manual that is contained in the Court Reporter Manual provided by the State of Wisconsin, I feel it is imperative that the following concerns be more definitively worded as well as in the statutes:

- 1) That live court reporters should fill available court reporter positions first and DAR should be utilized only as a fallback solution if no other steno or voice reporter is available.
- 2) DAR equipment should be “monitored” specifically by a designated person in the proceedings to ensure the quality of the record and it is not lost by a mechanical malfunction. This should not be monitored by a clerk or a judge as that is not their role in the courtroom and it would be impossible to have them perform their duties with this additional task.
- 3) DAR transcripts should be assigned to court reporters on a voluntary basis if there is no DAR reporter. Every branch has a different rotation of workload assignments, some requiring many more transcripts produced than other branches; i.e., felony, OWI or drug courts compared to juvenile, family, probate and guardianship branches. I urge the DCAs and chief judges to consider that when assigning DAR recordings to court reporters.
- 4) Since the court reporter was not there in a live setting to ensure the accuracy of the record, it is impossible for the court reporter to certify that the transcripts are verbatim. We take our oath as court reporters very seriously when we attach the certification page at the end of every transcript. The certification page should say words to the effect of “We certify this transcript to the best of our ability after listening to the DAR recordings.” Ethically it cannot say “verbatim.”
- 5) Court reporters should not be responsible for determining confidential information and identifying on/off the record discussions. It has never been our role to interpret the court proceedings.
- 6) It is nearly impossible to try to decipher speaker identifications off of DAR recordings when the voices are very similar. Being there live in the courtroom setting is the only way to ensure who is speaking.
- 7) The DAR recordings should not be outsourced to someone not employed by the State of Wisconsin and trained in transcript production.

I implore the Director of State Courts and the Supreme Court to consider revising Rule Petition 19-01 to include my recommendations so as to ensure the quality of the record in the Wisconsin courts is maintained to the standard that our constitution dictates to all legal professionals and litigants.

Sheri L. Piontek, WCRA Past President

Cc: Hon. Randy Koschnick, Director of State Courts