



# FCRonline

OFFICIAL PUBLICATION OF THE FLORIDA COURT REPORTERS ASSOCIATION NOVEMBER/DECEMBER/JANUARY 2014

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By Janet L. McKinney, RPR, FPR, CLR,  
2013-2014 President



## President's Message

It has been such a whirlwind three months since I took office as your FCRA President I hardly know where to begin. My first official speaking engagement came in September when I was requested to spend a day with the students at Atlantic Technical Center in Coconut Creek. The students, along with their teacher, Susan Dian Williams (2013 Arlene P. Sommers Award winner) couldn't have been more welcoming as we spent the day together discussing the trials and tribulations of being a student, as well as the rewarding career that awaits them when they walk out of the doors of their school for the final time. We discussed the value of becoming an FCRA student member and the support network we can provide, including partnering with an experienced reporter via our mentoring program. I feel confident that we will not only see their names popping up on our membership rolls, but many of them are already making plans to attend the convention in Sanibel and taking the FPR. Can't wait to see you all there!

On October 4, I attended my first meeting of the Broward County School Board Court Reporting Advisory Board where I was proud to be seated alongside Past President Rick Levy and FCRA member Carrie Barros. The two schools governed by this board are Atlantic Technical and Sheridan Technical. The Advisory Board is tasked with reviewing curriculum, discussing problems, and developing solutions for issues facing our reporting schools at this time. It was certainly an honor to be there and witness the passion of the teachers for their programs and their students. We are looking forward to teaming up with the career advisors to visit various high schools across the county to demonstrate and educate high school students on what a great career choice court reporting can be. As always, FCRA looks forward to assisting each school across the state in whatever way we can. Please contact us and let us know what we can do for you.

FCRA has been in FPR planning mode as this year we are offering not one, but two freestanding FPR seminars. The first was held in Jacksonville on October 19 where 44 were in attendance. The second session will take place on Saturday, January 18, 2014, in Tallahassee at Lively Technical Center, 500 Appleyard

Drive. For those of you who have been waiting for the FPR to come to the Panhandle don't miss this valuable opportunity right in your own backyard.

The Florida Courts Technology Commission held their meeting in Tampa October 16 & 17. The commission is comprised of both circuit and appeals judges, Supreme Court staff, attorneys, court administrators, and county clerks from around the state. FCRA members have been in attendance to monitor their last three meetings which are held quarterly. I had the pleasure of attending this meeting along with President Elect Holly Kapacinskas, Paulita Kundid, Professional Ethics Chair/E-Filing Task Force Chair, and Donna Kanabay, Task Force Committee member. FCRA was pleased when we were requested by the FCTC to speak before them to discuss whether or not court reporters should be authorized users on the statewide ePortal, and if not, why not? This was the specific topic and question addressed at our task force meeting held during the annual convention in July.

Our presentation was given by Paulita Kundid who did an amazing job educating the commission on the value of court reporters in the litigation arena and the services we provide. In direct reply to the question posed by the FCTC, it would appear that reporters have no need to be granted user permissions at the ePortal level as we are currently being required to file at the circuit level. However, there is inconsistency in the system and filings are being requested in a variety of formats. Additionally, the current language of Appellate Procedure Rule 9.200 appears to be in direct conflict with e-filing and requires filing of a paper transcript.

The task force also thought it was important to point out some of the unintended consequences that e-filing might thrust upon reporters and parties should filed transcripts be immediately available for viewing and/or printing, and some of the safeguards they might consider putting in place for reporters while still fulfilling their ultimate goal of public access to all court records.

*Continued on page 7*



By Christy Aulls Bradshaw, RPR, FPR  
FCR Online Editor

## It's That Time Again!



Well, everyone, it is that time again. What time, you ask? It is once again time to pass the baton...or as I have been corrected...the tiara. I cannot believe that it has been two years since the title and honor of *FCR Online* Editor was bestowed upon me by FCRA. Now, two years down the line, this will be my last article as Editor; the tiara is now being passed on. Starting January 1, 2014, your new Editor will be Sharon Velazco. Our president, Janet McKinney, has chosen Sharon to carry on this position, and I must say that there could not be a more perfect person for the job.

I have had the opportunity over the past few months to get to know Sharon at our board meetings and the convention. I even convinced her to come stay at my house for a night, and it was at that point that I just knew she would be perfect. Not unlike myself, Sharon enjoys writing (and she is far more talented than I ever dreamed of being) Not to mention, she is a dog lover, which is never a bad thing in my book. Everyone please embrace her and I can assure you, you will absolutely enjoy what she does with this magazine.

Now, a minute to reflect on my last two years as Editor:

I owe a huge thank you to Louise Pomar, who passed the baton to me and has been a great influence and bouncing board from time to time. This certainly hasn't been as easy as I thought it would be, and it certainly wasn't hard, but it sure has been rewarding. Having this position has afforded me the opportunity to get to know myself a little more and learn to be more creative. I have been able to interact with both the Board and members of FCRA on a different level. I have

encouraged the court reporters and the staff in my office to write articles and I thank those of you who did very much.

Rick Levy, Sandi Estevez and Janet McKinney have all been very supportive and helpful with the magazine, which is so appreciated. Tina Kautter, of Kautter Management, the "behind the scenes of FCRA" has been another set of eyes in putting together every issue of the magazine. And most importantly, Elaine York, who actually does the formatting and finalizing of the magazine...Elaine, well, all I can say is that you are the bomb! This magazine would not even be possible without Elaine. If you have never done something like this, you just don't know what goes into putting a magazine together. It takes a lot of teamwork.

Donna Kanabay, Robin Merker, Gayl Hardeman, who write articles for every issue...or almost every issue...your dedication is very much appreciated. You always come up with great articles.

I am going to miss being Editor, but don't think for a minute that you have heard the last of me...I will continue to submit articles for our new Editor.

Sharon, a huge, huge welcome to you. I have full faith and confidence in you and can't wait to see what you are going to write and do with this magazine. You have a fantastic Board and great committees behind you, not to mention LOADS of talent.

Thank you all. Signing off for the last time as your Editor...

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BULLETIN  
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# President's Message

*Continued from page 4*

**Our presentation was given by Paulita Kundid who did an amazing job educating the commission on the value of court reporters in the litigation arena and the services we provide. In direct reply to the question posed by the FTC, it would appear that reporters have no need to be granted user permissions at the ePortal level as we are currently being required to file at the circuit level.**



One of the lengthiest discussions centered around the lack of certification for court reporters. FCRA thought it important for the FCTC to know that information in an effort to help them make an informed decision on whether to give reporters authority to e-file on the portal since they currently have us on their list. We garnered much support from the commission to move forward with our certification efforts. Of course, this commission is not the venue for such efforts, but they encouraged us to make a presentation to the Florida Bar regarding same. The more we educate attorneys on our certification efforts and turn them into advocates, the closer we will be to our certification goal.

Throughout the two-day meeting it was clear to all of us in attendance that there is much still under discussion and many decisions that have been tabled for further investigation and reported back to the commission. Our most important message, however, was that FCRA leadership is available and willing to serve on any of the FCTC subcommittees who are instrumental in formulating policy regarding e-filing of transcripts. We were quite pleased when we were assured that we would be invited to the table and extended the opportunity to participate in the future.

Finally, I am pleased to announce that on Wednesday, October 16, our Legislative Committee traveled to Tallahassee to address the Florida Supreme Court

on the issue of certification. Our FCRA committee consisted of Immediate Past President Sandra Estevez; Past President Susan Wasilewski; Committee Chair Melanie Simpkins; Justice Major Harding, Former Supreme Court Chief Justice Hank Coxe; Former Florida Bar President Jack Harkness, Executive Director of the Florida Bar; and Lobbyists Marty Fiorentino and Bo Bohannon of The Fiorentino Group. The committee addressed the Florida Supreme Court asking the Court to reinstate Rule 13.010 - 13.190. This is the Florida Rule of Court for mandatory certification and regulation of court reporters that was held in abeyance as of December 7, 1999, due to lack of funding.

At the conclusion of the presentation Melanie Simpkins reported to the board that the FCRA contingent was well-received, and the Supreme Court Justices were engaged and asked many questions of the panel. We now anxiously await their decision which we hope will be handed down quickly. I would like nothing better than to be able to report positive news for our members from the Court in the next issue.

This has indeed been one of the most exciting and active quarters I have seen in recent history as FCRA leadership travels to all parts of the state to educate and represent you, our members. I'm certain the next issue will bring even more exciting activity to report, so stay tuned...



# NCRA Convention from the Eyes of a Newbie

*By Lori L. Bundy, RMR, CRR, FPR, CLR*

Is it possible to be an 18-year member of NCRA and not have attended a national convention? Sadly, yes, but I can't say that any longer. This past August I attended my first NCRA conference in Nashville, Tennessee.

And what a great time it was to go. It was right off the heels of the FCRA Annual Convention in Altamonte Springs. After placing fourth in the FCRA realtime competition I thought I would try it again at the NCRA conference. After a brief freakout about leaving my tripod in my suitcase after the flight (thank you Rick Levy and Stenograph for coming to my rescue), the competition went well. I placed 16th overall.

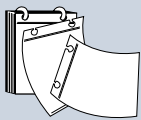
Being on the Convention Planning Committee of FCRA, I thought this would be a great opportunity to see how the national convention did things. The opening reception was in the vendor hall. I hear this was a new thing, and it was a big hit. Not only could you meet and greet with all the reporters/videographers, but the vendors were at their booths so we could have a little extra time to check out the latest and greatest products in the industry.

There were so many good things about the convention, meeting new friends, the seminars, the vendors, the parties. But the most valuable thing I

took away from the convention is that no matter how long I'm in this profession I am always honing my skills, striving to be a better writer, a cleaner writer, a faster writer. It's beneficial to step away from the grind sometimes and to get a better perspective of the field, so when I return I'm a better reporter.

The convention for FCRA next year is in Sanibel. Talk about a great place to reflect on things! Your Convention Planning Committee is already hard at work putting the agenda together. I hope you all plan on attending. This wonderful field we are in has many exciting twists and turns. Staying on track is so crucial in our field, and FCRA and NCRA play vital roles in helping pave the way of the future of court reporting.

I am so proud to call myself a court reporter. I met many of the profession's finest this year. My goal is to compete again next year at FCRA and NCRA, and I have already been implementing many of the suggestions I learned at both conventions. Oliver Wendell Holmes, Jr., said, "The mode by which the inevitable comes to pass is effort." Let's all make the effort to better ourselves in this amazing profession we have found ourselves in.



## FCR Online Deadline Dates

<b>(Spring) Feb/Mar/Apr</b> ..... Jan. 5, 2014	<b>(Fall) Aug/Sept/Oct</b> ..... July 5, 2014
<b>Publication Date</b> .....Feb. 12, 2014	<b>Publication Date</b> ..... Aug. 12, 2014
<b>(Summer) May/June/July</b> ..... April 5, 2014	<b>(Winter) Nov/Dec/Jan</b> .....Oct. 5, 2014
<b>Publication Date</b> ..... May 12, 2014	<b>Publication Date</b> ..... Nov. 12, 2014



# Welcoming the Students... Thanking Our Supporters

By Robin Merker, RPR, FPR

As this is the first issue following the FCRA convention, it's my first opportunity to send a huge thank you to all who donated to the student drawings. We had so much donated that every student went home with something great. And, as always, the students attending were overwhelmed by the welcome all of you extended. Your encouragement means so much to them!

For the student drawings, we had two gently used rolling cases — each with a little extra something tucked inside — no, not the winning lottery ticket, but realtime books and dictionaries to help build their reporting skills now and into the future. Margie Wakeman Wells came through for us again and donated drill books. There were gift cards to Barnes & Noble. To top it off, an Elan Mira was donated by Barb Shandell, and Cathy C. was the lucky recipient! To our donors, we can't say thank you enough.

If you're a student who didn't make it to convention this year — don't miss out next year! Plan to come to our 2014 Annual Convention June 6 - 8 at the Sanibel Harbour Marriott Resort.

Switching gears now, think about what made you go to court reporting school in the first place. For some of us it was career day in high school where we first saw someone with that odd machine and skinny paper. Some of us were lucky enough to already know a reporter. Or, was it because you saw a TV commercial of a well-dressed carefree reporter swinging a Samsonite case? Well, for

Sharon Velazco, FCRA Director at Large, it was working at a law firm when she was 21 and writing sizeable checks to people called "court reporters" that sparked her interest.

In her words: "They arrived, stayed for an hour usually, sometimes more. I was AMAZED that these people who sat at the end of that conference table and did nothing but type on a machine could make SO MUCH money for that amount of time!" At some point, I did the math (didn't take long!) and realized that I was in the wrong profession, so I enrolled in court reporting school and, over the span of the next two years (and three court reporting schools), I learned there was much, MUCH more time and effort involved in the production of those little books that arrived a week or so after the depositions had taken place, and the checks those reporters received weren't just for their "brief cameo appearances" at our office. I "stalked" every single reporter who came to our office...the bits and pieces of information those court reporters shared and their constant encouragement were what kept me going through the emotional peaks and valleys of school, and I am eternally grateful for their mentorship!"

And that leads into a quick reminder — we have an active mentor program. If you'd like to connect with a working reporter — someone who can give you encouragement, feedback, and strategies as you progress — let me know. We all want you to succeed!





# Fair Pricing of Legal Transcripts by Court Reporters

*By Dawn Houghton, O'Brien & Bails Court Reporting, Michigan*

Is it okay for me to get a free copy of a transcript from opposing counsel?

From time to time we hear of an attorney who has asked opposing counsel for a copy of a deposition transcript so that they don't need to order one from the court reporter. To some, this may seem a simple and practical way of receiving a free transcript. As court reporters, there are some things we would like you to know about our pricing and why that practice undermines our standards in pricing.

The fact is that standard pricing practices for transcripts have always taken into consideration that a legal transcript is something that is usually required by both sides of a lawsuit in order for each side to do their job properly. If attorneys began passing around free copies of transcripts, court reporters would only be partially paid for the work they perform. We would need to change our pricing in order to be fully compensated. We would need to charge the full amount of transcription to the side who is ordering the original. This would almost double the cost of a transcript for the ordering party.

There could be undesirable ramifications to changing our pricing structure. For example, if the cost of an original was high, and the cost of a copy was free, it might reduce the number of witnesses you are willing to depose in a lawsuit and potentially change the way in which you conduct your case.

If there are multiple parties, is it okay to make free copies of transcripts for the other parties?

Again, the fact that there are sometimes multiple parties has also been figured into the pricing structure we use. Yes, sometimes we are able to sell extra copies of a transcript in the case of multiple parties. But there are also many times when only the original is ordered, and no one is ordering the copy. In those cases, we are making considerably less than we should on a transcript and the work that went into producing it. So the extra orders we receive occasionally from multiple parties help make up for those times when only one side orders a transcript.

If parties were to regularly only order one copy and share it, we would be forced to change our pricing structure. It would be necessary for us to charge the ordering attorney more to make up for the copy that the other party didn't purchase. We prefer not to do that because it wouldn't be fair to the ordering party to put all the weight on their shoulders.

As court reporters, our job is to be fair and impartial and we take that responsibility seriously. We are very careful how we structure our pricing to ensure that all parties in a lawsuit are treated fairly and equitably.

*Dawn Houghton is a court reporter, Owner of O'Brien & Bails. Connect with her on LinkedIn and Google+.*





# CART'ing to Africa!

*By Gayl Hardeman*

The e-mail came among others, but this one required re-reading and re-reading. Someone who had observed the quality of our CART services had recommended us to provide intercontinental remote CART, saying we were “the best she’d ever seen.” Oh, my. I think I floated all day on that accolade. All the years (21 so far) of building and refining a realtime dictionary had yielded this referral. NOW WHAT?!

After the business of confirming the What, Where, When, Why, Who, came the big one for remote CART - HOW? How will we hear? How will they see the text?

I was introduced via e-mail to the man assigned to set up and test the remote CART. Mohamed traveled to the hotel twice and encountered about every pitfall that can befall someone. The hotel wouldn’t let him get into the “hall” (room) where the conference would be. There was NO INTERNET in that room “yet.” Our two tests were performed with success over Skype, as telephone calls to or from Senegal were not going to be feasible, but we would not be able to test the AV equipment until the morning of the conference. He was able to receive the StreamText link and size it to his liking.

We received the prep materials, and the material was quite similar in scope to many events we had done before. I secured the services of two top writers, and we braced ourselves for unfamiliar names and ungettable accents, neither of which turned out to be a problem for the conference.

What was a problem was communication with the hotel AV/IT person before the event began — despite pleas, entreaties, e-mails of specific instructions, the one protocol we needed was not carried out. The sound was intermittent for the first morning, but a hotel IT person replaced a cable at my suggestion and the afternoon proceeded well — for about five seconds, when AAARGH, there was the hideous sound of over-modulation. The sound over-modulated for the entire afternoon, causing us headaches and the dreaded (Inaudible) notation all too often. When I wasn’t CART’ing and Tammy was writing, I wrote e-mails to Mohamed asking him to please turn down the Line In volume of the Skype computer. Nothing.

On day two (of five) our prayers were answered. Cadnel, who had replaced the audio cable the day before, connected with me via Skype. I conferenced him into our call and let him listen to the overmodulation. He understood what my instructions meant and adjusted the Line In recording volume on the computer to 1 or 2 (instead of 50), and all proceeded VERY well. Until they started speaking French. Oh my. Uh. (Speaking in French) went up on the CART screen. (Speaking in French)Pause. Sounds of scrambling and cross-talk mutterings. And then, as glorious as the Hallelujah Chorus to our ears, the English translator took possession of our mic! And we were sailing again.

The only curve we had was an unannounced book launch, with no prep about the author or his book. In the face of the unknown, one calls on quick research, finger-spelling, logic, common sense, and experience.

Team-CART’ing was the only way to do a job like this. We did it. Not without challenges. First-time users of CART are overwhelmed by the magic, the technology, the responsibility. It’s essential to make contact with the right IT people. Mohamed was knowledgeable and dedicated, but we needed that audio test that we just didn’t get ahead of time. It wasn’t possible because of the time differences and busy-ness of the organizers. We CART’ed beginning at 5 a.m., and testing was to start at 4 a.m., which didn’t happen because they were handling other pieces of the conference that needed attention. Yes, I wish I could have been there; I’d have been in the IT office to inquire who was assisting.

Yet at the end of this week, there was success. The young people, including our consumers who have hearing loss, were able to build a Facebook page, Tweet, create a media kit, and plan a publicity campaign. I learned a lot and they have a week’s worth of transcripts for notes. I can’t wait for the next challenge! Thank you to Tammy Milcowitz and Brandi Kent for their writing assistance.



# The Second Time Around

## Part 2

By Lisa Selby-Brood, RPR

So picking up where I left off in my last article, I was venturing back into the world of court reporting after a 17-year hiatus. I had my speed back, I had the student version of the software, I had figured out the "dictionary thing," so now I set about putting myself back into the world of court reporters.

I went to a convention that was close to home (I was an Associate Member of FCRA) and simply walked around listening to conversations. (I'm amazed I wasn't picked up for stalking.)

I was, needless to say, overwhelmed. It was like people were speaking a foreign language.

What was an ASCII????? Hardware, software, hard drive, key... what did it all mean? I left the convention with more questions than answers.

I continued to work on my speed and my dictionary as best I could, then went to the next convention, this one even closer to home.

I said, Okay, Lord, (I pray that way) this is it. If I'm going to do this thing, You'd better give me a sign. I want something to happen at this convention. And I got very specific. I went armed with my resume. I wanted to get hired.

I met up with someone I had met at the first convention, Shirley King. She said, "Come here, I want to introduce you to somebody."

She introduced me to Donna Kanabay. I had met Donna at the first convention, but we only talked briefly.

This time I handed her my resume and she said something I can't remember, maybe it was, Let me show this to Dad, or something.

I spent the rest of the convention doing more praying than anything, and ironically didn't see Donna again the entire weekend.

That Sunday, as I drove into the parking lot, I said, Okay, God, this is it. Last day. If something's going to happen, it better happen at this final workshop. I went into the last workshop, turned around and ran right into Donna. Hey, she said, can you come in for

an interview on Thursday?? I must have nodded or said something, but once again I felt the sky opening up and the Hallelujah chorus once again. Long story short, I went to the interview on Thursday, June 6, 2002, met the big man, Don Kanabay himself, and got hired.

It was my son's 17th birthday.

Kanabay had a huge criminal court contract, so I was thrust into that arena almost immediately. I must have sat in on a few calendar calls, but the next thing I knew I was on my own. I think someone said, "Write down everything they say. Bye!" Saints preserve us. Yes, it was the hardest thing I've ever done. The writing itself was tough enough.

There were days I just felt like I was batting at keys, (and thanking God for a tape recorder right about then) and keeping my head above water. Learning procedures was a challenge. This area was all new to me. I worked on my dictionary every night. My notes were garbage.

Yes, it was hard, but I can honestly say the thought of quitting never occurred to me. Are you kidding? With everything that had happened to get me here thus far? No. I dug in my heels and plowed ahead.

My first transcript, I could have done it faster if I had chiseled it out of granite. I sent it to Donna for a first pass through. She got to Page 5 and sent it back.

Poor woman. After I told her I knew absolutely nothing about the ins and outs of the software and putting a transcript together this way she had casually said, "Oh, I'll train you." I don't think she knew what she was getting herself into.

Wow, either I'm rambling or this story is longer than I thought it was!

Guess what? I'm saving the rest for Part III.



# MEMBERSHIP APPLICATION

## Florida Court Reporters Association

\*Name (Please print) \_\_\_\_\_ NCRA # \_\_\_\_\_ NVRA # \_\_\_\_\_

\*Company \_\_\_\_\_  Owner  Co-owner  Manager

\*Mailing Address \_\_\_\_\_ Website: \_\_\_\_\_

\*City/State/Zip \_\_\_\_\_

\*Telephone: Home (\_\_\_\_) \_\_\_\_\_ Office (\_\_\_\_) \_\_\_\_\_ FAX (\_\_\_\_) \_\_\_\_\_

CHECK ONE:  OK to publish home phone number in directory.  DO NOT publish home phone number!

\*E-mail address \_\_\_\_\_ Secondary Email Address \_\_\_\_\_

\*METHOD OF REPORTING:  Stenographic  Voicewriter  Gregg  Pittman  Other \_\_\_\_\_

\*TYPE OF REPORTER:  Freelance  Official  Deputy Official  Federal  Teacher  Student  Other \_\_\_\_\_

\*DESIG:  CSR (List State(s) other than FL) \_\_\_\_\_  FAPR  FPR  RPR  RDR  CMRS  RMR  CLVS  CRI  CRR  CPE

\*Asterisk indicates required information.

I make application for Membership as a: (CHECK ONE)

**PARTICIPATING MEMBER** .....\$300.00  
Open to anyone engaged in active practice of official or general court reporting by either stenographic or voicewriter method. (Please indicate method above.)

**STUDENT MEMBER** .....\$35.00  
Open to any student of shorthand reporting who is endorsed by a court reporting training program instructor or director.

**RETIRED MEMBER** .....\$45.00  
Open to any participating member in good standing who has retired from the active practice of shorthand reporting.

**ASSOCIATE MEMBER** ..... \$90.00  
*This category is open to the following (please check one):*  
 Teachers of shorthand reporting  
 Individuals officially connected with a school or college conducting shorthand reporting course - **School Name & Location** \_\_\_\_\_  
 Non-member individuals retired from active shorthand reporting  
 Anyone professionally associated with or employed by a member of FCRA whose application is endorsed by a participating member in good standing (**please print sponsoring member's name below where requested**)  
 Anyone qualifying for Participating membership, but residing outside of Florida - State of Residence \_\_\_\_\_

**VENDOR MEMBER**.....\$500.00  
Open to any firm or corporation engaged in selling products or services to FCRA members.

**PRO BONO:** Are you interested in donating time to the Pro Bono Program?  
 Yes  No

**FLORIDA MANUAL:** The guide to court reporting in Florida — sample forms, guidelines, and rules of court. Cost for members: \$75.00. Subscription to updates: \$25.00.

**MEMBERSHIP DIRECTORY:** Searchable geographical and alphabetical members' listing in Member's Only section of our website.

**The dues year is November 1 through October 31.** Annual dues must accompany application. Those joining in August, September, or October of a given year will be paid through October 31 of the following year. Dues payments are deductible by members as an ordinary and necessary business expense. In accordance with Section 6033(e) (2)(A) of the Internal Revenue Code, as amended, members of the FCRA are hereby notified that an estimated 10% of your FCRA dues will be allocated to lobbying and political activities, and therefore is not deductible as a business expense.

I hereby make application for membership in the Florida Court Reporters Association and pledge myself, if accepted, to abide by the requirements of the Bylaws and Code of Professional Responsibility of the Association as they are now and as they may be amended in the future.

I understand that all applications are subject to review and approval by FCRA. All applicants must be sponsored by an FCRA member in good standing per FCRA bylaws.

\_\_\_\_\_  
Signature of Applicant Date

\_\_\_\_\_  
Name of Sponsoring Member (Please print or type)

**PAYMENT ENCLOSED FOR:**

Membership Dues \$ \_\_\_\_\_

Florida Manual on disk:  
 \_\_\_ copies @ \$75.00 each  
*(Includes 7% sales tax + handling)* \_\_\_\_\_

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 to Florida Manual Updates  
 \_\_\_ subscriptions @ \$25.00 each  
*(Includes 7% sales tax + handling)* \_\_\_\_\_

**TOTAL ENCLOSED: \$ \_\_\_\_\_**

Check # \_\_\_\_\_  MasterCard  VISA  AmEx

Account # \_\_\_\_\_

Exp. Date: \_\_\_\_\_

Amount to charge: \$ \_\_\_\_\_

Authorized Signature \_\_\_\_\_

**For Administrative Use Only**

Date Rec'd \_\_\_\_\_ Ref # \_\_\_\_\_ Amount \_\_\_\_\_  
 Date Approved \_\_\_\_\_ Computer \_\_\_\_\_

**Make check payable to FCRA and mail to FCRA Headquarters, 222 S. Westmonte Dr, Ste 101, Altamonte Springs, FL 32714  
Telephone 407-774-7880 • FAX 407-774-6440 (for charge payments only) • www.fcraonline.org**

# The Practitioner's Guide to the Care and Feeding of Court Reporters

By L. Steven Emmert, *VBA News Journal*, Summer 2009



Who's the highest-ranking person in a trial courtroom? No; it's not that scowling guy with the robe, menacingly waving the gavel at you. It's the court reporter. Want proof? Well, we can agree that the judge can tell everyone in the courtroom to shut up (assuming he's in a bad mood; otherwise he'd phrase it more delicately than that), and that he can enforce such a directive. But the court reporter can silence the judge. Code §8.01-420.3 provides that the judge can't direct that the reporter go off the record unless everyone consents. This statute is designed to ensure that all trial court proceedings are on the record, to facilitate appellate review. That means that the court reporter can say, "Excuse me, your honor, but I have to change paper," and his honor has to just sit there and fume in silence. Now that you understand why the reporter is the highest-ranking person in the courtroom, here's why she is also the most important person in your appeal.

**Rule 5:11(a)** provides that the transcript of trial court proceedings is a part of the appellate record as long as it's filed within 60 days after the date of judgment. The transcript is essential to appellate review. You already know that the contemporaneous objection rule (**Rule 5:25**) is the biggest barrier by far to appellate review of the merits of an issue; the transcript helps the justices to identify where, exactly, you raised an objection in the trial court, how you presented it, and how the trial judge resolved it. In essence, if you don't have a transcript, then you don't have an appeal. (There are exceptions, such as where the trial court sustained a demurrer. In that instance, the only issue is the sufficiency of a pleading, so a transcript will usually be immaterial. But this kind of appeal is comparatively rare. In addition, you may be able to resuscitate your appeal by using a written statement of proceedings under **Rule 5:11(c)**. I'll post a separate essay on that rule in the near future.)

What's more, the timely filing of the transcript is one of the mandatory deadlines in the appellate rulebook. **Rule 5:5(a)** specifically identifies these mandatory deadlines (which the court interprets as jurisdictional), and the filing of the transcript is right up there with the notice of appeal and the petition for appeal. If you don't timely file a transcript, you're likely to get a letter from the court directing you to address how the court can consider the appeal without it. Unless you have one of those

rare appeals (like the one with the demurrer) where a transcript isn't necessary, your appeal is probably headed for a premature end.

I hear all kinds of horror stories from trial lawyers about their dealings with court reporters. I hear about delays in getting transcripts, inaccuracies, even what they perceive as predatory pricing (including the suspicion that the other side's reporter is giving a sweetheart deal to the "friendly" lawyer, expecting to gouge the "unfriendly" lawyer on the copy rate). Many lawyers suspect that their opponents are playing footsie with their preferred reporter in this or similar ways. I'm good-natured enough that I doubt there's any real truth to these suspicions. But my customers fret about it. Happily, even if they're right, there is something they can do about it. Here's that something:

**Rule #1:** You must cultivate a good working relationship with a competent, reputable, and reliable court reporting firm.

**Rule #2:** You must bring a reporter from that firm to any proceeding in which the trial court will decide something more important than what to order for lunch.

**Comment to Rule #1:** You should be prepared to spend at least some time meeting the first of these requirements: Finding a competent, reputable, and reliable reporting firm. Ask about more than just rates (although you

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# The Practitioner's Guide to the Care and Feeding of Court Reporters

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should ask about those, too); find out what the firm's standard turnaround time is for non-expedited transcripts. Ask if the firm is affiliated with the **National Court Reporters Association** and adheres to that association's Code of Professional Ethics. Find out how much experience each reporter in the firm has. As you'll see below, there are advantages to working with a firm with multiple reporters, so you should ask how many reporters work there. Find out how many lines of text the firm prints per transcript page. (25 lines per page is standard. Keep in mind that an unscrupulous reporter can give himself a largely-invisible 12% raise by printing only 22 lines per page.) Get references, and ask to see examples of their work; if you see loads of blank space on many pages, keep shopping.

## Comment to Rule #2:

Yes, I said *any* proceeding. You should volunteer to provide the reporter for every deposition, every hearing, every trial. The only exception is where the deposition will be in another jurisdiction, or so far away that your reporter doesn't travel that far. Even then, ask your reporter for a recommendation in that jurisdiction or locality.

If you follow these two simple rules, over 90% of your transcript-related problems will vanish immediately. You'll know in advance what to expect when you get a bill. You'll know how long the reporter generally takes to turn transcripts around. You won't have to worry about trying to convince a complete stranger that she typed four when what you really said was before - or worse, that she left out a not. You will be able to file transcripts with confidence instead

of grumbling about getting home-cooked by a . . . a *menial functionary*, for cryin' out loud!

Well, perhaps that's step 1 in your conversion away from the Dark Side. Court reporters are not mere functionaries. They are not machines and they're not slaves who must do everything that you direct in order to comply with your wishes. (Neither are court clerks; but that's another essay.) They're professionals who deserve your respect, and that includes the times when you're having a bad day. Start out by treating them with courtesy, in the way you would want to be treated.

Toward this end, I have developed a set of procedures you can use to care for and feed your court reporters, and reduce the transcript-related stress in your life.

## Before trial

1. Call in advance! I know that emergencies sometimes arise in your practice, but it's rare that the need for a court reporter will arise without warning. Ideally, you should call your reporter the same day you select the hearing or trial date. Don't wait until 5:45 pm the day before the 9:30 am trial; although many reporters can accommodate such last-minute requests, they don't enjoy it. Would you?

2. Provide plenty of contact information, for yourself and your secretary. The reporter may have questions before the hearing, or he may want to contact you afterward with a question about something that occurred during the hearing. Make it easy for him to get in touch with you.

3. If you cancel or reschedule the deposition, hearing, or trial, don't forget to call the reporter. That can save you an appearance fee, and the reporter the hassle of getting dressed up to go to court.

4. Let the reporter know in advance if you'll be needing expedited or daily transcripts. This enables the reporting firm to make arrangements that are in your mutual interests. For example, the firm can send John in to take down the morning's proceedings. At the lunch break, he heads back to the office to start transcribing; in the meantime, his colleague, Mary, appears to take down the afternoon's testimony. John may be able to get you his transcript by the end of the day, and Mary has only three hours' worth of materials to transcribe that evening, in order to get the transcript to you first thing the next morning. If you don't let them know this, John has to stay in the courtroom all day. He then gets back to the office at 6:00 pm or so, with six hours' worth of trial to transcribe. Do you enjoy staying up 'til the wee hours when you're in the middle of a multi-day trial? Well, neither does John. Do it my way, and you get your transcript promptly, plus you get a more attentive reporter for Day 2, since he got a good night's sleep.

5. Here's the scene: You're preparing for tomorrow's scheduled two-hour hearing on a complex statute of limitations question. You're going to cite to the judge four key cases, one of which is the little-known but dynamite case of *Cowznafski v. Pastafalooza*. You make three copies of the case -

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# FCRA welcomes the following new members

(Includes all members who joined as of October 28, 2013)

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# The Practitioner's Guide to the Care and Feeding of Court Reporters

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one to give to his Honor; one to grudgingly hand over to the Bad Guy, even though he doesn't deserve it; and one for your own notebook. Have a heart; make a fourth copy, and give that to the court reporter. That will make her life easier because (1) she won't have to remember to ask you how to spell *Pastafalooza*, and (2) when you start reading from the case, and read too fast (see below), she can look at her copy and be sure to get the wording down right.

## At the trial

1. Slow down when reading. Studies show that 62.4% of Americans, and 100% of American lawyers, speed up when they're reading from a prepared text. That's because when you're speaking extemporaneously, as we usually do while arguing a motion or responding to a question from a judge, there are actually two consecutive processes going on. First, your brain has to decide what you're going to say. Only then do you actually start speaking. (This protocol is waived for teenagers and most college students, who spontaneously speak anything that comes to mind without considering whether it would or would not be a good idea to say that. They also start sentences with no clue of where the ultimate destination will be. But I digress.) This two-step process tends to slow your speech, as your mouth has to wait for your mind to conjure up just the right thing to say. But when the words are right there on the paper you're holding in your hand, there is no governor on the accelerator pedal; you can go as fast as your lingual dexterity will allow you to form the syllables. *Slow the*

***During breaks in the proceedings, approach the reporter and ask something like, "Do you need any spellings of anything?" Assuming your reporter doesn't faint at receiving this remarkable courtesy, he will usually say yes, and ask you how to spell Pastafalooza, or the "bijillion" dollars you asked the jury in opening statement to award your client.***

*hell down!* Fast speech isn't persuasive anyway; when a speaker wants to make a profound point, he slows down his speech for emphasis. (Try it.) The record for the fastest recorded speech by a public figure has been reported to be John Kennedy's 327 words in one minute in 1961; professional "speed-talkers" reputedly have passed 600 WPM. You don't want to go there; it makes for a mystified jury and a hopeless mess of a transcript anyway.

2. During breaks in the proceedings, approach the reporter and ask something like, "Do you need any spellings of anything?" Assuming your reporter doesn't faint at receiving this remarkable courtesy, he will usually say yes, and ask you how to spell *Pastafalooza*, or the "bijillion" dollars you asked the jury in opening statement to award your client. This one is virtually guaranteed to endear you to even the most experienced, jaded reporters; they are not accustomed to meeting lawyers who care one whit about the court reporter's lot in life.

## After the trial

1. Order the transcript as soon as you perceive a need for it. This might even be during the trial; but if you conclude a few days later that you'll need to appeal,

go ahead and order it then. Don't wait until that mandatory and jurisdictional 60-day deadline starts to approach. Rush jobs (a) are stressful for the reporter, (b) tend to produce a few more errors, and (c) cost you more.

2. The reporter will usually attach a bill to your copy of the transcript. You should pay that bill no later than the next day. Not in ten days; not 30 days; and certainly not after two nagging phone calls asking for payment. The next day. I learned long ago that the surest way to acquire the favor of any vendor is to develop a reputation as someone who pays his bills, not just promptly, but immediately.

## ABOUT THE AUTHOR

L. Steven Emmert runs a private practice in Virginia Beach focusing exclusively on appellate advocacy in state and federal courts. He also serves as chair of the VBA's new Appellate Practice Section. Mr. Emmert founded and runs the appellate Web site Virginia Appellate News & Analysis which provides same-day analysis of Supreme Court of Virginia and Court of Appeals decisions at [www.virginia-appeals.com](http://www.virginia-appeals.com) For more information regarding Appellate Practice Section and to join, visit [www.vba.org](http://www.vba.org).



# 12 DAYS OF REPORTER CHRISTMAS

*(Sing to the tune of 12 days of Christmas) • Written by Joyce L. Bluteau, RPR, FPR*

**On the 1st day of Christmas, my office gave to me:**

*A depo in the penitentiary.*

**On the 2nd day of Christmas, my office gave to me:**

*2 telephone depos, and a depo in the penitentiary.*

**On the 3rd day of Christmas, my office gave to me:**

*3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 4th day of Christmas, my office gave to me:**

*4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 5th day of Christmas, my office gave to me:**

*5 CNAs, 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 6th day of Christmas, my office gave to me:**

*6 lousy hearings, 5 CNAs, 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 7th day of Christmas, my office gave to me:**

*7 bill and holds, 6 lousy hearings, 5 CNAs, 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 8th day of Christmas, my office gave to me:**

*8 last minute call-ins, 7 bill and holds, 6 lousy hearings, 5 CNAs - 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 9th day of Christmas, my office gave to me:**

*9 weekend depos, 8 last minute call-ins, 7 bill and holds, 6 lousy hearings, 5 CNAs - 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 10th day of Christmas, my office gave to me:**

*10 six-week trials, 9 weekend depos, 8 last minute call-ins, 7 bill and holds, 6 lousy hearings, 5 CNAs - 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 11th day of Christmas, my office gave to me:**

*11 foreign doctors, 10 six-week trials, 9 weekend depos, 8 last minute call-ins, 7 bill and holds, 6 lousy hearings, 5 CNAs - 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*

**On the 12th day of Christmas, my office gave to me:**

*12 cut-rate jobs, 11 foreign doctors, 10 six-week trials, 9 weekend depos, 8 last minute call-ins, 7 bill and holds, 6 lousy hearings, 5 CNAs - 4 cancellations, 3 screaming lawyers, 2 telephone depos, and a depo in the penitentiary.*