GENERAL ORDER NO 23

MANAGEMENT PLAN FOR COURT REPORTING AND RECORDING SERVICES

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I. ADOPTION OF PLAN BY COURT

This Plan for the effective utilization of court reporters/recorders in the Northern District of California has been adopted by this court subject to final approval by the Ninth Circuit Judicial Council.

II. APPLICABILITY OF PLAN

This Plan is applicable to all reporters/recorders employed by the court.

III. SUPERVISION OF COURT REPORTERS/RECORDERS

The chief judge of the court shall appoint a liaison judge for court reporters who will be responsible for seeing that the provisions of this plan are effectuated and for reporting as needed to the judges of the court. The clerk of court will designate a court reporter supervisor for court reporters and an electronic court recording operator (ECRO) supervisor for court recorders whose duties and responsibilities are to provide the day-to-day management of court reporter/recorder services, respectively, and perform all other functions set forth in this Plan including, but not limited to:

1. Assignment and reassignment of reporters/recorders for the purpose of distributing fairly and equitably the workload of all reporters/recorders, minimizing travel and assuring the lowest overall cost to the government.

2. Supervising the relationship between parties and reporters/recorders.

3. Monitoring and keeping a record of all appellate transcript orders.

4. Reviewing appellate and non-appellate transcripts to assure full compliance with format requirements of the Administrative Office of the United States Courts (AO) and the Judicial Conference of the United States (JCUS).

5. Reviewing all transcript billings to assure that authorized transcript rates are charged, that billing is in proper form and that transcripts are prepared in a timely manner. (See Appendix B for information required to be included on all billings.)

6. Determining compliance by all court reporters with the provisions of 28 USC § 753 concerning the recording, certifying, and retention of the tapes of all criminal arraignments, pleas, and proceedings in connection with the imposition of sentence.

7. Reviewing the time records of the court reporters/recorders to assure proper maintenance and accuracy.

8. Reviewing the records of the court reporters/recorders to assure the timely submission of all reports required by the AO and the JCUS.

9. Acting as liaison to the court of appeals as to matters pertinent to court reporters/recorders and transcript production.

10. Performing such other duties relating to court reporting/recording services as shall be directed by the court.

11. Providing the clerk on a monthly basis all necessary information relating to the duties set forth above.

12. Meeting with all court reporters at the time of hiring to ensure that (a) all notes and tape recordings will be maintained in accordance with 28 USC § 753 and with paragraph XV of this Plan; (b) the court reporters understand their responsibility for preparing and filing transcripts.

IV. EMPLOYMENT OF REPORTERS

Court reporter services shall be provided to the court from the following sources:

1. Official court reporters

2. Temporary court reporters

3. Contract/per diem court reporters

4. Substitute court reporters

Official court reporters are employed by the court en banc and shall retain employment at the will of the court en banc, regardless of the death, resignation, or retirement of an individual judge. If at any time the overall work volume of the court does not justify retention of the full complement of court reporters, a reduction shall be accomplished through relocation, attrition, or by giving reasonable notice of termination.

Court reporters shall be appointed in accordance with the provisions of 28 USC § 753 of the United States Code and the policies and procedures of the AO and the JCUS. Only fully qualified reporters pursuant to 28 USC § 753 shall be appointed. Pursuant to JCUS policy, all initial appointments shall be on a probationary basis for a period of one year. A court reporter dismissed during the one-year probationary period shall not have the right to appeal the dismissal. Upon successful completion of the one-year probationary period, all official court reporters shall have the right to appeal any adverse personnel action in accordance with the adverse action procedures contained in the Clerk's Office Human Resources Manual. Court reporters who do not perform in a competent and satisfactory manner or do not comply with requirements of this Plan may be subject to disciplinary action, including dismissal.

Upon appointment as an official court reporter, the reporter will be required to execute a certification form (See Appendix D) regarding his/her responsibilities for the (a) retention of all official notes and tape recordings; (b) preparation and filing of all transcripts which are ordered during the course of employment or which might be ordered after separation from the court.

V. ASSIGNMENT OF REPORTERS/RECORDERS

In order to assure an equitable distribution of work among court reporters and recorders and to ensure the court's reporting service needs are met, court reporters/recorders are to be pooled and assigned to courtroom duties by the court reporter/recorder supervisors in a manner that reasonably meets the goal of equitable work distribution. To the extent possible, assignments will be made in such a manner as to permit a reporter/recorder to remain on a specific trial assignment until the matter is concluded or until the assigned reporter/recorder requests relief and receives approval from the trial judge. Any reporter may be assigned to a stand-by position to be available for emergency reporter assignments.

It is the responsibility of the court reporter/recorder supervisors to ensure that, to the extent possible, each reporter/recorder works an equal number of hours in court on the record.

Time spent on transcript production will generally not be considered by the court reporter supervisor when assigning individual reporters.

VI. HOURS OF EMPLOYMENT

Official court reporters are placed on a "regular tour of duty" (8:30 AM to 5 PM, Monday through Friday) and are permitted to earn annual and sick leave pursuant to the Leave Act, 5 USC § 6301, et seq.

VII. FREELANCE REPORTING

Court reporters placed under the Leave Act are not permitted to perform any private (freelance) work of any kind during their regular tours of duty.

VIII. REPORTING SERVICES TO UNITED STATES MAGISTRATE JUDGES

Proceedings conducted before a United States magistrate judge may be recorded by electronic sound recording, video recording or by a court reporter. United States magistrate judges shall determine which method is to be used.

IX. CONTRACT/PER DIEM COURT REPORTERS

Contract/per diem court reporters may be utilized only when all official court reporters are occupied in court reporting proceedings pursuant to the policies of the JCUS.

Contract/per diem court reporters may be utilized in the place of official reporters on authorized leave pursuant to the terms of the Leave Act when no official reporter is available to replace the reporter on such leave.

Contract/per diem court reporters will not be paid by the court when official reporters are relieved of their courtroom duties to work on transcript backlogs. Costs associated with such contract/per diem court reporting services shall be paid by the official reporter so relieved.

Travel of contract/per diem court reporters within the district shall be limited to those occasions when no official reporter is available to travel to the location requiring reporting services and when such use of a contract/per diem reporter would be less costly to the government overall than utilizing an official reporter in travel status.

X. HOURLY/DAILY TRANSCRIPT

Production of hourly or daily transcripts will not be subsidized by the court. If extra court reporters are required to produce hourly or daily transcripts, the cost of such reporters shall be paid by the official court reporter. This provision does not prohibit other official reporters from assisting in producing such transcripts if there are no other proceedings to report and when no transcript backlog will result for the court reporter(s) providing assistance.

Requests for expedited, daily, and hourly transcripts will be made to the court reporter and court recorder supervisors at least one week in advance of the proceedings.

XI. ORDERING OF TRANSCRIPTS AND TAPES

All requests for appellate transcripts must be in writing on the "Transcript Designation and Order Form" and shall be forwarded to the court reporter or ECRO supervisor, as appropriate. The court reporter/ECRO supervisors shall monitor the timely completion of all appellate transcripts. Orders for non-appellate transcripts/tapes shall be made in writing to the assigned court reporter or recorder. The ordering party shall make all necessary financial arrangements with the appropriate court reporter or recorder and include any requested pre-payment with the written transcript request. When necessary, the court reporter or ECRO supervisor shall assist as liaison to facilitate timely ordering and production of transcripts.

XII. FEES FOR TRANSCRIPTS OF OFFICIAL PROCEEDINGS

1. All transcripts shall be produced in the format required by the JCUS.

2. No court reporter/transcriber employed by this district shall charge fees for transcripts of official proceedings which exceed those recommended by the JCUS at the time the transcript order is placed with the court reporter.

3. A schedule of the prescribed fees shall be posted in a prominent location in the office of the clerk.

4. Each court transcriber shall furnish to the ECRO supervisor a copy of each billing for official transcripts, together with the court's free copy of the transcript for filing. Each court reporter

shall furnish to the court reporter supervisor a copy of each billing for official transcripts, together with a copy of the transcript face sheet(s). (See Appendix A for information required to be included on all billings.) The term "official transcript" shall be deemed to be any transcript of any proceeding before a judge or magistrate judge of this court, whether conducted in chambers or in open court, and regardless of the reason the transcript may be produced.

5. Each court reporter/transcriber is required to certify on each invoice that the fees charged and page format used conform to the regulations of the JCUS.

6. For transcripts in cases on appeal the full price may be charged only if the transcript is delivered within thirty (30) days or within such other time as may be prescribed by the court of appeals. (See Appendix B for computation of transcript delivery dates.) Reduced rates for late delivery are as follows:

a. 90% for transcripts delivered between 31 to 60 days;

b. 80% for transcripts delivered after 60 days. No fee may be charged which would be higher than the fee corresponding to the actual delivery time. In the case of a transcript which is subject to FRAP 11(b), the reduction in fee may be waived by the clerk of the court of appeals for good cause shown. Nothing contained herein should be construed as sanctioning untimely delivery, nor should this provision be considered the only penalty which can be imposed by the court or Circuit Council on habitual offenders.

XIII. CJA TRANSCRIPTS

1. All transcripts produced under the terms of the Criminal Justice Act shall be billed on form CJA 24.

2. The routine apportionment of accelerated transcript costs among parties in criminal cases is prohibited.

3. In multi-defendant cases involving CJA defendants, no more than one (1) transcript should be purchased from the reporter/transcriber on behalf of CJA defendants. One of the appointed counsel should arrange for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved. The cost of such duplication will be charged to the CJA appropriation. This policy would not preclude the furnishing of duplication services by the court reporter at the commercially competitive rate.

XIV. TIME LIMITS FOR DELIVERY OF TRANSCRIPTS

All copies of transcripts of official proceedings shall be delivered to the ordering party and the original filed with the clerk of court within the time limits prescribed. Neither the schedule for completion of a transcript in a case on appeal nor for a transcript of proceedings requested by a judicial officer shall

be modified except by the clerk of the court of appeals in cases involving appeal transcripts or the judicial officer requesting the transcript.

XV. FILING OF STENOGRAPH/SHORTHAND NOTES AND ELECTRONIC RECORDINGS

1. The stenograph/shorthand notes prepared by official court reporters shall be retained in the office of the clerk of court in accordance with 28 USC § 753(b). (See Appendices C and D.) The offices of the official court reporters shall be considered an extension of the clerk's office for this purpose. The stenograph/shorthand notes of contract/per diem court reporters shall be left with the court reporter supervisor at the conclusion of court each day.

2. Pursuant to the provisions of 28 USC § 753, court reporters must transcribe and certify all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording and such recording has been certified and is maintained in the office of the clerk of court. (See Appendix D, Enclosure 2.) Reporters shall file a transcript of all such proceedings within thirty (30) days of their occurrence unless an electronic recording was made of the proceedings. In the event an electronic recording was made, the court reporter/recorder shall certify the accuracy of the recording and the recording shall be retained by the clerk of court. (See Appendix C.)

XVI. REPORTS REQUIRED TO BE FILED

At regular intervals as specified by the court reporter/ECRO supervisors, each court reporter/recorder shall provide the supervisor with an attendance report which details the amount of time that the court reporter/recorder actually served in court, together with a detailed report describing any transcript backlog which may exist at the time the report is submitted. The report shall be in the format prescribed by the Supervisor.

XVII. REPORTS REQUIRED TO BE FILED WITH THE COURT REPORTING SECTION OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

1. The following reports shall be prepared by each official court reporter according to the schedule below:

a. The Report of Attendance and Transcripts of the United States Court Reporters (AO 40A), reviewed and signed by the court reporter supervisor, shall be prepared quarterly. A report for each calendar quarter shall be submitted to: Court Reporting Section, Administrative Office of the United States Courts, Washington, DC 20544, so that it reaches the office within twenty (20) days after the end of the quarter. A copy of this report shall also be submitted to the court reporter supervisor.

b. The Statement of Earnings of the United States Court Reporters (AO 40B) shall be prepared annually by all official court reporters. This report shall be mailed to: Court Reporting Section, Administrative Office of the United States Courts, Washington, DC

20544, within sixty (60) days after the end of the calendar year. A copy of this report shall also be submitted to the court reporter supervisor.

2. Each recorder shall prepare the Electronic Court Recorder Operator Quarterly Report (AO 40C) quarterly. A report for each calendar quarter shall be submitted to: Court Reporting Section, Administrative Office of the United States Courts, Washington, DC 20544, so that it reaches the office within twenty (20) days after the end of the quarter. A copy of this report shall also be submitted to the Court Recorder Supervisor.

XVIII. SUBSTITUTE COURT REPORTERS

In the event it is determined that a reporter has overdue transcript(s), said reporter may be required to hire and pay substitute reporter(s) until such time as the overdue transcripts have been prepared. A reporter shall not use substitute reporter(s) without the prior approval of the court reporter supervisor.

XIX. RECORDS TO BE MAINTAINED BY COURT REPORTERS

In order to permit the routine audit and inspection of records, official reporters must maintain accurate, legible, and up-to-date records of their expenses, attendance in court, transcript orders, and invoices. Such records may be maintained on forms prescribed by the JCUS which include, but are not limited to, the following:

1. AO 37--Expense Ledger

2. AO 38--Attendance Ledger

3. AO 39--Transcript Order/Collections Ledger

4. AO 44--Invoice

XX. LEAVE POLICIES

Upon assignment to a regular tour of duty, official court reporters shall accrue annual and sick leave pursuant to the provisions of the Leave Act of the United States, 5 USC § 6301. Leave records for official court reporters shall be maintained by the clerk of the court in the same manner as those of deputy clerks. All requests for leave shall be submitted on form SF-71, Application for Leave, and must be approved by the court reporter supervisor.

Annual and sick leave are chargeable in one-hour increments. Annual leave, including leave that will accrue to an official court reporter during the present leave year, may be granted at any time during the year subject to the prior approval of the court reporter supervisor. Planned sick leave (i e, appointments, treatments, etc.) must be requested far enough in advance to permit the

scheduling of an alternate reporter. Other provisions governing use of annual and sick leave are contained in the Clerk's Office Human Resources Manual.

XXI. TRANSCRIPT BACKLOGS

The court reporter supervisor is authorized to take necessary steps to reduce or eliminate transcript backlogs or production delays. Such steps may include, but are not necessarily limited to the following:

1. Reassignment or rotation of official reporters/recorders;

2. Requiring official reporters to hire substitutes at their own expense;

3. Institution of progressive discipline. Termination of any official reporter must be approved by the court en banc.

XXII. MISCELLANEOUS PROVISIONS

1. The work of all court reporters shall be "note-readable" so that the notes of a court reporter can be read by another reporter if necessary.

2. The marking, retaining and storing of all notes and tapes shall be in accordance with the note storage procedures outlined in this Plan. (See Appendix C.)

3. Annual performance appraisals shall be conducted by the court reporter supervisor for all official reporters/recorders.

4. Discipline and/or sanctions of reporters/recorders/transcribers shall be pursuant to the provisions of this Plan and/or the Clerk's Office Human Resources Manual.

ADOPTED: June 2, 1982
AMENDED: April 16, 1993
AMENDED: November 14, 2007

FOR THE COURT:

Vaughn R Walker
United States District Chief Judge

APPENDIX A

INFORMATION REQUIRED TO BE INCLUDED ON ALL BILLINGS

1. Name of Client.

2. Criminal or Civil.

3. Date Ordered.

4. Date Delivered.

5. In the Matter of.

6. Number of Pages.

7. Number of Copies.

8. Type of Delivery Schedule.

9. Discount

10. Refunds.

11. Total Due.

12. Certification of Reporter or Transcription Firm of Compliance with Fee and Transcript Format Prescribed by the JCUS. Form AO 44 (Invoice) is available free of charge from the AO for use by court reporters.

APPENDIX B

COMPUTATION OF TRANSCRIPT DELIVERY DATES

Transcript delivery dates are computed from:

a. The date on which satisfactory financial arrangements are made, except for transcripts to be paid for by the United States or free copies ordered by the court;

b. The date on which the appropriate transcript order or CJA 24 form is received by the reporter/transcriber when the transcript is to be paid for by the United States;

c. The date on which the court order is provided to the reporter/ transcriber when a transcript has been ordered by a judicial officer.

APPENDIX C

PROCEDURES FOR STORAGE OF COURT REPORTERS' NOTES AND TAPES

The stenograph/shorthand notes prepared by official court reporters shall be retained in the office of the clerk of court in accordance with 28 USC § 753(b). The offices of the official court reporters shall be considered an extension of the clerk's office for this purpose. The stenograph/shorthand notes of all other reporters shall be left with the court reporter supervisor at the conclusion of court each day. If a transcript is ordered in a case on which the notes have been submitted to the Federal Record Center (FRC), the court reporter supervisor shall retrieve the notes from storage and shall return the notes when the transcript is completed.

Procedures For Storage Of Shorthand Notes

1. All notes shall be maintained chronologically and placed in FRC boxes which can be obtained from the clerk's office.

2. The outside of the box should be marked in compliance with the FRC procedures.

3. Each packet of notes shall be certified and include the date of proceeding and court reporter's full name.

4. In order to maintain the security of their shorthand notes, it is recommended that each reporter place their notes in containers on a daily basis and secure them at the end of the day within their office.

Procedures for Storage of Original Tape Recordings

In accordance with 28 USC § 753(b), court reporters are required to retain with the clerk of court either a transcript or an electronic sound recording of all arraignments, pleas, sentences, and other proceedings required by the court. Accordingly, all tape recordings of official proceedings are to be turned over to the office of the clerk.

APPENDIX D

CERTIFICATION OF COURT REPORTER UPON HIRING

NAME: _____ DATE OF HIRING: _____
ADDRESS: _____
CITY: _____ STATE: ____ TELEPHONE NO: _____

The following certification is made to the Clerk of Court upon my hiring:

1. That all of my stenographic/shorthand notes or tape recordings will be properly marked and left with the clerk of court.

2. That I am responsible for preparing or having prepared, in a timely manner, any transcripts of proceedings in which I was the reporter during my employment with the District Court and after my separation.

3. That I will immediately inform the court reporter supervisor of any change in my address or telephone numbers in order to facilitate the preparation of transcripts.

Court Reporter's Signature: _____ Date: _____

APPENDIX D (continuation)

Enclosure 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILING CERTIFICATION FORM FOR ORIGINAL NOTES

In accordance with 28 USC § 753(b), I certify that these original notes are a true and correct recordof proceedings held in the United States District Court for the Northern District of California on (date): _____.

By: _____
Signature of Court Reporter

APPENDIX D (continuation)

Enclosure 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILING CERTIFICATION FORM FOR ORIGINAL TAPES

In accordance with 28 USC § 753(b), I certify that these original tapes are a true and correct record of proceedings held in the United States District Court for the Northern District of California on (date): _____.

By: _____
Signature of Court Reporter