



March 18, 2019

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

RE: Rule Petition 19-01 relating to making the record

Dear Honorable Justices of the Supreme Court:

I write on behalf of the Wisconsin Court Reporters Association (“WCRA”) to provide comments regarding Rule Petition 19-01 (the “Petition”). The WCRA appreciates the opportunity to comment on the Petition.

The WCRA concurs with the recommendations of the National Court Reporters Association in the letter dated March 4, 2019 that was filed with the Court. The WCRA has several similar concerns with the Petition’s proposal to include monitored digital audio recording (“DAR”) as an approved method of making the record in Wisconsin courtrooms.

First, the Supreme Court Rules should provide that live stenographic court reporters are the primary means of making the record and that monitored DAR is a backup measure when no stenographic court reporter is available. Stenographic court reporters are the most effective and efficient method of capturing and transcribing the verbatim record. The Supreme Court Rules should recognize this by codifying stenographic court reporters as the primary means of making the record.

Second, if monitored DAR officially becomes an approved method of making the record, then procedures should be established so that DAR equipment is administered only by someone trained in the monitoring and whose sole responsibility is to ensure an adequate recording. It is not practical or efficient for a judge or judicial clerk (who have myriad other responsibilities) to monitor DAR equipment. This practice increases the risk that mistakes will occur that could negatively impact the verbatim record. Just as court reporters should not be performing administrative duties for a circuit court branch (*see* Comment to SCR 68.12(3)), judges and clerks have their own responsibilities and should not be tasked with monitoring DAR equipment.

Third, court reporters should have discretion whether to accept a transcript request from a DAR-recorded proceeding. DAR proceedings take many more hours to transcribe as compared to proceedings where a live stenographic court reporter captures the verbatim record. Additionally, capturing the record via DAR often creates difficulties in certifying an accurate transcript.

Fourth, a provision should be included in the Supreme Court Rules specifying that stenographic court reporters who make a transcript of a DAR-recorded proceeding should only be required to certify that the transcript is correct “to the best of his or her ability.”

As the guardians of the record, official court reporters are troubled by any directive that would require them to certify the accuracy of a transcript from a DAR proceeding. The challenges associated with transcribing a DAR-recorded proceeding are numerous. For example, it is common for two or more attorneys to share a microphone during circuit court proceedings. This practice can make it difficult (or impossible) for a court reporter transcribing DAR-recorded proceedings to determine which attorney is speaking at a given moment. In this situation, the transcribing court reporter has to use a generic placeholder, such as “attorney,” when attributing comments to specific individuals. Moreover, it is often difficult to determine when off-the-record discussions occur and to identify any confidential information referenced in the proceedings. These are just a few examples of how DAR-recorded proceedings jeopardize the accuracy of the official record.

Fifth, WCRA is concerned with language in the Petition that could have the potential to negatively impact court reporter job security and statutorily-authorized transcript income. For example, the proposed amendment to SCR 71.01(3) includes a catchall phrase providing the Director of State Courts with broad discretion to make the verbatim record with any means he or she approves:

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**. [Petition 19-01 proposed amendment to SCR 71.01(3) (emphasis added)].

As technology advances, WCRA is concerned that the “or other means” language could be used to implement measures that would have the effect of reducing official court reporter positions and income. Therefore, WCRA suggests deleting the phrase “or other means approved by the director of state courts” in the proposed amendment to SCR 71.01(3).

Lastly, WCRA requests that when considering the Petition, the Court keep in mind that maintaining the vitality of live stenographic court reporters in the Supreme Court Rules will benefit Wisconsin’s justice system. Each day in the courtroom, reporters bring their professional training, interpersonal skills, and knowledge of Wisconsin’s legal system to bear on the creation of an accurate record. There is no better means to ensure the accuracy of the record than live stenographic court reporting.

Thank you for your consideration of WCRA’s comments.

Kind regards,



Jacqueline R. Rupnow
President, Wisconsin Court Reporters Association